

# **XSTRATA IN THE DOMINICAN REPUBLIC: INTEGRATING SECURITY AND HUMAN RIGHTS PRINCIPLES INTO BUSINESS PRACTICE\***

BY ANNA MURRAY†

## **Human rights issues addressed**

- Right to education
- Right to food
- Right to health
- Security and conflict
- Social investment and community development
- Women's and children's rights

## **Human rights management practices discussed**

- Strategy
- Processes and procedures
- Communications
- Training

## **Human rights standards, tools and initiatives mentioned (beyond the Global Compact)**

- Voluntary Principles on Security and Human Rights

## **Abstract**

This study seeks to contribute to an improved understanding of how an extractive company can successfully integrate security and human rights principles into core business strategy, constructively build its social license to operate and effectively stabilize community human rights concerns, particularly throughout unstable periods. In the Dominican Republic, home of Xstrata Nickel's Falcondo ferronickel mining operation, there are human rights challenges such as extreme poverty, lack of access to adequate education, health care and local economic development. At the end of 2008 a temporary shutdown of Falcondo's ferronickel operation and the layoffs of more than 900 employees were announced in response to global market volatility – a potentially detrimental situation with respect to human rights and security issues.

This case study will examine the initiatives Falcondo put in place at the time of the shutdown that support and respect the protection of internationally proclaimed human rights consistent with Principle One of the UN Global Compact. Focus will be placed on the development and functioning of the Falcondo Foundation – the non-profit foundation established by Falcondo in

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\* NB: Appendices and figures are available for this case study in the online version, found here:  
[http://www.unglobalcompact.org/data/ungc\\_case\\_story\\_resources/doc/A844C569-7917-45CF-9B40-881CA4F687B0.pdf](http://www.unglobalcompact.org/data/ungc_case_story_resources/doc/A844C569-7917-45CF-9B40-881CA4F687B0.pdf)

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1989 to encourage local development in health, education, environment and culture – and the successful execution of the mine’s suspension. This study will highlight:

- Xstrata’s sustainable approach to addressing human rights concerns: how the business has moved away from a philanthropic “good-works” model to a collaborative capacity-building strategy.
- Key actions taken by Xstrata throughout the Falcondo shutdown: how the operation’s shutdown and layoffs were successfully achieved without security or human rights violations.

Operating successfully in developing countries has historically been a major challenge for the extractive industry – a challenge faced by Xstrata Nickel, the fifth largest global nickel producer in the world. If not managed properly, mining in sensitive environments can reveal or further contribute to community instability, with consequent human rights and security implications.

## 1. Company Profile

Xstrata Nickel is a commodity business unit of Xstrata plc, a global diversified mining group listed on the London and Swiss Stock Exchanges, with its headquarters in Zug, Switzerland. Xstrata's businesses maintain a meaningful position in seven major international commodity markets: copper, coking coal, thermal coal, ferrochrome, nickel, vanadium and zinc, with a growing platinum group metals business, additional exposures to gold, cobalt, lead and silver, recycling facilities and a suite of global technology products, many of which are industry leaders. The Group's operations and projects span nineteen countries.

Xstrata Nickel, headquartered in Toronto, Canada is one of the five largest producers of nickel. Xstrata Nickel's operations include mines and processing facilities in Canada, the Dominican Republic and Australia, and a refinery in Norway. Xstrata Nickel has a portfolio of growth projects in Canada, Tanzania and New Caledonia.

Falcondo is a surface mining operation that has the capacity to annually produce 29,000 tonnes of nickel contained in ferronickel. Ferronickel is a combination of iron and nickel used almost exclusively by the stainless steel industry. The property is situated in the Dominican Republic, in the town of Bonao, 80 kilometers north of Santo Domingo. The facilities include a metallurgical treatment plant, a crude oil refinery and a 200 megawatt thermal power plant.

Faced with the confluence of depressed nickel prices and record oil prices during 2008, Xstrata Nickel acted swiftly to suspend its Falcondo ferronickel operation in the Dominican Republic in August before placing the operation under care and maintenance in early December. Falcondo has traditionally been a swing producer, where, due to unfavorable nickel and oil prices, the Operation has gone through shutdown periods. While the decision to suspend an operation is never taken lightly, ceasing production in a timely manner avoided more than US\$85 million of operating cash losses at this operation in the second half of 2008. The value of Xstrata Nickel's Falcondo assets in the Dominican Republic was impaired by US\$455 million including goodwill of US\$176 million, following the decision to place the operation on prolonged care and maintenance. Falcondo's 2008 EBITDA was US\$119 million.

## 2. Key Players

### **Ian Pearce: Chief Executive Officer, Xstrata Nickel**

Ian Pearce was appointed Chief Executive Officer of Xstrata Nickel in August 2006 and is responsible for global nickel and ferronickel operations and projects in North and South America, Europe, Africa and the South Pacific. Mr. Pearce has more than 27 years of professional experience in metallurgy and mining.

### **Shaun Usmar: Chief Financial Officer, Xstrata Nickel**

Shaun Usmar was appointed Chief Financial Officer of Xstrata Nickel in August 2006 and is responsible for ensuring the financial stability of the corporation's global operations and projects.

### **Lee Nehring: Vice President Sustainability and Human Resources, Xstrata Nickel**

Lee Nehring was appointed Vice President, Sustainability and Human Resources of Xstrata Nickel in May 2008. She is responsible for supporting all Xstrata Nickel sites with practices and approaches to ensure the company continues to lead the industry in health, safety and environmental performance and community engagement practices.

### **Dominique Dionne: Vice President Corporate Affairs, Xstrata Nickel**

Dominique Dionne was appointed Vice President, Corporate Affairs of Xstrata Nickel in August 2006. She is responsible for the corporation's overall public and government relations strategy and its internal communications for operations and development projects around the world.

**Ernest Mast: Former President and General Manager of Falcondo**

Ernest Mast was President and General Manager of Falcondo from September 2006 - May 2009. He was also President of the Board of the Falcondo Foundation, a non-profit organisation that invests in sustainable development in the Dominican Republic.

**Areliis M. Rodriguez: Executive Director of the Falcondo Foundation**

Areliis Rodriguez has more than fifteen years experience developing and managing a portfolio of grants and engaging in asset building and community development with the goal of reducing poverty and improving the quality of life and opportunities of poor and marginalized communities in the Dominican Republic. She has served as the Executive Director of the Falcondo Foundation since 1989.

### **3. Case Study**

*(a) Falcondo's Security and Human Rights Concerns: Unrest in Impoverished Communities*

A key challenge for mining companies, particularly when operating in developing and/or unstable regions, is to gain and maintain community support. Without community support, operations may be at risk of interruption, violent protests and/or reputation damage. Organisations face significant challenges when determining which best practices to employ in order to build and maintain a social license to operate.

After a series of violent local acts against Falcondo in the late 1980s, management saw an opportunity to change the nature of their community relations and address the various root causes at the heart of this civil unrest. Repeated attempts to deal with the situation via philanthropy were unsuccessful in building constructive relationships with the communities.

The communities surrounding Falcondo resented the absence of company-sponsored social programming (including electricity supply), the large discrepancy between the wealthy mining executives versus local communities and daily disruptions such as truck traffic and smoke-stack emissions. Conflict was further exacerbated by (unproven) accusations of company-inflicted damages to local agriculture and resulting health issues. Large and frequent demonstrations against the company in Bonao and La Vega increased after the government began to renegotiate the contract between the state and the company (after the price of nickel increased).

Further concern for public security was a result of the Dominican being neighbours with Haiti. The physical proximity of the two countries created illegal immigration issues and pay-scale discrepancies between Haitian and Dominican labourers. This led to significant tension between Haitian workers and the local Dominican communities.

The company responded to the security and human rights concerns by creating the Falcondo Foundation in 1989. Designed as a collaborative, grass-roots initiative led by the community for the community, the Foundation's mission continues to be the promotion of equitable, responsive and participatory self-help development in the provinces of Monsenor Nouel and La Vega, the home provinces of Falcondo's operations.

*(b) Development of the Falcondo Foundation: Supporting Human Rights in the Dominican Republic*

The Falcondo Foundation focuses on several methods of supporting human rights, specifically for marginalized citizens who have traditionally had less opportunity to assert their individual rights, including women and children. Through local collaboration with these stakeholders, community members are actively able to identify and direct Falcondo Foundation's programming without undue company interference. This collaborative model decreases barriers while building capacity through education, health, credit and natural resource programming, as well as developing the economy through local procurement and local employment (Falcondo's workforce is nearly 100% sourced from local communities).

The multi-stakeholder dynamic of the Falcondo Foundation that works in concert with government and local communities helps to create credible and effective results. The Falcondo Foundation acts as a change-agent in the community by enhancing access to basic human rights necessities and by giving a continuous voice with which to address concerns.

Traditionally, industry has adopted company-directed philanthropic initiatives to engage communities. However, history has demonstrated that this one-dimensional model may not be the most effective way to maintain community support or address human rights concerns in a sustainable manner. Philanthropic driven models, although helpful as 'one-off' initiatives, can lead to economic community imbalance, inflation and even conflict. Philanthropic initiatives do not necessarily constitute sustainable engagement with communities and can lead to capital need-dependency.

For companies, the challenge lies in relinquishing control associated with these "good-works" models, and instead, developing more independent, multi-stakeholder driven initiatives characterized by capacity-building programming.

The Falcondo Foundation model demonstrates the value of companies initiating a capacity-building human rights model. When moving away from corporate-managed philanthropy, direct control is replaced by more effective stabilization of human rights concerns at the community level. Recognizing that individual communities are well acquainted with their own issues and their direct participation will more effectively stabilize, if not ameliorate, human rights concerns, the Falcondo Foundation strategy improves ongoing community relations. As the socio-economic fabric of the Dominican Republic changes and strengthens at the local level, the Falcondo Foundation offers the Falcondo operation the ability to change and grow in unison with these communities to effectively tackle human rights concerns.

Through the Foundation's community rights-focused programming and Xstrata's Sustainable Development Policy, employees and community members alike are given the opportunity to integrate human rights principles into their day to day life – making a connection between rights in the workplace and rights in the community. This connection is also supported through school-sponsored programs where children are able to incorporate school teachings (i.e. responsible citizenship) into their home life. The Foundation orients its educational programming towards improving quality of life and supporting social growth.

The Falcondo Foundation is based in Santo Domingo. The Foundation is governed by an independent Board of Directors comprising ten members. The Board includes nationally influential individuals knowledgeable about community development, representatives of Falcondo Xstrata Nickel management and is presided by Falcondo's President and General Manager. The Foundation's Executive Director sits on international philanthropic boards, national social development organisations and is a member of the

Advisory Committee for the Minister of Education. Falcondo's traditional support to the Foundation of US\$850,000 annually was increased in 2007 to US\$1,468,000. The Foundation administers another US\$400,000 of funding from third part donors such as USAID, World Bank, InterAmerican Development Bank and Hispanics in Philanthropy among others.

*(c) Falcondo Foundation Program Focus*

As one of the largest employers in the area, Falcondo's community efforts have two different targets: the town of Bonao (home to the majority of Falcondo's employees) and the surrounding rural communities. Mining vehicles pass close to the rural communities within ten kilometers of the site and these communities are within view of the site's infrastructure. The Foundation has also developed a model of intervention in the area of natural resources to protect important watersheds in the Cibao region (an area of significant national interest), Los Dajaos, Plan Sierra and Blanco.

The Foundation's school and community business programs have had a number of successes. These communities around Falcondo have demonstrated increased economic and educational success compared to similar communities elsewhere in the area. The most notable recent success has been improved income for local people from increased exports of coffee from the coffee growing region, and the promotion of greenhouse vegetable production at low altitude with new exports from the greenhouses to Miami and Puerto Rico.<sup>‡</sup>

The School Sponsorship Program is the Foundation's single largest program and reaches the largest number of communities and people. The program was created to find an effective model for participation of the private sector in the public education system and to support the national efforts for basic education reform. The Foundation activities are intended to complement the efforts of the Ministry of Education and not to substitute for them. The School Sponsorship Program is focused entirely on community-level activities.

The School Sponsorship Program is designed to improve the quality, effectiveness and access to formal and non-formal elementary and secondary education, and alleviate the risk of child labour. The Program is built on local community involvement and responsibility with a view toward long-term community development. The Foundation's education program has been an enduring example of public-private partnerships in support of traditional public education, with clear benefits to the private firm, school system and the local communities. In 2001, USAID carried out an evaluation of the Foundation's education program and deemed key elements of the sponsorship's model program credible for replication elsewhere in the Dominican Republic and having potential applications for other countries.<sup>§</sup>

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<sup>‡</sup> Before the introduction of the Foundation's Greenhouse Project, the Ministry of Agricultural was promoting that greenhouses were only productive if built 500 meters above sea level. Through the Foundation's work, it was demonstrated that, if appropriately managed, excellent results could be achieved in lower altitudes. After the success of the projects Peñaló and Los Jengibres, producing at low altitudes has become a viable production alternative for farmers that have limited land access. It has also become a new production system for large scale vegetable producers in the region.

<sup>§</sup> The central purpose of the evaluation was to (1) measure the achievements of the Foundation in terms of its objectives (2) identify key elements of the sponsorship model in order to reproduce it in other areas of the Dominican Republic, and potentially, in other countries. The evaluation report emphasizes that "the Program of Sponsorship of Schools of the Falcondo Foundation has produced significant results, recognized and valued by a wide range of participants in this process within the school community, the regional community, the Teachers' Association, and the Ministry of Education."

Since its inception, the Foundation has built or rebuilt 129 schools, to date benefiting approximately 77,000 students and close to 2,000 teachers. Ninety per cent of the total student population of the province of Monseñor Nouel attends a Foundation-sponsored school. Foundation sponsorship involves providing training to teachers, helping establish a classroom atmosphere and establishing a student council and parent-teacher dialogue. These basic educational tools have enhanced the educational environment in the rural and urban poor areas where Falcondo operates.

Other programs in education include the scholarship and adult education programs. Since 1990, the Foundation has supported a program of scholarships and loans for students from the region to attend university, technical and professional schools after high school graduation. To date, approximately 900 students have benefited from this program.

The Foundation has also carried for more than fifteen years an Adult Literacy Program for young adults in the remote rural communities of Monsenor Nouel and la Vega. These programs are very popular and support not only income generation but also community change through its teachings of the democratic participation model.

The Foundation, in collaboration with the National Cancer Institute, also has a program for early cancer detection in women in rural areas. This program was established as a result of the lack of rural health centers coupled with the spike in cervical and breast cancer rates in the Dominican Republic. As a result of the program, more than 2000 women in Monseñor Nouel have been screened for cancer. Treatment costs have also been partially covered for more than 500 women in the local oncology hospital.

The Foundation is also working with women's groups to promote business initiatives to help women generate job opportunities and additional income such as agricultural co-operatives and micro-businesses.

Social initiatives are also run through Falcondo's Human Resources and Public Relations functions, as well as its "Satellite" Operations, including the Falcondo Foundation, Centro Educacional Bonaio, Club Falcondo, and Falcondo Sports and Social Club. Falcondo's goal for satellite operations is to make them self-sufficient. This strategy has been imperative when markets conditions have led to the shutdown of Falcondo in the past. The strategy has been largely successful with Centro Educacional Bonaio (86% self-sufficiency for funding), Club Falcondo (90%), Falcondo Sports and Social Club (67%), Falcondo Foundation (11%).

The Falcondo Foundation has undertaken broad need-based consultations with all the communities in the province of Monseñor Nouel. This led to the publication of the book *Las Comunidades Saben lo que Necesitan* that is used as a reference tool for other organisations throughout the country on how to design and execute development programs based of an active participation of the society.

The Foundation, with the help of a group of their sponsored schools and surrounding communities, also conducted a study to capture the essence of their School Sponsorship Program, specifically the Educating for Democracy Program. This led to the publication of the book entitled *Ojalá que los Niños Gobernaran el Mundo*. The book is used to facilitate the replication of this program to other public and private schools and details how to form Student Councils, how to get the community to participate actively in the decision making process of the school and how to improve relationships between students, teachers and parents.

"The Falcondo Foundation has replaced social assistance programs with true capacity-building initiatives as a vehicle to promote empowerment, sustainable development, and reduce the vulnerability of disadvantaged communities," said Arelis Rodriguez, Falcondo Foundation Executive Director.

#### *(d) Aligning Shutdown Actions with Voluntary Principles on Security and Human Rights*

As a result of falling nickel prices and the high cost of oil, which represented approximately two-thirds of Falcondo's operating costs, Falcondo initiated a temporary three-month suspension in August 2008. On 4 December 2008, following three months of severely deteriorating global economic and market conditions, Falcondo announced the continued shutdown of its operations and placed it into care and maintenance. As a result, Falcondo had to lay-off approximately 900 employees out of a total workforce of approximately 1,800, creating a highly risky situation in a historically unstable community.

In view of the area's history, Xstrata Nickel management was aware that suspending operations could pose significant human rights concerns both in terms of short-term security risks as well as long-term social effects in the community. Management understood that the decision to shutdown Falcondo was not going to be business-as-usual and that careful planning would be required in order to address potential adverse effects.

Possible layoff impacts could include higher poverty levels and social unrest in the already impoverished communities of Monseñor Nouel and La Vega. Social unrest could take the form of increased criminal rates, domestic violence, drug abuse, child labour and school dropout rates. These issues would inevitably be exacerbated by the global crisis and other impacts from the global economic downturn on the Dominican Republic economy. For example, social services are subject to potential reductions in funding.

The challenge was to place the facility under care and maintenance responsibly, respecting human rights principles and mitigating potential risks to Falcondo employees and the community at large.

#### **4. Analysis**

The following analysis will demonstrate how Xstrata Nickel and its Falcondo operation respected and supported human rights throughout an extremely sensitive situation, and in doing so, successfully shutdown the operations while avoiding civil unrest. The case will examine the detailed plan that was implemented to address areas of risk in accordance with the UN Global Compact principles and the Voluntary Principles on Security and Human Rights (VPSHR). Specific focus will be placed on the plan's security planning including preparation, practical training, close-out process and community investment plans.

While not a formal participant in the VPSHR plenary group, Xstrata continues to demonstrate support for the doctrine through its Sustainable Development Policy and Standards and site-level training.

##### *(a) Ensuring Ample Planning Time*

Taking the time to carefully plan and develop a sound strategy was one of the key factors behind the successful execution of the Falcondo suspension. By allocating sufficient time to properly align shutdown actions to support and respect the protection of internationally proclaimed human rights, Xstrata Nickel was able to place a heavy focus on the Global Compact Principle One and the Voluntary Principles.

Falcondo's management extended the originally planned date of the shutdown by approximately one month – a move that prolonged the losses realized from operating, but which management deemed necessary to properly prepare employees and the communities for the suspension of operations. This

allowed for further strategy preparation, program implementation and a deeper understanding of security and human risks and opportunities.

*(b) In-Depth Security Risk Assessment*

To ensure the lay-off notifications were executed without incident, Falcondo underwent security risk assessments in alignment with the Voluntary Principle to “understand the potential for violent conflict in the area of operations” and “assess risks to the community related to the company’s presence.” Falcondo chose to undertake security assessments in order to develop baseline understandings of the current security situation, gauge risks and monitor any changes in security “temperature.”

To aid in the execution of the plan, Falcondo engaged Monkey Forest Consulting, an internationally reputed consulting firm focused on social development, security and human rights protection.

Employee-specific risk assessments were carried out to determine problematic responses that could arise during the shutdown process. Assessments were also undertaken for the broader community and local leadership. The evaluations examined how community members could react to the shutdown and, specifically, whether there was the possibility for increased crime or violent political activism that could cause increased security risks in the communities. The team engaged with local government, police and other local stakeholders to gain a deeper understanding for potential issues that could arise during the layoffs.

*(c) Developing Scenario Analysis and Response Planning*

Security risk assessments enabled Xstrata Nickel and Falcondo management to develop hypothetical scenario analyses based on potential risks during the shutdown. In developing the scenario analyses, the team referred to cases with similar notification processes and identified common risk areas and reactions (e.g., disgruntled employees hijacking heavy equipment, security risks for the company and Foundation’s personnel, etc.).

The security assessments and scenario analysis estimated that the potential for problems in the workforce were not immense, however “spill-over” chances were greater in the community. Specifically, the potential involvement of external security forces in the community caused concern for the team. If public security forces were taken by surprise from events precipitated on site, there existed the possibility for the situation to lead to unnecessary use of force off-site.

Based on the results of the scenario analyses, Falcondo undertook planning based on the Voluntary Principles to eliminate or minimize and manage potential incidences.

*(d) Setting-Up and Training Teams in Accordance with VPSHR*

Scenarios were used to develop training programs that would prepare teams to address problems in accordance with human rights principles. Building scenarios involved assessing worst case circumstances and planning response strategies in accordance with internationally-proclaimed human rights. Specifically, the team ran through how Falcondo was going to manage the notification and what processes they would follow, including the details of management to staff ratio, work structure, leadership presence and time of day.

As an alternative to using contract security forces, Falcondo chose to organize and train internal teams as an effective way to help control the atmosphere and maintain a non-aggressive environment. In total, the company created an intervention team, a monitoring team, a command post and plain clothed-police liaisons, made up of local members of the national police force.

#### Crisis Intervention Team

A Crisis Intervention Team was set up to act as a guard force in the event of a flare-up on the day the suspension of operations and resulting layoffs were announced. In selecting the team, Falcondo screened the workforce for trustworthy and reliable employees. These individuals were selected on the basis that they could get in the middle of a tough situation without losing control. This team was comprised of those employees that management had the most confidence in, including individuals from Falcondo's Safety Department and Management and Security Advisory teams.

Members on the teams were neither given uniforms nor weapons. A key initiative was to ensure that teams were properly instructed and given special training relating to the Voluntary Principles. Over a period of several days, team members participated in role playing and practical exercises in six critical scenarios based on the security assessments.

#### Monitoring Team

The Monitoring Team was formed to observe the environment on the days prior to and including announcement day. This team was to address immediate resolution of any potential incidents. Based on the Voluntary Principles, the team was given explicit instructions regarding appropriate rules of engagement and how to approach the various situations.

Falcondo decided to minimize visible forces on-site to avoid further aggravating employees in what would already be a tense environment. Low visibility monitoring systems were implemented, equipping teams with radios to report incidents, feedback and general notifications to the command post. Command posts were set up one week before the announcement was made.

#### Centre of Operations for Emergency Response

A Centre of Operations for Emergency Response was set up in the site's central operation building. The centre was equipped with: communications radio, fixed and mobile phones, map of facilities, Bonao city map, compound map, speaker, videoconferencing installations, list and location of support staff, list of cell phone numbers of key members of the National Police, emergency response personnel employed by Falcondo and transportation. An advisor with Monkey Forest, with ample experience in crowd control, the police and military, assisted the Falcondo team.

#### Anti-riot Police Team

In conjunction with the Colonel who is in charge of the Bonao police force, a special anti-riot police team was created and posted to the Military Station set up outside the facilities to quickly respond to any incident. The anti-riot police team was to enter the facilities only in cases where Falcondo's internal teams were not able to resolve a situation. To keep visible forces to a minimum, Falcondo instructed security forces to remain off-site on standby. All team members were trained on use-of-force procedures.

#### *(e) Early Stakeholder Engagement: Aligning Public Security Force Training with the Voluntary Principles of Security and Human Rights*

Early stakeholder engagement is critical in the context of preventing human rights violations. Falcondo wanted to ensure that the Dominican public security forces had the opportunity to establish an appropriate response framework via early engagement. With proper training, organisation and equipment, security

forces could play an instrumental role in minimizing, if not eliminating potential human rights violations throughout the layoff notification period.

Involving public security forces in early joint planning also allowed for knowledge transfer, particularly with regard to how to manage precarious circumstances in accordance with human rights principles. Joint planning enabled transparency, clear direct messaging and training for the security forces and provided tools for the management of contentious situations.

All engagement was done using the Voluntary Principles of Security and Human Rights as a framework. When the company met with security forces, they would review the principles of human rights and the proper and appropriate uses of force. Specifically they would go over the various levels and standards, trigger points and circumstances requiring intervention.

Falcondo felt it was imperative to keep security forces informed throughout the initiation of the shutdown period. It was crucial to note that should a significant conflict occur, the security forces would come on their own accord – regardless of whether they were summoned or not. Falcondo kept security forces informed, and engaged them in intense planning so that, should intervention be necessary, they had agreed to do so in accordance with human rights principles. For example, in addition to relevant training, Human Rights principles were given to the teams (translated into Spanish).

Security forces were given training to ensure the right force was in place with the adequate training and appropriate equipment – forces were equipped for non-lethal control only with shields. Training covered the rules of engagement in relation to human rights so that the forces would become familiar with potential incidences and comfortable with the correct actions to take. An emphasis was placed on joint planning and clarifying lines of responsibility and authority. Specifically this involved detailing a joint decision-making process and determining what point forces would be utilized. For example, a policy was adopted that in no case were firearms to be used inside the Falcondo facilities.

As part of the training, the police riot control team leader, police liaison officer and the Colonel reviewed the “rules of engagement” and were given a terrain familiarization tour of the plant to minimize confusion should they need to enter the site. Evacuation contingencies were also implemented to increase security in residential areas.

Early engagement involved identifying all key stakeholders including Dominican government officials (President, Vice President, Minister of Labor, Minister of Environment, and Minister of Energy), Canadian government officials, union leaders, community leaders and the Chief of Police and other public security forces.

Additional initiatives were taken to maintain transparency throughout the suspension when engaging the local security forces. Ernest Mast, former President and General Manager of Falcondo sent a letter to the Chief of Police as a follow-up to several meetings they had. The letter referred specifically to appropriate levels of force throughout the notification period as well as related human rights concerns. In engaging various levels of authority in strategy planning ahead of time, Falcondo anticipated minimizing potential incidences. In documenting their strategy, Falcondo formalized an on-going dialogue with the police and government officials.

*(f) Implementing the Plan: No detail is too small to be overlooked*

In structuring the layoffs and keeping potential security incidences to a minimum, Falcondo decided to make the layoff notifications on site. This decision was based on the idea that holding the meetings off site may cause further volatility in the community.

On the day of the announcement, before notification was given, the Falcondo team physically checked the off-site security forces to ensure proper equipment was being used as well as answer any questions they had. Management verified that the team had undergone proper training and understood aspects of human rights regarding proper use of force.

Falcondo staff also ensured that the day of layoff notifications was captured via still and video camera to allow for accurate documentation of all events.

## **5. Post-Suspension Mitigation Strategy**

### *(a) Long Term Security Initiatives*

Falcondo maintained a security focus by incorporating it into day-to-day business functioning. Management implemented a security and safety awareness program and retooled evacuation plans and training for all staff so they could avoid being victim of crime in the event of public order breakdown.

Perimeter security initiatives were addressed with the Chief of Police, including physical barriers, fencing and surveillance that could minimize the risk of future issues. Part of Falcondo's strategy involved the continued relationship with police to ensure access and influence. This included providing special skills and training to the security force with emphasis on human rights.

### *(b) Gaining (and Maintaining) Community Support throughout the Shutdown Process*

Community involvement and engagement with all stakeholders is crucial to guarantee Falcondo's long-term future in the Dominican Republic and has always been bedrock to Falcondo's operational strategy. In acknowledging the socioeconomic implications the shutdown would have on the communities, Falcondo implemented a Corporate Social Investment Plan through the Falcondo Foundation designed to play a predominant role in structuring and implementing development programs to help mitigate the impact on the local economy.

Bonao is home to almost 70% of the Monseñor Nouel population and more than 61% of these people live in urban areas; according to the World Bank and the Inter-American Development Bank 41% live below the poverty line and 8.5% live in extreme poverty conditions. Seventeen per cent of the economically active population is currently unemployed; one of the lowest rates in the country. Thus, Falcondo's shutdown was determined to have the greatest impact in Bonao, particularly in marginalized urban areas. The Foundation placed emphasis on minimizing the economic implications for these areas by implementing a Corporate Social Investment Plan. Falcondo undertook an assessment of what the potential regional economic impacts may be post-shutdown in order to determine the strategy for the Corporate Social Investment plan.

### *(c) Corporate Social Investment Plan*

In light of the Falcondo Foundation's importance in the local communities and its history of effective community engagement, Xstrata Nickel injected an additional US\$1.6 million of funding into the Foundation. The additional funds are intended to address the destabilizing features of the mine suspension on a medium to longer-term basis.

A targeted three-year strategic plan was defined by the Falcondo Foundation to bring relief to affected communities and employees by creating job opportunities and generating income. The shutdown was expected to result in a 75% reduction of wages and benefits that had been the main source of stability in the region. The cumulative impact of the loss of these contributions may create a destabilizing effect on the local region and directly on the quality of life indicators for community members.

The increase in financial support for the Falcondo Foundation would enable Falcondo to work closely with unions, community leaders and development organisations to address these issues. The proposed post-suspension mitigation strategy included a Community Involvement Plan, an Infrastructure Support Plan, Third Party Engagement, Employee and Community Business Initiatives, Training Initiatives for Ex-Employees and Community Members as well as an extensive Communications Plan. Social, economic, environmental, and health considerations were also addressed in the plan to include:

- Mitigating the social and economic impact of the shutdown in the communities of Monseñor Nouel and La Vega
- Creating job opportunities and income generation
- Identifying and addressing potential risks and outcomes in a timely manner
- Identifying opportunities to help secure the future of Falcondo
- Ongoing contribution to the creation of sustainable and viable communities that can function effectively without relying on Falcondo
- Providing consistent and transparent communication
- Reducing social unrest and related violent manifestations
- Strengthening health services and counseling services
- Partnerships with private and public organisations.

By pushing back the shutdown date by one month, the management team ensured that ample time was made available to develop an effective plan and execute economic appraisals (refer to *Timing* section for further detail).

#### (d) *Community Involvement Program Focus*

The Falcondo Foundation identified communities where employees lived to determine the direct impact that the layoff would have in these communities. Economic appraisals were undertaken to determine existing living conditions and possible short-term effects.

The Foundation prepared a list of the formal businesses established in Monseñor Nouel through the local Chambers of Commerce and different business associations to determine which ones could be expanded and which ones were likely to be severely affected by the shutdown. The evaluation also included determining the nature of the business, number of employees, main source of financing and their markets. The list was then used as a reference tool for the Community for the Corporate Social Investment plan details.

The plan was designed to improve general living conditions in rural areas around the plant to facilitate the return of many families that had migrated to Bonaó in search of opportunities.

The team established a committee of community leaders and entrepreneurs to design a sustainable development plan for the province. This committee includes Falcondo Union leaders, local business people, church representatives and local authorities, among others. Focus was also placed on access to funding from both local and international organisations.

To address the mental health and emotional needs of the community after the suspension, the Foundation, in an effort to promote governance and create stability in marginalized urban communities, implemented the Peacemakers Program in conjunction with the Ministry of Education. This program was designed to help community members become positive leaders and acquire skills for conflict resolution.

Other initiatives included strengthening mental health support programs and counseling, enhancing parent engagement strategies through effective community outreach and parent education programs to reduce violence and drug abuse, and extending the Health Promoters Program to urban marginalized communities while strengthen the core program.

## **6. Actions and Impacts Post-Suspension**

### *(a) Short Term*

When the suspension was announced, there were no security or human rights incidents, and employees and their respective communities remained calm, accepting the immediate reality of the situation. The news received intense local coverage and on the day of the lay-offs, Ernest Mast, Arelis Rodriguez and Luis Rosado (Falcondo's Public Relations Director) held a two hour press conference detailing aspects of the market, the lay-off process and the package being given to the laid off workers.

The Union executive members who had been kept up-to-date during the entire decision-making process participated in numerous local talk shows in order to further explain the situation. Further, in cooperation with Falcondo's management, government representatives met with Falcondo employees to offer further explanation to the shutdown and detail the government's economic plan moving forward.

The compensation packages given to the laid-off employees went beyond what was legally required and the additional services given to employees provided for an optimal lay-off process.

The layoff of approximately 900 employees in a developing country can generally be considered to be a potential flashpoint for violent retaliation. Falcondo's careful planning and preparation, in advance of the announcement resulted in downsizing without incident.

### *(b) Long Term*

Implementing a business plan that has the potential to significantly alter a community's fabric is a dynamic process – it is particularly difficult when it comes to measuring long-term “success.” Unlike the short-term, long-term developments tend to be retrospective and can be influenced by various realities such as global economics, national politics and existing local instability.

At this point, measuring the impact of placing Falcondo under care and maintenance is complicated as indicators are often lagging, some beyond Falcondo's control, such as the global economic meltdown. To tackle this difficulty, Falcondo has applied business risk management techniques such as scenario analysis and monitoring systems (health, security, school drop-out rate, etc.) through the Foundation where indirect impacts can be mitigated.

Since the mine suspension, the communities have responded positively to the Falcondo Foundation's projects. Increasing numbers of community members have been eager to participate in new grassroots initiatives such as the Greenhouse Project and the Quality of Cacao Project.

Further, the associations that manage the Micro Credit Programs have evaluated the possibility of expanding credits to more communities taking into consideration the economic crisis. Nonetheless, they have decided to ask for more guarantees and will monitor the loans more closely to ensure the return of these loans and make credit available to the communities.

Another positive sign is that the municipal governments and the Development Commission of Monsenor Nouel have asked the Foundation to provide technical assistance to elaborate a long-term Strategic Development Plan. For the first time in the Dominican Republic's history, they are promoting plebiscites in order to obtain the approval of the majority of the population for the implementation of these plans. These are being rehearsed with support from the Canadian Embassy and the Foundation.

## **7. Lessons Learned**

### *(a) Early Stakeholder Engagement*

There is a clear business case to build relationships with stakeholders before the business “needs” them. Early engagement is a proactive method to build cooperative and constructive relationship without the panic and defensiveness commonly seen in crises situations. Strong stakeholder relationships allow for comprehensive issue management, decreasing and sometimes even eliminating incidences.

“The shutdown process has reaffirmed that taking the time to engage public security forces and making the assumption that they too want to protect community enables you to have quality ‘real risk’ discussions,” said Nehring. “This is crucial for effective prevention work.”

Stakeholder engagement is part of Xstrata's Sustainable Development Standards (XSDS). This formal framework for engagement addresses community concerns and needs and is linked to Xstrata's Assurance Processes. As per the XSDS intent:

“The social impact of our activities, community concerns, needs and the social risks to our operations are identified and addressed through the effective implementation of community relations strategies which uphold and promote human rights and respect cultural considerations and heritage.

Social involvement plans aim to enhance the socio-economic capacity and well-being of the communities associated with the Group's activities, avoiding dependency and contributing to the development of sustainable livelihoods. Plans are established through engagement with communities and relevant organisations and are coordinated between the different levels of the organisation and with external governmental or development organisations.”

### *(b) Timing*

Allowing for ample timing is essential to proper planning and implementation in accordance with human rights principles. “Extending the shutdown date was a strategic decision to ensure proper planning was in place and not rushed,” said Pearce “It was important for us to take adequate time to allow management to thoroughly think through scenarios and prepare properly to handle these difficult situations.”

Relying on minimalist plans simply will not equip individuals with the adequate means to handle even a low level of disruption.

### *(c) Role of Observers*

Organizing internal observers to assist during the shutdown was a non-threatening method to keep the peace and acted as a calming factor in an otherwise chaotic circumstance. Having observers throughout the notification period was similar to using peacekeeping observers in wartime as they are able to instill precautionary principles without the hostility factor.

#### (d) *Communication*

Transparent communication with all affected stakeholders throughout the planning and implementation stages of Falcondo's suspension announcement was critical to effective engagement and developing trustworthy relationships. For example, although not required, Falcondo informed the union before the actual layoff notifications took place. Government officials and union representatives were also alerted ahead of the announcement. This worked to minimize confusion and misinterpretation that could lead to violent retaliation. It also helped to balance the government's role as protector of the economy through encouraging proactive thinking and solution methodology. For example, early government engagement allowed for the opportunity for government to make changes in the severance packages of those laid-off employees during the shutdown, resulting in an easier financial transition for the employees and minimal shock to the local economy.

A further example of the positive benefits resulting from transparent communications throughout the shutdown planning were seen when union executives took it upon themselves to participate in numerous local talk shows to help further explain the challenge and decision making process to the general public.

An intelligence system was also necessary for the timely detection of the start of any event. "Transparent communication helped us to develop key relationships with our Dominican Republic stakeholders," said Dionne. "Keeping government officials and community members informed well ahead and throughout the shutdown process was an effective method in building trust, increasing engagement and gaining perspective."

Quality communication involves the ongoing management and implementation of the VPSHR at the site level. Specifically, management should treat potential incidences as "near misses" that allow for the opportunity to further reinforce VPSHR by building on understanding and training.

#### (e) *Financial and Economic Viability of the Business*

The biggest threat facing Falcondo, its team and local stakeholders is the financial and economic viability of this business going forward and the ability of the business to compete on a cost basis during subdued points in the commodity cycle. The financial sustainability and feasibility of the business created the oxygen necessary for all of the other initiatives. In reality, if Falcondo did not have an economic future, the ability to resource the activities and functions referenced would be limited – an issue of resource and funding allocation that faces all corporations. While working on the sustainability and security of the operations, it is of key importance to focus on value creation and the business as a whole. "Operating in an ethical and safe manner is necessary as a license to operate and is simply good business," said Usmar, "It can also differentiate the 'good' players from the 'bad' and provide preferential access to lucrative future growth opportunities in some instances."

## **8. Would the company do anything differently?**

#### (a) *Long-term Security Planning*

Setting up long-term security indicators as early as possible is crucial when involving communities on a proactive basis. This should be done collaboratively, allowing communities to participate in identifying and articulating baseline security and human rights indicators (both within the communities and at the workplace).

Early consultation with employees and community members is important to effective security planning. This reinforces that it is a “we” and not an “us versus them” issue and creates a constructive feedback mechanism. Long-term security planning avoids last minute security and human rights assessments that can leave room for uncertainty regarding high-risk situations. Community identified security indicators allow for robust engagement opportunities and the relevant community perspective.

Good practice for responsible companies includes placing increased focus on third party/NGO engagement. There is a clear business case for establishing relationships with NGOs that maximizes engagement, learning exchange and transparency.

## 9. Conclusion

*“Falcondo took it from the perspective of wanting to do the right thing by their employees and took a bit of risk doing it the ‘right’ way. I believe they were truly concerned with handling things correctly – this played a major role in their planning.”*

*-Gary Macdonald  
Monkey Forest Consulting*

Effective security is an aggregate of robust community engagement and physical security. Operating according to security and human rights principles helps to manage risk, emphasizing the business case.

The key to embedding human rights principles into business practice and preventing incidents before, during and after the shutdown period includes comprehensive stakeholder engagement, solid planning, effective communication, adequate supervision and an effective response plan.

Particularly in the context of a temporary mine and metallurgical operation suspension, supporting and respecting human rights throughout a layoff scenario is crucial to positioning for a successful operations restart. Simply put, abiding by Global Compact Principle One enables for company self preservation and positioning for long-term success, both for communities and the business.

“Mine sites are not sustainable over the long-term due to the finite nature of the resource,” said Nehring. “However, if done properly, the value of the net impact can be.”

## Appendix

- Voluntary Principles on Security and Human Rights  
(<http://www.voluntaryprinciples.org/principles/index.php>)
- Xstrata’s Sustainable Development Standards  
([http://www.xstrata.com/assets/pdf/x\\_sus\\_sdstandards2008.en.pdf](http://www.xstrata.com/assets/pdf/x_sus_sdstandards2008.en.pdf))
- Xstrata’s Sustainable Development Policies  
([http://www.xstrata.com/assets/pdf/x\\_sus\\_sdpolicy2008.en.pdf](http://www.xstrata.com/assets/pdf/x_sus_sdpolicy2008.en.pdf))