



# Anger Boils Over at North Mara Mine – Barrick/Acacia Leave Human Rights Abuses Unaddressed

## Field Assessment Brief

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June proved to be a hot month for Canada's Barrick Gold Corp. (Barrick) and its London-based 63.9%-owned subsidiary Acacia Mining plc. (Acacia). Both in Tanzania's capital Dar es Salaam and at the North Mara Gold Mine Ltd.<sup>1</sup> (North Mara) problems escalated for the companies.

On June 12<sup>th</sup>, the Tanzanian Government released a [second report](#) by a Presidential Committee of experts<sup>2</sup> examining the economic and legal activities of Acacia's operations. This report followed the release of an explosive Presidential Committee [report](#) in May<sup>3</sup> that accused Acacia of underreporting gold and copper percentages in mineral sand concentrates slated for export and smelting overseas, leading to an export ban on these concentrates from two of the company's three operating mines and costing Acacia an estimated \$1 million (US) a day.<sup>4</sup> The June report reviews data back to 1998 and accuses Acacia of under-reporting revenues and under-payment of taxes and royalties worth tens of billions of dollars.<sup>5</sup> It also recommends re-negotiation of the contracts between the Tanzanian government and Acacia and a continuation of the export ban on concentrates from Acacia's Buzwagi and Bulyanhulu mines.

On June 14, Barrick's Executive Chairman, John Thornton, flew into Dar es Salaam to meet with President Magufuli, reportedly<sup>6</sup> to negotiate a solution to the financial impacts of Magufuli's decisions on Barrick and Acacia's Tanzanian operations.

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<sup>1</sup> North Mara Gold Mine Ltd. is wholly-owned by Acacia Mining plc.

<sup>2</sup> The first Presidential Committee was headed by chief executive of the Geological Survey of Tanzania (GST) Professor Abdulkarim Mruma and the second Presidential Committee was headed by University of Dar es Salaam's economist Professor Nehemiah Osoro.

<sup>3</sup> On May 24, 2017, a Presidential Committee presented a first report on alleged under-reporting of gold and copper percentages in concentrates slated for export from Acacia/Barrick's Bulyanhulu and Buzwagi mines.

<sup>4</sup> See [http://www.acaciamining.com/~media/Files/A/Acacia/press-release/2017/update-on-presidential-committee-report\\_20170526.pdf](http://www.acaciamining.com/~media/Files/A/Acacia/press-release/2017/update-on-presidential-committee-report_20170526.pdf)

<sup>5</sup> *The Guardian*. Is miner Acacia the most profitable firm in Africa? June 20, 2017. P. 13-14; *Financial Times*. Henry Sanderson. Acacia mining shares suffer on reports of Tanzania investigation. June 12, 2017.

<sup>6</sup> *The Citizen*. Magufuli: Barrick ready to pay what it owes Tanzania. June 14, 2017. <http://www.thecitizen.co.tz/News/Magufuli--Barrick-ready-to-pay-what-it-owes-Tanzania-/1840340-3970276-xaonelz/index.html>; *The Globe and Mail*. Report on Business, Barrick's Acacia Mining and Tanzania agree to talks over taxes and exports. FUMBUKA NG'WANAKILALA AND DAVID LEWIS. DAR ES SALAAM/NAIROBI (Reuters). <https://www.theglobeandmail.com/report-on-business/international-business/african-and-mideast-business/tanzania-says-barrick-willing-to-reimburse-money-owed-to-government/article35306762/>



Left to right: John Thornton, Chairman of Barrick Gold, Tanzanian President John Magufuli, Canada's High Commissioner to Tanzania, Ian Myles. Photo Credit: The Citizen

On July 3, Barrick and Acacia's troubles deepened further as the Tanzanian parliament adopted laws that allow the government to review and reconsider mining contracts that may be considered "unconscionable" and to ban companies from turning to international trade tribunals to resolve disputes.<sup>7</sup> The new laws also require companies to process minerals within Tanzania.

## **Presidential Committee reports and Barrick's response fuels local anger**

MiningWatch Canada's Catherine Coumans arrived at the North Mara mine in the Tarime district together with partners from Tanzania's Legal and Human Rights Centre (LHRC)<sup>8</sup> on the day before the Government released the second Presidential Committee report. As Coumans met with indigenous Kurya leaders it was clear that they were keenly aware of the content of the latest Presidential Committee report and its critique of the parent companies of the local mine. Coumans also witnessed the effect of the report, and of President Magufuli's statements regarding the alleged illegality of Barrick/Acacia's operations,<sup>9</sup> on a mood of defiance around the mine.

Shortly after Barrick's Thornton met with President Magufuli – a meeting that featured prominently in news reports available to villagers around the mine – anger over local poverty and ongoing mine-related violence started to boil over. As news reports focussed on Thornton's response to financial threats to the mine's operations, locals commented to Coumans that Thornton should have come to the mine site to see the violence and poverty they struggle with daily.

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<sup>7</sup> *The Guardian*. A brutal lesson for multinationals: golden tax deals can come back and bite you. Maya Forstater and Alexandra Readhead. July 6, 2017.

[https://www.theguardian.com/global-development-professionals-network/2017/jul/06/a-brutal-lesson-for-multinationals-golden-tax-deals-can-come-back-and-bite-you?CMP=share\\_btn\\_link](https://www.theguardian.com/global-development-professionals-network/2017/jul/06/a-brutal-lesson-for-multinationals-golden-tax-deals-can-come-back-and-bite-you?CMP=share_btn_link)

<sup>8</sup> <http://www.humanrights.or.tz/>

<sup>9</sup> *The Mining Journal*. Alex Hammer. Acacia could lose Tanzania mines. June 12, 2017.

The invasion of the mine by hundreds of villagers started on the 17th and was witnessed by Coumans on June 19.<sup>10</sup> Villagers with Coumans said that loud salvos coming from the mine site were gunshots and that the wailing that could be heard was likely coming from people who were shot or being beaten. This was the fourth consecutive year Coumans had conducted human rights field assessments around the mine interviewing over a 100 victims and family members of victims of excess use of force, including sexual violence, by mine security and police guarding the mine.<sup>11</sup> The explanations given by villagers of the sounds that could be heard coming from inside the mine walls on June 19 were consistent with previous information provided to Coumans by victims and witnesses of clashes between mine security and villagers.



Villagers watch mine invasions from behind the mine wall, June 19, 2017.  
Photo Credit: Catherine Coumans, MiningWatch Canada

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<sup>10</sup> Large-scale mine invasions have occurred periodically. For a video of such an invasion see:

<https://www.youtube.com/watch?v=BXtB070G5Po>

<sup>11</sup> Mining Watch Canada conducted previous field assessments consecutively from 2014-2016 in collaboration with UK-based Rights and Accountability in Development (RAID). For more information and findings from these assessments see: Mining Watch Canada and RAID, *Violence Ongoing at Barrick Mine in Tanzania: Mining Watch Canada and RAID (UK) Complete Human Rights Assessment*, (Aug. 5, 2014), <http://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human>; Mining Watch Canada and RAID, *Broken Bones and Broken Promises: Barrick Gold Fails to Address Ongoing Violence at Tanzania Mine*, (Nov. 17, 2015), <http://miningwatch.ca/news/2015/11/17/broken-bones-and-broken-promises-barrick-gold-fails-address-ongoing-violence>; Mining Watch Canada and RAID, *Tanzanian Government Investigation Receives Hundreds of Reports of Violence and Deaths at North Mara Gold Mine*, (Sept. 22, 2016), <http://miningwatch.ca/news/2016/9/22/tanzanian-government-investigation-receives-hundreds-reports-violence-and-deaths>; Mining Watch Canada and RAID, *Background Brief: Adding Insult to Injury at the North Mara Gold Mine, Tanzania*. September 2016. [https://miningwatch.ca/sites/default/files/adding\\_insult\\_to\\_injury\\_north\\_mara\\_0.pdf](https://miningwatch.ca/sites/default/files/adding_insult_to_injury_north_mara_0.pdf)



Villagers inside the North Mara Gold Mine site June 19, 2017.  
Photo credit: Catherine Coumans, MiningWatch Canada

## **Findings from MiningWatch’s 2017 Human Rights Field Assessment<sup>12</sup>**

### ***Un-remedied human rights harms – numbers continue to increase***

In each field assessment MiningWatch has carried out at the North Mara gold mine, new cases have come to light of serious un-remedied harm related to encounters between victims and mine security and police who guard the mine under a Memorandum of Understanding (MOU)<sup>13</sup> between the companies involved and the Tanzanian Police Force.

New cases documented in June 2017 include: loss of limbs,<sup>14</sup> loss of eyesight,<sup>15</sup> broken bones,<sup>16</sup> internal injuries,<sup>17</sup> children hit by flying blast rocks,<sup>18</sup> and by teargas grenades<sup>19</sup> thrown by mine security as they chase so-called intruders into the nearby villages. As in past years, villagers reported severe debilitating

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<sup>12</sup> As in previous years, in-depth interviews with victims were conducted by MiningWatch between June 12 and June 21, 2017. Interviews are recorded in writing, as well as digitally, and documents and identification cards are copied with the permission of the interviewees. Given the possibility of reprisals, MiningWatch endeavours to protect the identities of interviewees by referring to them by number.

<sup>13</sup> For a 2010 version of this MOU see: <https://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human>

<sup>14</sup> #1-2017

<sup>15</sup> #12-2017

<sup>16</sup> #3-2017; #5-2017, #6-2017;

<sup>17</sup> #2-2017; #4-2017; #7-2017;

<sup>18</sup> #25-2017

<sup>19</sup> #8-2017; #9-2017;

beatings,<sup>20</sup> commonly with gun butts and wooden batons. Some are seriously wounded by teargas “bombs,”<sup>21</sup> or by so-called rubber bullets.<sup>22</sup> Others are shot,<sup>23</sup> including from behind.<sup>24</sup> As in past years there were a number of deaths.<sup>25</sup>

Those who survive often find themselves and their families bankrupted as they try to pay medical bills, selling off assets such as land or cattle and borrowing money. Many cannot afford medical care at all, or run out of money, and resort to treatment by local “natural” healers. For this reason, cases commonly involve bones that have not healed properly, rough amputations that cannot be fitted for prostheses, or ongoing problems related to internal injuries or neurological damage.

Only three of the victims interviewed in 2017, or their family members, were successful in securing remedy from the mine.<sup>26</sup> This is discussed further below.

Examples of poorly healed wounds sustained in encounters with weaponry of mine security or police guarding the mine:



Photo credit: Catherine Coumans, MiningWatch Canada



Photo credit: Catherine Coumans, MiningWatch Canada

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<sup>20</sup> #2-2017; #7-2017; #19-2017; #21-2017

<sup>21</sup> #5-2017; #6-2017; #38-2017; #9-2017;

<sup>22</sup> #12-2017

<sup>23</sup> #3-2017; #4-2017; #14-2017; #16-2017; #22-2017;

<sup>24</sup> #4-2017; #16-2017; #22-2017;

<sup>25</sup> #14-2017; #15-2017; #16-2017; #22-2017; #23-2017

<sup>26</sup> #3-2017; #5-2017; #23-2017;

### ***Callous disregard for human life***

This year MiningWatch was made aware of a new cause of death that further illustrates the mine's apparent lack of concern for human life. The Nyabigena pit is no longer being mined. It is filling up with water. The heavy concrete walls that used to surround the pit to keep out "intruders" were removed, reportedly, in January 2016. Villagers have been entering the pit in an effort to find remnant traces of gold in rocks or in the pit walls.

During our visit we were told of four drowning deaths that have occurred in 2016 and 2017 as a result of falls into the pit water. MiningWatch interviewed family members of two of the drowning victims.<sup>27</sup> In both cases, the family members explained that the bodies were ultimately retrieved by mine personnel once they had floated to the surface after some days.

In spite of the fact that the company is fully aware of the death toll, and the danger inherent in the pit accessibility, as of June 2017 no barriers had been constructed after these deaths, and even signs warning villagers of the dangers had not been put up.



Mine personnel set out to retrieve a drowning victim.  
Photo credit: Anonymous villager



Mine personnel with drowning victim (face has been blurred)  
Photo credit: Anonymous villager

### ***A violent mine road***

Another issue MiningWatch investigated was the main mine road that connects the Gokona underground operations and the Nyabirama pit and processing areas. This wide dirt road is travelled constantly by very large mine vehicles. It is the cause of a lot of complaints as it cuts through villages and homes are very close to the road. Villagers describe the constant noise and heavy dust as intolerable. Breathing problems, lack of ability of children to concentrate on homework because of noise, and constant battles against dust which dirties newly washed clothes, forces people to keep their houses closed up (which still does not stop dust from settling inside the house) and makes it impossible to grow vegetables and fruits, were some of the main complaints we heard. The road is considered dangerous as the huge machinery that traverses it passes close to the houses, playing areas for children and livestock. One account was provided about a large vehicle that left the road and destroyed a home, another of a child that was run over and killed. There are

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<sup>27</sup> #13-2017; #17-2017

rules in Tanzania for how far away houses need to be from mine workings, but in spite of the desire by many to be relocated away from the road, and petitions by villagers to the mine's grievance office on these issues,<sup>28</sup> no effective response has been forthcoming.

Of great concern are accounts of violence along this road by mine security and police guarding the mine. There are designated crossing places for villagers going about their business. During the day-time there are village guards (called "flag guards") at these crossings and there do not seem to be any major problems. But after 5 pm these village guards are replaced by police guarding the mine. MiningWatch received consistent reports,<sup>29</sup> including from a village chairman from one of the affected villages, of regular violence against villagers who seek to cross the mine road after dark. We interviewed two victims of debilitating beatings endured as they attempted to cross the road at one of the designated crossing area. One victim was beaten by members of the mine's private security,<sup>30</sup> the other by police paid by the mine.<sup>31</sup> Both incidents were within the past 12 months. There is no clarity about why mine security and police perpetrate these human rights abuses, but it is clear that people fear crossing the mine road after dark and that this is hindering their ability to go about their normal activities.



Mine road crossing.

Photo Credit: Catherine Coumans, MiningWatch Canada

### ***Food insecurity increasing as gold scavenging becomes less viable***

Another issue villagers raised with MiningWatch this year was an apparent decrease in available gold in the waste rock produced at the Nyabirama pit. The unexplained change was widely reported with considerable dismay. People rely on income from scavenging gold from waste rock to feed their families as many people have lost land to the mine and there are few jobs available. It was reported that starvation has become a concern in villages around the mine.

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<sup>28</sup> Copy with MiningWatch Canada.

<sup>29</sup> #18-2017; #19-2017; #20-2017; #21-2017

<sup>30</sup> #19-2017

<sup>31</sup> #21-2017



Villagers on top of the Nyabirama pit's mine waste dump watch a truck deliver new waste rock, June 2017.  
Photo credit: Catherine Coumans, MiningWatch Canada

The scarcity of remnant gold in waste rock was also reported for an area where villagers may scavenge among waste rock without being assaulted by mine security and police. MiningWatch has long questioned why villagers scavenging in the mine's waste rock dumps continuously come under attack by mine security. Increased publicity about this issue may have caused the mine to create a "safe space" for villagers to scavenge for gold.



"Safe space" for scavenging gold from waste rock, June 2017.  
Photo Credit: Catherine Coumans, MiningWatch Canada

The family of a villager<sup>32</sup> who was killed in this "safe" area, after being hit by a piece of heavy equipment that was operating there, is one of many who have been denied remedy.

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<sup>32</sup> #11-2017

## Ongoing failure of the mine's grievance mechanism

Human rights abuses perpetrated by mine security and police guarding the North Mara mine have been ongoing for many years and widely reported since at least 2011.<sup>33</sup> The Tanzanian government has investigated the violence and reported on it in a 2013 report<sup>34</sup> and again in an investigation and report in 2016 that confirmed investigators had receiving claims that 65 people have been killed and 270 people injured by police responsible for mine security.<sup>35</sup> Local human rights defenders put the numbers much higher and the 2016 government report did not report on deaths and injuries resulting from altercations between villagers and private mine security. MiningWatch Canada and RAID-UK have detailed the ongoing violence and human rights abuses by private and public security for the mine in three consecutive yearly field assessments since 2014, and MiningWatch has just completed a further field assessment in 2017. Jointly we have documented some 200 cases.

A law suit was filed in 2013, in the United Kingdom, by UK-based Leigh Day against African Barrick Gold plc (now Acacia Mining plc) and its subsidiary, North Mara Gold Mine Limited. The clients were villagers who had suffered injuries and fatalities at the North Mara mine. A number of cases were settled out of court early in 2015. While this law suit was underway the mine became active in seeking settlements with some victims of violence, in particular those who were already clients of Leigh Day.<sup>36</sup> These clients were approached, without the benefit of the presence of their lawyers, to drop their legal claims in return for remedy packages.<sup>37</sup> The victims were further asked to sign legal waivers in order to receive remedy packages.

All of those we have interviewed have expressed dismay with the grievance mechanism process they experienced and disappointment with the remedy they received. Many have indicated that they did not understand that they were signing away their legal rights to seek judicial remedy on their claims. Most also indicated that the remedy received was not what was discussed verbally. Female victims of sexual assault were not given copies of the contracts they had signed with the mine until they staged a protest at the grievance office to demand their contracts. It is also clear from our interviews that the remedy many of these victims have received does not address their long-term needs, nor those of their dependents.

MiningWatch and RAID have detailed these and other failures of the mine's grievance office to provide an equitable remedy process and equitable remedy. We have shown how the mechanism does not conform to internationally agreed-upon criteria for operational-level grievance mechanisms, as set out in the United Nations Guiding Principles on Business and Human Rights.<sup>38</sup> We have also engaged

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<sup>33</sup> Barrick's Tanzanian project tests ethical mining policies. Geoffrey York. Report on Business Magazine, *Globe and Mail*. Sep. 29, 2011.

<sup>34</sup> *The Report of the Inquiry into the Death of Five People on 16/05/2011 shot by the police at the North Mara mine.* [https://miningwatch.ca/sites/default/files/commission\\_of\\_inquiry\\_report\\_english.pdf](https://miningwatch.ca/sites/default/files/commission_of_inquiry_report_english.pdf). The United Republic of Tanzania Office of the Prime Minister Regional Administration and Local Government District Commissioner of Tarime. Translation 13 June 2013.

<sup>35</sup> Mining Watch Canada and RAID, *Tanzanian Government Investigation Receives Hundreds of Reports of Violence and Deaths at North Mara Gold Mine*, (Sept. 22, 2016), <http://miningwatch.ca/news/2016/9/22/tanzanian-government-investigation-receives-hundreds-reports-violence-and-deaths>; MEM 'Mapendekezo Ya Namna Bora Ya Utekelezaji Wa Taarifa Ya Kamati Ya Kuchunguza Malamiko Kati Ya Wananchi Na Mgodini Wa Dhahabu Wa North Mara' July 2016 (Investigating Committee's Recommendations for the Best Means of Resolving Complaints between Citizens and the North Mara Gold Mine).

<sup>36</sup> *Barrick Faces Court in London*. 5 November 2014. Catherine Coumans, MiningWatch Canada and Shanta Martin, Leigh Day. <https://miningwatch.ca/news/2014/11/5/barrick-faces-court-london>;

<sup>37</sup> *Out-of-Court Settlement Good for Some Tanzanian Villagers – But Many Others Hindered from Participation by Barrick's Grievance Mechanism*. MiningWatch Canada and RAID. 9 Feb 2015. <https://miningwatch.ca/news/2015/2/9/out-court-settlement-good-some-tanzanian-villagers-many-others-hindered-participation>

<sup>38</sup> Principle 31. *Guiding Principles on Business and Human Rights; Implementing the United Nations "Protect, Respect and Remedy" Framework*. [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

extensively in writing and in person with Acacia on our findings,<sup>39</sup> in particular in regard to the shortcomings of the remedy mechanism.<sup>40</sup> To date, these efforts have not improved the functioning of the mine's grievance mechanism nor the provision of equitable remedy in significant ways.



Guarded gate behind which the mine's grievance office is located.  
Photo credit: Catherine Coumans, MiningWatch Canada

***Of the victims interviewed by MiningWatch in 2017, seventeen had interactions with personnel of the grievance office and sought remedy for the harm they, or their loved ones, had endured. Some of these interactions went on for years and were costly to the victims as they had to foot the bills for travel to and from the office. Of these seventeen, only three victims received compensation packages from the mine's grievance office. All three previously had been clients of the law firm Leigh Day and they were actively engaged by the mine to persuade them to drop their legal claims.***

Three other victims reported that grievance office personnel had shown them a short statement to sign that declared that the injuries they, and in one case a deceased son, had sustained were not related to the mine. One victim said he was told that if he signed the form he would receive some compensation for medical expenses he had incurred and a relatively small amount of "consolation" money (2 million Tanzanian shillings, equal to about \$1,100 Canadian). One victim reported that he was asked to sign the form and told he would be informed afterwards of any potential remedy he may receive. The process described by the victims in these cases is even less equitable than that experienced by victims who had received compensation packages and contracts in return for removing themselves from the Leigh Day lawsuit. Each of these three victims said that they had declined to sign the form.

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<sup>39</sup> See the websites of MiningWatch Canada and RAID for public exchanges with Acacia, which include: Letter to Brad Gordon, CEO African Barrick Gold's non-judicial "remedy programs" at North Mara, Tanzania, 25 February 2014; Letter to Jamie C. Sokalsky, President and Chief Executive Officer, Barrick Gold and Deo Mwanyika, Vice President –Corporate Affairs, African Barrick Gold, April 22, 2014; Acacia Mining Response to MiningWatch Canada and RAID, November 2015 <http://www.acaciamining.com/sustainability/our-material-areas/community-relations/grievance-mechanism.aspx> ; Rebuttal of Acacia Mining's Latest Response to MiningWatch Canada and RAID, 14 December 2015; Letter from Katrina White (legal counsel to Acacia) to MiningWatch Canada and RAID, 7 January 2016.

<sup>40</sup> See for example, In Need of Repair: Acacia Mining's Grievance Mechanism at North Mara Gold Mine, Tanzania. MiningWatch Canada and RAID. May 2016. [https://miningwatch.ca/sites/default/files/memorandum\\_to\\_acacia\\_revised.pdf](https://miningwatch.ca/sites/default/files/memorandum_to_acacia_revised.pdf)

Based on MiningWatch’s field assessments carried out between 2014 and 2017, the mine’s grievance office has never functioned equitably, or in accordance with other principles covered under the UN Guiding Principle’s effectiveness criteria. Furthermore, interactions between grievance office personnel and alleged victims appear to have become even less legitimate, predictable, transparent, and rights-compatible since the Leigh Day law suit was settled early in 2015.

This long-term inequitable performance of the North Mara mine’s operational-level grievance mechanism is all the more vexing as the parent company behind the project, Barrick Gold, enjoys the advice of the principal author of the UN Guiding Principles, John Ruggie, who has participated on Barrick’s CSR Advisory Board since 2012.<sup>41</sup> Barrick’s Chairman, Thornton, has now personally intervened in the financial fate of the Tanzanian operations. It is time he also turns his attention to the ongoing human rights crisis at the North Mara mine.



Barrick’s Chairman John Thornton (first from left) and CSR Advisory Board members including John Ruggie (third from right). Photo Credit: Barrick Gold Corp.

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<sup>41</sup> See <http://www.barrick.com/responsibility/our-approach/csr-advisory-board/default.aspx>