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IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT

No. 8002 of 2012

MR JUSTICE HILDYARD

IN THE MATTER OF XSTRATA PLC

- and -

IN THE MATTER OF THE COMPANIES ACT 2006



**ORDER SANCTIONING THE SCHEME
OF ARRANGEMENT**

UPON THE CLAIM FORM of the above-named Xstrata plc (the *Company*) whose registered office is at 1st Floor, Almack House, 26-28 King Street, London, SW1Y 6QW presented to this Court on 17 October 2012

AND UPON HEARING Counsel for the Company and Counsel for Glencore International plc and Finges Investment B V

AND UPON READING the said Claim Form and the evidence

AND UPON Glencore International plc and Finges Investment B V by their Counsel submitting to be bound by the scheme of arrangement hereinafter sanctioned (the *Scheme*) and to execute and do all such documents, acts and things as may be necessary or desirable to be executed or done by them for the purpose of giving effect to the said Scheme

AND UPON Corporate Secretaries (Jersey) Limited and Xstrata Guernsey Limited, by Counsel for the Company being each of their Counsel for this purpose, each submitting to be bound by the Scheme and to execute and do all such documents, acts and things as may be necessary or desirable to be executed or done by them for the purpose of giving effect to the said Scheme

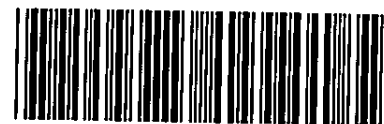
THIS COURT HEREBY SANCTIONS the modified Scheme set forth in Schedule 1 annexed hereto

IT IS ORDERED that this Order be produced by the Company to the Registrar of Companies and that an office copy hereof be delivered to him

AND IT IS ORDERED that the Claim Form be adjourned to 1 May 2013 for further hearing

Dated 29 April 2013

MONDAY



SPE

29/04/2013

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COMPANIES HOUSE

No. 8002 of 2012

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT**

**IN THE MATTER OF
XSTRATA PLC**

and

**IN THE MATTER OF
THE COMPANIES ACT 2006**

**ORDER SANCTIONING THE SCHEME OF
ARRANGEMENT**

FRESHFIELDS BRUCKHAUS DERINGER LLP
65 Fleet Street
London EC4Y 1HS
020 7936 4000
Ref JCM/PTPJ/TG (159400-0001)

SOLICITORS FOR THE COMPANY

PART III
PART A
THE NEW SCHEME OF ARRANGEMENT

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT

No 8002 of 2012

IN THE MATTER OF XSTRATA PLC
– and –
IN THE MATTER OF THE COMPANIES ACT 2006

SCHEME OF ARRANGEMENT
(under Part 26 of the Companies Act 2006)
BETWEEN
XSTRATA PLC
AND
THE SCHEME SHAREHOLDERS
(as hereinafter defined)

(A) In this New Scheme, unless inconsistent with the subject or context, the following terms have the following meanings

"\$", or "US\$" or "US dollars" or "cents" or "USD"	the lawful currency of the United States
"£", or "Sterling" or "pounds sterling" or "pence"	the lawful currency of the United Kingdom
"A Shares"	has the meaning given in Clause 1 1(i)
"Act"	the UK Companies Act 2006 (as amended)
"Article"	an article of the Xstrata Articles
"B Shares"	has the meaning given in Clause 1 1(ii)
"business day"	a day (other than a Saturday, Sunday, UK public or bank holiday) on which banks are generally open for the transaction of business in London
"certificated" or in "certificated form"	the relation to a share or other security which is not in uncertificated form (that is, not in CREST)
"Code"	the UK City Code on Takeovers and Mergers
"Company" or "Xstrata"	Xstrata plc, incorporated in England and Wales with registered number 04345939
"Court"	the High Court of Justice of England and Wales
"CREST"	the relevant system (as defined in the CREST Regulations) in respect of which Euroclear is the Operator (as defined in the CREST Regulations) in accordance with which securities may be held and transferred in uncertificated form
"CREST Regulations"	the Uncertificated Securities Regulations 2001 (SI2001 No 3755) or the Companies (Uncertificated Securities)

	(Jersey) Order 1999 (as applicable) in each case, as amended from time to time
"Deferred Shares"	the non-voting deferred shares of £1 each in the capital of Xstrata
"Effective Date"	the date upon which a copy of the Reduction Court Order and the related Statement of Capital has been delivered to the Registrar of Companies and, if the Court so orders for the Reduction of Capital to take effect, registered by the Registrar of Companies, following the prior delivery of the New Scheme Court Order to the Registrar of Companies
"Euroclear"	Euroclear UK & Ireland Limited
"Excluded Shares"	(a) all Xstrata Shares beneficially owned by Glencore or any other member of the Glencore Group, (b) any Xstrata Shares held in treasury by Xstrata, and (c) any other Xstrata Shares which Glencore and Xstrata agree (subject to the consent of the Court) will not be subject to the New Scheme, in each case which will be reclassified as A Shares pursuant to Clause 1 of the New Scheme
"Financial Services Authority"	the UK Financial Services Authority
"Further Xstrata General Meeting"	the extraordinary general meeting of Xstrata to be convened in connection with, <i>inter alia</i> , the New Scheme and the Reduction of Capital, including any adjournment thereof
"Glencore"*	Glencore International plc, incorporated in Jersey with registered number 107710
"Glencore Group"	Glencore and its subsidiaries and subsidiary undertakings
"Glencore Shares"	the ordinary shares of US\$0.01 each in the capital of Glencore
"holder"	includes a person entitled by transmission
"Long Stop Date"	11 59 p.m. London time on 31 December 2012 or such later date (if any) as Glencore and Xstrata may, with the consent of the Panel, agree and (if required) the Court may allow 2 May 2013
"members"	in relation to a share or other security, members of the Company on the register of members at any relevant date
"New Court Meeting"	the meeting of Scheme Voting Shareholders to be convened by order of the Court pursuant to section 896 of the Act to consider and, if thought fit, approve this New Scheme, including any adjournment thereof
"New Glencore Shares"	the new Glencore Shares to be allotted and issued to Scheme Shareholders pursuant to the New Scheme
"New Scheme"	this scheme of arrangement in its present form or with or subject to any modification, addition or condition approved or imposed by the Court and agreed to by the Company and Glencore
"New Scheme Court Order"	the order of the Court sanctioning the New Scheme under Part 26 of the Act

* Proposed to be renamed Glencore Xstrata plc upon the Effective Date, subject to the requisite majority of Glencore Shareholders (as defined in the circular (the "Circular") posted to Xstrata Shareholders in relation to (amongst other matters) the New Scheme) approving the change of name at the Glencore General Meeting (as defined in the Circular)

"New Xstrata Shares"	the new Xstrata Shares to be allotted and issued to Glencore and/or its nominees pursuant to the New Scheme
"Panel"	the UK Panel on Takeovers and Mergers
"Reduction of Capital"	the proposed reduction of the Company's share capital under Chapter 10 of Part 17 of the Act, to be effected as part of this New Scheme
"Reduction Court Hearing"	the hearing by the Court of the claim form to confirm the Reduction of Capital under section 648 of the Act at which the Reduction Court Order will be sought
"Reduction Court Order"	the order of the Court confirming the Reduction of Capital
"Registrar of Companies"	the Registrar of Companies in England and Wales
"Reorganisation Record Time"	6 00 p m (London time) on the business day following the date of the Scheme Court Hearing
"RIS" or "Regulatory Information Service"	an information service that is approved by the Financial Services Authority and on the Financial Services Authority's list of Registered Information Services
"Scheme Court Hearing"	the hearing by the Court of the claim form to sanction the New Scheme under section 899 of the Act at which the New Scheme Court Order will be sought
"Scheme Record Time"	6 00 p m (London time) on the date of the Reduction Court Hearing
"Scheme Shareholders"	registered holders of Scheme Shares
"Scheme Shares"	all Xstrata Shares which have been reclassified as B Shares pursuant to Clause 1 of the New Scheme
"Scheme Voting Record Time"	6 00 p m (London time) on the day which is two business days before the date of the New Court Meeting or, if the New Court Meeting is adjourned, 6 00 p m (London time) on the day which is two business days before the date set for the adjourned New Court Meeting
"Scheme Voting Shareholders"	holders of Scheme Voting Shares
"Scheme Voting Shares"	all Xstrata Shares <ul style="list-style-type: none"> (a) in issue as at the date of the circular posted to Xstrata Shareholders in relation to (amongst other matters) the New Scheme, and (b) (if any) issued after the date of the circular posted to Xstrata Shareholders in relation to (amongst other matters) the New Scheme and prior to the Scheme Voting Record Time, but in each case other than the Excluded Shares
"Special Voting Share"	the special voting share of US\$0.50 in the capital of Xstrata
"Statement of Capital"	the statement of capital (approved by the Court) showing, with respect to Xstrata's share capital, as altered by the Reduction Court Order, the information required by section 649 of the Act
"subsidiary"	has the meaning given to it in section 1159 of the Act
"subsidiary undertaking"	has the meaning given to it in section 1162 of the Act
"UK" or "United Kingdom"	the United Kingdom of Great Britain and Northern Ireland

"uncertificated" or "in uncertificated form"	in relation to a share or other security, recorded on the relevant register of the share or other security concerned as being held in uncertificated form in CREST and title to which by virtue of the CREST Regulations may be transferred by means of CREST
"United States of America", "United States" or "US"	the United States of America, its territories and possessions, any state of the United States and the District of Columbia
"Xstrata Articles"	the articles of association of Xstrata from time to time
"Xstrata Directors"	the directors of Xstrata
"Xstrata Executive Directors"	Messrs Davis, Reid and Zaldumbide
"Xstrata Group"	Xstrata and its subsidiaries and subsidiary undertakings
"Xstrata Shareholders"	holders of Xstrata Shares
"Xstrata Shares"	the ordinary shares of US\$0 50 each in the capital of Xstrata

and, where the context so admits or requires, the plural includes the singular and vice versa. References to Clauses are to Clauses of this New Scheme, and references to time are to London time

- (B) The share capital of the Company as at the close of business on 23 October 2012 (the last practicable date prior to the date of this New Scheme) was £50,000 plus US\$1,501,346,038 50 divided into 50,000 Deferred Shares of £1 each, 3,002,692,076 Xstrata Shares of US\$0 50 each and one Special Voting Share of US\$0 50 each, all of which were credited as fully paid
- (C) The share capital of Glencore as at the close of business on 23 October 2012 (the last practicable date prior to the date of this New Scheme) was US\$70,994,560 31 divided into 7,099,456,031 Glencore Shares of US\$0 01 each, all of which were credited as fully paid
- (D) As at the close of business on 23 October 2012 (the last practicable date prior to the date of this New Scheme) Glencore, through its wholly-owned subsidiary, Finges B V, beneficially held 1,010,403,999 Xstrata Shares, representing approximately 33 65 per cent of the current issued ordinary share capital of the Company
- (E) Glencore and Finges B V. have agreed to appear by Counsel at the Scheme Court Hearing and to submit to be bound by and to undertake to the Court to be bound by this New Scheme and to execute and do or procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it for the purpose of giving effect to this New Scheme
- (F) Section 2 of this New Scheme is subject to the subsequent confirmation by the Court of the Reduction of Capital and accordingly may not become effective until a copy of the Reduction Court Order and related Statement of Capital have been delivered to and, if the Court so orders for the Reduction of Capital to take effect, registered by the Registrar of Companies

THE NEW SCHEME

Section 1

1. RECLASSIFICATION OF XSTRATA SHARES

1.1 At the Reorganisation Record Time, each of the Xstrata Shares shall be reclassified on the following basis

- (i) all of the Excluded Shares shall be reclassified into A ordinary shares of nominal value US\$0.50 each ("A Shares"), and
- (ii) all other Xstrata Shares shall be reclassified into B ordinary shares of nominal value US\$0.50 each ("B Shares")

1.2 For the purposes of this Clause 1, each portion of a member's holding which is recorded in the register of members of the Company by reference to a separate designation at the Reorganisation Record Time, whether in certificated or uncertificated form, shall be treated as though it were a separate holding held at such time by a separate person

1.3 The A Shares and B Shares created by the reclassifications referred to in Clause 1.1 shall have the rights and be subject to the restrictions contained in the new Article 7A to be adopted pursuant to paragraph 1.4 of Resolution 1 set out in the notice of the Further Xstrata General Meeting

1.4 No certificates representing the A Shares or the B Shares will be issued by or on behalf of the Company

2. EFFECTIVE TIME

2.1 Section 1 of the New Scheme will become effective in accordance with its terms as soon as a copy of the New Scheme Court Order shall have been delivered to the Registrar of Companies for registration. Section 2 of the New Scheme will become effective as soon as a copy of each of the Reduction Court Order and the Statement of Capital has been delivered to the Registrar of Companies and, if the Court so orders for the Reduction of Capital to take effect, registered by the Registrar of Companies

2.2 If Section 2 of this New Scheme does not become effective by 6.00 p.m. on the tenth business day following the Reorganisation Record Time or such earlier or later time and date as the Company and Glencore may agree and the Company may announce through a Regulatory Information Service, the reclassifications effected by Clause 1.1 shall be reversed and the A Shares and B Shares shall revert to, and be reclassified as, Xstrata Shares, and the new Article 7A adopted and referred to in Clause 1.3 shall be deleted from the Xstrata Articles

2.3 Unless Section 2 of this New Scheme has become effective by the Long Stop Date it will lapse

Section 2

3. CANCELLATION OF THE B SHARES AND ISSUE OF NEW XSTRATA SHARES

3.1 Subject to the reclassification referred to in Clause 1.1 taking effect and the requisite entries having been made in the register of members of the Company, the share capital of the Company shall be reduced by cancelling and extinguishing all of the B Shares

3.2 Subject to and forthwith upon the said reduction of capital referred to in Clause 3.1 taking effect the reserve arising in the books of account of the Company as a result of the Reduction of Capital shall be capitalised and applied in paying up in full such number of New Xstrata Shares as shall be equal to the number of B Shares cancelled pursuant to Clause 3.1 which shall be allotted and issued credited as fully paid to Glencore and/or its nominee(s)

3.3 One business day following the said reduction of capital referred to in Clause 3.1 taking effect

- (i) the A shares shall revert to and be reclassified as ordinary shares of US\$0.50 each in the capital of the Company, and
- (ii) the Xstrata Articles shall be amended by the deletion of the new Article 7A referred to in Clause 1.3

4. CONSIDERATION FOR THE CANCELLATION OF THE B SHARES

4.1 In consideration for the cancellation of the B Shares pursuant to Clause 3.1 and the allotment and issue of the New Xstrata Shares as provided in Clause 3.2, Glencore shall (subject to the remaining provisions of this New Scheme) allot and issue to Scheme Shareholders (being holders of B Shares following the reclassification effected pursuant to Clause 1.1) who appear in the register of members of the Company at the Scheme Record Time

for every Scheme Share:

3.05 New Glencore Shares

4.2 The aggregate number of New Glencore Shares to which Scheme Shareholders at the Scheme Record Time shall be entitled under Clause 4.1 shall be rounded down to the nearest whole number. No fractions of New Glencore Shares shall be allotted to any holder of Scheme Shares, and all fractions to which, but for this Clause 4.2, holders of Scheme Shares would have become entitled shall be disregarded

4.3 The New Glencore Shares to be issued pursuant to Clause 4.1 shall be issued, credited as fully paid, and shall rank equally in all respects with all other fully paid Glencore Shares and shall be entitled to all dividends and other distributions declared, paid or made by Glencore by reference to a record date on or after the Effective Date

5. OVERSEAS SHAREHOLDERS

5.1 The provisions of Clause 4 shall be subject to any prohibition or condition imposed by law. Without prejudice to the generality of the foregoing, if, in respect of any holders of B Shares with a registered address in a jurisdiction outside the United Kingdom, or whom Glencore and the Company reasonably believe to be a citizen, national or resident of a jurisdiction outside the United Kingdom, Glencore and the Company are advised that the allotment and/or issue of New Glencore Shares pursuant to Clause 4 would or may infringe the laws of such jurisdiction or would or may require Glencore or the Company to comply with any governmental or other consent or any registration, filing or other formality with which Glencore and the Company are unable to comply or compliance with which Glencore and the Company regard as unduly onerous, Glencore and the Company may, in their sole discretion, either

- (i) determine that such New Glencore Shares shall be sold, in which event the New Glencore Shares shall be issued to such Scheme Shareholder and Glencore shall appoint a person to act pursuant to this Clause 5.1(i) and such person shall be authorised on behalf of such Scheme Shareholder to procure that any New Glencore Shares in respect of which Glencore and the Company have made such determination shall, as soon as practicable following the Effective Date, be sold, or
- (ii) determine that such New Glencore Shares shall not be issued to such Scheme Shareholder but shall instead be issued to a nominee for such Scheme Shareholder appointed by Glencore and

the Company on terms that the nominee shall, as soon as practicable following the Effective Date, sell the New Glencore Shares so issued

5.2 Any sale under Clause 5.1 shall be carried out at the best price which can reasonably be obtained at the time of sale and the net proceeds of such sale (after the deduction of all expenses and commissions incurred in connection with such sale, including any value added tax payable on the proceeds of sale) shall be paid to such Scheme Shareholder by sending a cheque or creating an assured payment obligation in accordance with the provisions of Clause 6.1

5.3 To give effect to any sale under Clause 5.1, the person appointed by Glencore and the Company in accordance with Clause 5.1(i) shall be authorised as attorney on behalf of the Scheme Shareholder concerned, and the nominee appointed by Glencore and the Company in accordance with Clause 5.1(ii) shall be authorised, to execute and deliver as transferor a form of transfer or other instrument or instruction of transfer and to give such instructions and to do all other things which he may consider necessary or expedient in connection with such sale. In the absence of bad faith or wilful default, none of the Company, Glencore, or the person or nominee so appointed shall have any liability for any loss or damage arising as a result of the timing or terms of such sale

6. SETTLEMENT OF CONSIDERATION

6.1 As soon as practicable after the Effective Date and in any event no later than 14 days after the Effective Date, Glencore shall

- (a) allot and issue the New Glencore Shares which it is required to allot and issue to Scheme Shareholders at the Scheme Record Time pursuant to this New Scheme and
 - (i) in the case of Scheme Shares which at the Scheme Record Time are in certificated form, procure the despatch of certificates for such New Glencore Shares to the persons entitled thereto in accordance with Clause 6.2, and
 - (ii) in the case of Scheme Shares which at the Scheme Record Time are in uncertificated form, procure that Euroclear is instructed to credit the appropriate stock account in CREST of the relevant holder of Scheme Shares with such holder of Scheme Share's entitlement to such New Glencore Shares, provided that Glencore reserves the right to settle all or part of such consideration in the manner set out in Clause 6.1(a)(i) if, for reasons outside its reasonable control, it is not able to effect settlement in accordance with this Clause 6.1(a)(ii),
- (b) in the case of Scheme Shares sold pursuant to Clause 5.1 which at the Scheme Record Time are in certificated form, procure the despatch to the persons entitled thereto in accordance with Clause 6.2 of cheques for the sums payable to them respectively in accordance with Clause 5, and
- (c) in the case of Scheme Shares sold pursuant to Clause 5.1 which at the Scheme Record Time are in uncertificated form, procure that Euroclear is instructed to create an assured payment obligation in favour of the payment bank of the persons entitled thereto in accordance with the CREST assured payment arrangements for the sums payable to them respectively in accordance with Clause 5, provided that Glencore reserves the right to make payment of the said sums by cheque as set out in Clause 6.1(b) if, for reasons outside its reasonable control, it is not able to effect settlement in accordance with this Clause 6.1(c)

6.2 All deliveries of share certificates or cheques pursuant to this New Scheme shall be effected by sending the same by first class post in prepaid envelopes addressed to the persons entitled thereto at their respective addresses as appearing in the register of members of the Company or, in the case of joint holders, at the address of that one of the joint holders whose name stands first in the said register in respect of such joint holding, at the Scheme Record Time, and none of Glencore, the Company nor any person or nominee appointed by Glencore shall be responsible for any loss or delay in the transmission or delivery of any share certificates or cheques sent in accordance with this Clause 6.2, which shall be sent at the risk of the persons entitled thereto

6.3 All cheques shall be in pounds sterling drawn on a UK clearing bank and shall be made payable to the persons respectively entitled to the moneys represented thereby (except that, in the case of joint holders, Glencore reserves the right to make such cheques payable to that one of the joint holders whose name stands first in the register of members of the Company at the Scheme Record Time in respect of such joint holding) and the encashment of any such cheque or the creation of any such assured

payment obligation as is referred to in Clause 6 1(c) shall be a complete discharge to Glencore for the moneys represented thereby

6.4 The provisions of this Clause 6 shall be subject to any prohibition or condition imposed by law

7. SHARE CERTIFICATES AND CANCELLATION OF ENTITLEMENTS

7.1 With effect from and including the Effective Date

- (i) all certificates representing Scheme Shares shall cease to have effect as documents of title to the Scheme Shares comprised therein and every holder of Scheme Shares shall be bound at the request of the Company to deliver up the same to the Company or to destroy the same and appropriate entries shall be made in the register of members of the Company with effect from the Effective Date to reflect their cancellation, and
- (ii) Euroclear shall be instructed to cancel the entitlements to Scheme Shares of holders of Scheme Shares in uncertificated form with effect from the Effective Date

8. MANDATES

All mandates relating to the monetary payment of dividends on the Xstrata Shares and other instructions, including communication preferences, given to the Company by Scheme Shareholders in force at the Scheme Record Time relating to their holdings of Xstrata Shares will, unless amended or revoked, be deemed from the Effective Date to be an effective mandate or instruction to Glencore in respect of the corresponding Glencore Shares. Any reinvestment elections given to the Company by Scheme Shareholders in connection with dividends payable by the Company will not be treated as a valid instruction to Glencore in respect of the corresponding Glencore Shares

9. MODIFICATION

Glencore and the Company may jointly consent on behalf of all persons concerned to any modification of, or addition to, this New Scheme or to any condition, which the Court may approve or impose

10. COSTS

The Company is authorised and permitted to pay all costs and expenses relating to the negotiation, preparation and implementation of the New Scheme

Dated 25 October 2012

No. 8002 of 2012

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