

7 March 2016

Patricia Feeney
RAID UK

Catherine Coumans
Miningwatch Canada

By email

Dear Ms Feeney and Ms Coumans,

Acacia Mining plc (“Acacia”) and North Mara Gold Mine Limited (“NMGML”) notes the further allegations made by MiningWatch Canada (“MWC”) and Rights and Accountability in Development (“RAID”) in relation to human rights at the North Mara Gold Mine (“Mine”) dated 25 February 2016. Acacia and NMGML have been invited to respond to a number of matters in this most recent correspondence. We have responded substantively to most of these queries in our previous correspondence, a copy of which is annexed to this letter and available on our website: <http://www.acaciamining.com/sustainability/our-material-areas/community-relations/grievance-mechanism.aspx>. We trust that these responses will be adequately referenced in your report.

The reports published by MWC and RAID and the communications sent by them to Acacia and NMGML have been general in nature, containing allegations as to the conduct of NMGML employees and the Tanzanian Police. Again, we note that MWC and RAID have not provided any detail on these allegations such as to enable Acacia and NMGML to follow up on them.

We respond to the specific allegations in the most recent correspondence below.

Human Rights Assessments

Acacia and NMGML have conducted HRA assessments at the Mine over a number of years for the purposes of reviewing and validating its Human Rights programmes and performance. From 2016, we will be commissioning external assessments for independent publication.

However, as Acacia and NMGML understand that representatives of MWC and RAID have been actively participating in the preparation of litigation, we are understandably concerned that the release of internal documentation to your organisations will be used primarily for these purposes as opposed to any genuine attempt to discuss or enhance the grievance mechanism and human rights program per se.

May 2011 Incident

The events of May 2011 have been described in detail in our previous correspondence.

On the morning of 16 May 2011, more than 1500 trespassers, armed with rocks, armed with machetes, known locally as “pangas” (large machetes, examples of which are shown in Annexure A)

and other weapons, invaded the Mine in an attempt to storm the run of mine (“ROM”) pad to steal gold-bearing rock. This was the largest incursion in the Mine’s history. As they tried to repeal the mass incursion, Police officers and the Mine’s security personnel were repeatedly stoned by the trespassers. Due to the volume of trespassers advancing on the ROM pad, the Mine’s security personnel were ordered, by their supervisor and to ensure their physical safety, to retreat on to the ROM and behind the Tanzanian Police. On 14 May 2011, six policemen had been injured when trespassers were stoning the police.

As the trespassers approached, they brandished their pangas loudly called on their fellow trespassers to attack and kill the Tanzanian Police. The Tanzanian Police ordered the trespassers to desist and to leave. They were ignored. The Tanzanian Police then repeatedly attempted to repel the trespassers using tear gas but the canisters were thrown back at them by the trespassers as they moved towards the ROM pad. As the rounds of tear gas had failed to stop the trespassers, the Tanzanian Police then fired warning shots in the air in order to deter the attackers. This measure also failed to stop the trespassers’ aggressive and threatening advance.

The Tanzanian Police continued to try and push trespassers away from the ROM pad but were overpowered and forced back towards the ROM pad by the attack. The Tanzanian Police had been pushed back all the way to the edge of the ROM pad. At this time, the trespassers continued to move forwards and to assault the Tanzanian Police. Trespassers struck one Police officer with stones, who fell, and the trespassers then attempted began to assault him and attempted to take his weapon. In the face of a severe and escalating physical threat, all other measures have failed, the Tanzanian Police discharged live ammunition. Shortly thereafter, the trespassers discontinued the attack but, even then, would not disperse.

From the time when the trespassers first began to congregate on active mining areas until the end of the attack, the incursion had lasted several hours. In response to the scale and the violent nature of the mass incursion, the Tanzanian Police acted objectively reasonably and proportionately. Even as their lives were threatened (7 Police officers were injured by trespassers that day), the Tanzanian Police attempted to disperse the trespassers through warnings and a number of non-lethal means. It was only once these measures had failed and the threat of serious imminent physical injury was apparent that live ammunition was discharged.

An investigation was carried out at the order of the District Commissioner into the events on 16 May 2011. The members of the investigation panel reviewed the contemporaneous evidence (including witness statements). The investigation concluded that:

“[t]he Police took all the relevant precautions by trying to remove the invaders by using tear gas and rubber bullets but the people continued to move forward and threw stones at the Police. This highlights that citizens had different intentions which included to kill the policemen, looting weapons, taking gold stones, damaging the Mine property and endangering the lives of the Mine workers and some of the locals who did not participate in the attacks. This is attributed by time spent in the struggle between the civilians and the Police which was over 4 hours. The Committee was satisfied that the force used by Police was appropriate according to the risk that was before them. The citizens should respect police duties when they are required to protect people and assets”.

At no stage did any Mine security personnel discharge any ammunition of any kind. At all times, following the ordered retreat of the Mine’s security personnel, the confrontation was between the

trespassers and the Tanzanian Police. At no stage did Acacia or NMGML exercise or seek to exercise any control or direction over the Tanzanian Police or their operations. The decisions as to how and when to use force in response to the substantial threat posed by the aggressive mob of trespassers were made by the Tanzanian Police. The CCTV footage is entirely supportive of the above description.

You refer to the views of an “expert in policing” in the Leigh Day litigation. You may be aware that Justice Andrews considered an application to have the report of this person used as evidence in this litigation. Her Honour rejected this application on the basis that the witness had no relevant expert qualifications and had no direct relevant evidence that would make his opinion of any value in deciding the issues. In the reasons refusing leave to appeal from this decision, Justice Andrews found that:

“ at most it would seem that Mr White would be offering an opinion as to what he, or someone with his policing experience, would have done hypothetically and with hindsight in the situations with which the defendants were faced. That is not going to help the trial judge to decide whether they were negligent or used disproportionate force. If Mr White offered a view on the reasonableness or otherwise of what the defendants actually did, he would be trespassing into impermissible territory. In any event his evidence would not appear to be derived from any objectively ascertainable standard or consensus within a recognised body of opinion as to how a person in the defendant’s position should behave when faced with that scenario. There was no material before the court from which it could draw the conclusion that any reliable or recognised body of knowledge or experience on this subject exists, e.g. in the form of published materials. Thus there is no recognized expert discipline and his evidence is inadmissible on that basis alone.

However even if it were, on the basis of his credentials set out in the earlier report, Mr White appeared to have no direct relevant experience which would make his opinion of value in resolving any of the issues that the Court would have to decide.”

Kesabo and others v African Barrick Gold plc and North Mara Gold Mine Limited (HQX02118) 19 November 2014.

Police MOU

The Memorandum of Understanding between NMGML and the Tanzanian Police Force was initially entered into on 8 July 2011 (“the MoU”). An earlier MoU (dated 10 December 2008) had been entered into between Barrick Gold Tanzania and the Tanzanian Police. The MOU is reviewed periodically and was most recently revised in 2014. The MOU has been put in place to provide a framework for the engagement between NMGML and the Police, consistent with NMGML and Acacia’s commitment to the Voluntary Principles and best practice in security. We note that the Voluntary Principles on Security and Human Rights (“VPs”) provide the cornerstone for our policies and practices in this area. In line with best practice under the VPs, all contracts with private security providers and our memoranda of understanding (“MOU”) with the Tanzanian police maintaining security at North Mara incorporate the VPs by reference.

The MOU stands in the context of the North Mara mine (Mine), which is located in the Tarime District of Tanzania, to the south of the Tanzanian/Kenyan border. The Tarime District has and continues to be chronically afflicted by organised crime and unlawful activity. Due to the high level of crime and violence, the Tanzanian Government has designated the Tarime District as a “Special

Police Zone” (“SPZ”), meaning it thereafter had its own police management hierarchy reporting to the national headquarters. Though numbers vary, there are, and were prior to the events in issue in these proceedings, daily incursions by trespassers attempting to gain access to the Mine for the purposes of stealing gold-bearing rock (not waste rock) and other property (including fuel). Whilst many of the trespassers come from the 7 surrounding villages, some travel long distances in order to steal gold-bearing materials.

Gangs of trespassers include those who are routinely armed with pangas as well as with rocks, hammers, sling-shots and other weapons (see Annexure A for examples). Some incursions of the Mine have been co-ordinated mass-scale attacks on one or more specific areas. Others have involved gangs of 200 or more and some involve small groups of 3-5 trespassers. During these incursions, gangs of trespassers regularly attack Mine security personnel as well as Police officers. Notwithstanding the heavy personal protection equipment which is required to be worn by the Mine’s security personnel, guards and Police are injured. A number of these employees have suffered serious and permanent disabilities and two employees have been killed.

The majority of trespassers seek to steal the highest-grade ore possible, namely gold-bearing rock. To this end, they climb have climbed into the active Mine pits to conduct their own mining illegally, sometimes using explosives with little or no regard for their own or the safety of others. They have also, using all necessary means, sought to gain access to the high-grade ore which, before processing, is temporarily stockpiled at the ROM pad.

In the first instance, the Mine security personnel, most of whom are themselves Tanzanian citizens, are responsible for defending the safety of the Mine’s operations and the Mine’s unarmed employees. When confronted with large, armed and violent gangs of trespassers, the security personnel fear for their lives and personal safety as well as for the lives and safety of the other employees of the Mine. It is NMGML’s policy not to arm the Mine’s security personnel with live ammunition (except for gold shipments within the plant). If they were permitted to carry and/or discharge live ammunition, there is a real and substantial risk that trespassers would also seek to carry live ammunition thereby increasing the threat to the safety of the Mine’s security personnel and others at the Mine.

The trespassers are well aware that the Mine’s security personnel are not armed with lethal weapons on a day to day basis. They regularly ignore the instructions of the Mine’s security personnel to leave the Mine and simply continue their criminal activities. When faced with significant numbers of threatening and regularly armed trespassers who refuse to acknowledge, let alone comply with, instructions to leave and who pose a threat to the safety of the Mine’s security personnel and/or others at the Mine, the Tanzanian Police will be called by NMGML in an effort to restore law and order.

The purpose of the MOU is to put appropriate arrangements in place to ensure the effective protection of life and property at the Mine. Under the terms of the MOU, at all times, the Tanzanian Police remained (and remain) explicitly subject to the command and direction of their superior officers in the Tanzanian Police. NMGML, or Acacia, cannot and have not sought to direct Police operations at the Mine or sought to give orders or direction to the Tanzanian Police. Within Tanzania, the Tanzanian Police are the duly authorised public body vested with statutory responsibility for preserving the peace. As a matter of Tanzanian law, the MOUs do not affect the Tanzanian Police’s statutory power to enter the Mine site and use force if so required. Accordingly,

the MOU does not impact the legal position that the Police are responsible for the command and control and operational deployment of their officers.

The decision whether to seek Police assistance is a question of judgment for NMGML's Security Manager on the basis of the situation confronting the Mine's security personnel. As a general rule, he will seek Police assistance in circumstances where a large number of trespassers have congregated (usually 10 or more individuals), who are armed (for example, with pangas or stones), who have refused to leave the active Mine area when asked to do so and who will not disperse after the use of tear gas and have become more aggressive. When a situation arises on the ground, this is seen by the Operations Control room, and the NMGML Operations Manager organizes the mine security in to groups to deal with the situation and in conjunction with the Security Manager, will determine if and when it may be necessary to contact the Police. This is done through the Police Liaison Officer, and the Police Liaison Officer along with the OC Operations are responsible for the coordination of police efforts. The decision as to appropriate deployment is taken by the Police OC Operations, who will arrange for a daily deployment sheet to be forwarded to the Security manager for information only. At no time do NMGML employees instruct the Police as to their operations.

NMGML regularly reviews its security operating policies, procedures and deployment instructions and remains of the view that without the assistance provided by the Tanzanian Police under the MoU, it would not be able effectively to respond to the scale and frequency of criminal activity directed towards the Mine, NMGML's employees and property.

The Tanzanian Police interact with armed trespassers, in challenging terrain. They can deal with large groups of trespassers that often outnumber them and face attacks by gangs of intruders who are routinely armed with large machetes and who aggressively resist arrest. In these circumstances, NMGML has received allegations of excessive use of force or other actions alleged to have caused injury by the Police. Consistent with the VP's, NMGML encourages and expects the Tanzanian Police to comply with its policies and procedures which emphasised that force should only be used to protect life. Under the terms of the MOU, we follow up any allegation of human rights involving the Tanzanian police deployed on or around NMGML with senior officers of the Tanzanian Police force. Eleven police officers have been removed from service under the MoUs as a result of performance issues. These are raised by the North Mara Security Manager with the Regional Police Commander, the Operational Commander Operations and the Operational Commander FFU on a regular basis, including providing any information relevant to the specific matters to the Police for investigation.

The monetary sums specified to be paid by NMGML under the terms of the MoU are fixed in accordance with the rate, published from time to time by the Tanzanian Government in its Circulars which applies to all Tanzanian civil servants working away from home. The arrangement is transparent and documented, and approved by the Tanzanian police hierarchy. There are no bonuses paid in relation to the outcome of particular operations, and various controls are in place. The provision of financial assistance to Police is not unusual, and indeed, in the United Kingdom, Police are paid additional amounts by private organisations in situations such as football matches.

As discussed in our previous correspondence, NMGML and Acacia continually monitor the security situation in and around the mine in order to determine the optimal response to any threats, consistent with our commitment to the Voluntary Principles on Security and Human Rights ("VPs").

Operational deployment and the appropriate security infrastructure (such as cameras and CCTV) form part of this monitoring and review and we will continue to look at best practice in this regard.



Additional cameras have been installed over time, with 444 infrared cameras and 14 FLIR thermal cameras providing coverage of the operation. There are on-going discussions with Tanzanian law enforcement agencies in relation to the potential for importation and licencing of other options.

In relation to recent trends, we continue to see lower levels of violent interactions generally across the operation. The exceptions to this trend are two locations on the operation that have seen a continuation of violent behaviour by well-armed and aggressive intruders resulting in injuries to Police, Security and trespassers, primarily in the Gokona Pit. The Pit also carries the significant and inherent risk of falls from height whilst intruders are trying to climb the sides. Trespassers who have been injured at Gokona Pit have been well armed with pangas and spears, are aggressive towards police and security and will attack security and Police in large groups to either enter or exit the Pit. Average monthly spend on security materials used in confrontations with intruders in 2015 has reduced by approximately 98% compared to 2014, highlighting the dramatic reduction in incidents. During the course of 2015, we have had 131 recorded injuries to security employees and Police as a result of managing intruders.

In addition to operational security, we continue our commitment to improve the well-being of those communities in the 7 villages which have grown up by the Mine and accordingly to seek to reduce any incentives to make illegal incursions on to the Mine.

In collaboration with local communities, NMGML identified, in the 7 villages surrounding the Mine, those social issues (such as education, health, local infrastructure and water supply) in respect of which the companies can provide assistance. The form of investment in each of the villages differs, but includes, for example, the development of school infrastructure, improvements in access to water supply, the upgrading of the Sungu-Sungu Medical Clinic, rehabilitation of village offices, and improvements to road and electricity supply infrastructure, as well as community livelihood programs.

In 2015, we spent over US\$5.4 million on initiatives in the communities around the mine including the construction or renovation of ten schools, upgrading of a water pipeline, farming and business initiatives as well as a number of smaller health, education and infrastructure projects. Our efforts have been recognised in Tanzania as North Mara emerged as the overall Corporate Social Responsibility and Empowerment Champion in the Presidential CSRE awards during 2015, and also the winner in the large mining company category.

Mines Investigation Procedure

The Acacia investigations procedure is designed to reflect best practice under the VPs, including with respect to the gathering of evidence about allegations of human rights abuses by private contractors and public security forces. It is also intended to cover a wide range of possible circumstances that may require investigation by the Company, including the commission of criminal offences on the Mine. The purpose of the Procedure is to ensure professional and competent investigations are carried out into potential criminal activities or other circumstances designated under the Procedure. Your references to this procedure omit the specific requirement to report any deaths on Acacia Operational Areas as required by regulation as soon as possible to the Tanzania Police Force and Mines Inspector by the General Manager or delegate. Any investigation in relation to injuries or deaths is subject to the overriding direction of the attending Police investigators. It is explicitly stated that the Procedures are subject to any contrary direction or action taken by the attending Police.



The MOU provides for a notification mechanism in the event that the Police are aware of any criminal activity and, in conjunction with the Procedures, to ensure appropriate investigations are undertaken by either or both of the Police and NMGML. Having previously been criticised by MWC and RAID for allegedly not being aware of issues in and around the operation, it is curious that a mechanism designed to ensure that this information is known to management is now subject to adverse comment.

Grievance Mechanism

Acacia is committed to engaging with local communities in connection with our operations, including the NMGML in Tanzania. As detailed on our website, we maintain grievance mechanisms at all our mines, including NMGML, as proscribed by the UN Guiding Principles on Business and Human Rights (“UNGPs”). The grievance mechanisms have been in place since 2008 and continue to be fully accessible to all. We continue to ensure that these grievance mechanisms are responsive to the concerns of surrounding communities and otherwise satisfy the UNGP effectiveness criteria.

The grievance mechanism at North Mara is legitimate, accessible and has been in use for many years. It is based on the free and informed consent of those who use it and designed to resolve grievances through engagement and dialogue. The North Mara grievance team currently comprises three Grievance Officers, four Grievance Investigators and a Remedy Co-ordinator, all of whom are wholly dedicated to dealing with grievances. In addition, North Mara staff in all departments work together to investigate and resolve grievances related to any aspect of the North Mara operations. NMGML also consults external advisers, including a retired High Court judge, in order to resolve grievances. Furthermore, Search for Common Ground assist in providing information to community members explaining how to access the grievance mechanism.

The grievance mechanism is advertised widely, and leaders from each of the seven villages surrounding the mine report that there is good awareness and understanding of it amongst the communities, including how to access it. The mechanism is used by hundreds of community members every year (only a very small percentage of whom bring human rights-related claims).

The resolution of grievances often involves extensive investigation in order to reach a conclusion as to the veracity of the claims. While a number of grievances lodged are substantiated, and an appropriate remedy provided by the Company, regrettably, many false claims are also lodged. Nonetheless, the Company devotes considerable resources to investigating all grievances and providing a response.

The Company also provides legal aid through a voucher system in which the grievance claimant is provided with a voucher (worth four hours of legal advice) and can select their own lawyer. The lawyer attaches the voucher to his invoice and it is paid by NMGML. We attach the voucher template, and the English language translation of the text. The Company has not restricted any claimant’s access to assistance from civil society organisations. All grievance resolution agreements are written, negotiated and executed in Swahili, with an English version also executed only in the final instance. Moreover, the mine insists that a retired Justice of the Tanzanian High Court review the agreements carefully with complainants in Swahili and explains all the promises made in the agreements. Furthermore, all individuals receive a copy of the signed agreement. MWC and RAID are at liberty to review this process with the retired High Court judge as part of their assessment.

Remediation packages are discussed individually with each grievance complainant following an assessment of their medical, economic and familial circumstances and aspirations, and can include

compensation, sponsored employment, sponsored education, health insurance, medical treatment, relocation expenses, construction materials, agricultural equipment and livestock, and other benefits. The nature and total value of remedy packages is determined through a consensual discussion with the grievance claimant. However, from the company standpoint, remedy packages for complaints are benchmarked against civil damage awards in East Africa courts and the domestic workers compensation statute which provides for monthly pensions determined by the salary that the worker earned. That figure is then reviewed against decisions of international tribunals on a localized basis for equity purposes, and may be further adjusted in light of aggravating and mitigating factors. The structure of the packages is discussed further below. It is worth noting that there have been issues experienced with cash settlements in this area, in particular if vulnerable women or dependents are involved. We have found that there is a risk that the benefits of such lump sum payments can be re-directed to male relatives at the detriment of the appropriate beneficiaries. The structure of the remedy packages guards against these potential issues.

In relation to the views of MWC and RAID on those individuals represented by Leigh Day, we are precluded by confidentiality obligations from discussing the specifics of individual cases. It is unclear whether MWC and RAID are aware of these confidentiality obligations. In the event that the other parties to the settlement are prepared to waive these obligations, Acacia and NMGML will provide further comment. However, we categorically deny that any beneficiaries of the remedy program have seen their redress packages curtailed and support contracts ended early, in fact the contrary has occurred. The beneficiaries of the remedy programme have been illegal intruders injured on the mine site, whilst stealing gold or gold bearing material to sell. Accordingly, the grievance resolution agreements have a strong focus on employment, training and providing the capital and skills to start enterprises and ensure that individuals move away from criminality into the legitimate and sustainable economy. Resolution agreements may have a fixed term (most no less than two years) appropriate to the particular remedy, with extensions granted on application in many cases.

The livelihood and training assistance provided as part of many of the agreements has been developed in conjunction with the International Labour Organisation (“ILO”), the Small Industry Development Organisation and KUDAS (a Tanzanian NGO) in order to maximise the impact of the assistance and to ensure a sustainable, legitimate livelihood for the beneficiaries. This has been at NMGML’s expense and went beyond NMGML’s contractual obligations. KUDAS have also been retained to provide psycho-social counselling and needs assessments and provide training on financial management at a family and business level.

A number of the programmes we are running in relation to the livelihood aspect of the resolution agreements are highlighted below; it should be noted that individuals often participate in more than one programme:

- **Dress design, operation and maintenance training:** 14 female beneficiaries were trained on dress design, operation and maintenance of sewing machines as well as entrepreneurship skills by Small Industry Development Organization (SIDO). All the women were awarded with certificates of participation. Currently these women are working as dress designers and sewing machine operators and generating income.

- **Gender and Entrepreneurship training:** 37 beneficiaries (20 men and 17 women) were trained by the ILO in a process to identify business ideas to implement in their local areas. In addition to the businesses in which these individuals are engaged in as a co-operative, many have decided to diversify their sources of income by establishing small businesses.
- **Formation of two Economic Groups:** 37 beneficiaries have also been trained by the ILO on business group formation, management and leadership which led to the formation of two economic groups (JIKOMBOE youth group and JUWAWANI women's group) engaging in agricultural and sewing activities respectively.
- **Job Skills Development:** 27 male beneficiaries have received sponsored employment with local companies where they have gained skills such as welding, masonry, timber businesses, store keeping/sales, motor vehicle mechanics and driving.

In addition to the livelihood support, NMGML provides psycho-social counselling, health insurance, medical treatment for those who sustained injuries during intrusion, home improvements, education for their dependents and quarterly/monthly small business startup capital.

We firmly refute the allegation that there have been cancellations of community relations programmes as a result of disputes over grievance agreements. This is simply not true. A number of women receiving remedies under the grievance resolution agreements were provided with sponsored employment at a local sewing business (Mara Kaskazini Enterprises). This employment is in the process of transitioning to a co-operative formed by the women (JUWAWANI). In fact, the numbers of community relations livelihood projects has increased over the last year and now include fish farming, bee keeping, bakery, sewing projects, agricultural supply, livestock management and cleaning contracts. We have also experienced some difficulties with a number of individuals who are receiving medical treatment, including individuals attending treatment sessions in an intoxicated state such that the medical practitioners at specialist hospitals have refused to treat them. We have also seen instances of fraud conducted by some individuals, including forging doctor's appointment cards, medical prescriptions and receipts. Accordingly, we have had to source replacement medical services. NMGML continues to work to resolve these challenges to ensure medical treatment is provided in a timely manner.

NMGML is in regular communication with individuals who have entered into resolution agreements, and discuss with them any issues raised in relation to the implementation of these agreements. We are not aware of any obligations arising from resolution agreements that have not been satisfied by NMGML. We have requested that you provide us with any details of these alleged breaches and have had no response. In fact, in a number of cases, the term of the agreements has been extended after the two year period to allow a transition to other Acacia livelihood programmes or other opportunities or the conclusion of necessary medical treatment. NMGML continues to monitor these individuals post the expiry of the agreements.

As a final matter I would note that Acacia and/or NMGML are responsible for designing, implementing and monitoring compliance with their own policies and procedures. This includes policies and procedures relating to the security of the Mine and the grievance mechanism described above. For clarity neither Barrick Gold Corporation nor any other stakeholder in Acacia dictate or bear responsibility for such matters.

We trust the above answers your remaining queries in relation to the Mine.

Yours sincerely

A handwritten signature in black ink, appearing to read 'KW', written in a cursive style.

Katrina White
Head of Legal and Compliance

Annexure A



