

17 January 2017  
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***VIA EMAIL***

Dear Tricia and Catherine:

**Re: North Mara Mine's Grievance Mechanism**

Thank you for your letter of 23 December 2016. We believe that it accurately summarises the points you made about the design and operation of the North Mara Mine's Grievance Mechanism during our meeting on 19 December. We are considering and seeking to address each of your points as we continue to develop the Grievance Mechanism.

As you note in your letter, we agreed to negotiate in good faith and in confidence with you regarding certain individual complaints as a pilot for the revised mechanism in early 2017. Informed by the experience of the pilot project, we will then engage in a broad consultation regarding the Grievance Mechanism, including with communities in North Mara.

In your letter, you also requested certain internal documents and information relating to the Grievance Mechanism. We address each of your requests in turn below and welcome continued engagement with you on the important issues you raise through your requests.

a. The Mine Investigations Policy

You ask to see the Mine Investigations Policy ("MIP"). We appreciate that this request is motivated by your concern about companies conducting internal human rights investigations. Elsewhere you have expressed frustration that the United Nations Guiding Principles on Business and Human Rights ("UNGPs") and the Voluntary Principles on Security and Human Rights ("VPs") both tacitly recommend that companies conduct such investigations without identifying

specific parameters or criteria for their proper conduct. We would be happy to engage with you about the appropriate parameters and criteria for company-led human rights investigations.

In your letter, you suggest that your request for the current MIP also is motivated by concern about cases that have already been addressed through the Grievance Mechanism. Specifically, you assert that the MIP “is highly relevant to the decisions taken to date in response to grievances given its inter-relationship with the mechanism and the way in which the company investigates potential human rights violations.” Thus, according to your assessment, the MIP is relevant to decisions taken to date in response to grievances by some of the complainants you are representing in confidential negotiations.

We will be willing to share the MIP with you on a confidential basis in the context of those confidential negotiations and related pilot project. Then, following the pilot project, we would consider releasing as appropriate any parts of the MIP that are relevant to human rights investigations for consultation and comment and eventual use by the Mine when investigating any future complaints.

b. Information requested at questions 1 and 2 (as sub-divided) of RAID and MWC’s memo dated 30 September 2016, i.e., relating to fatalities and injuries and disciplinary sanctions at the mine.

You ask about police officers who resort to force while taking actions related to security in and around the North Mara Mine and the extent to which they injure or kill intruders through excessive force and are punished for those crimes. Acacia is, of course, extremely troubled that these questions arise, despite the company’s efforts to ensure that the Mine’s property, premises and personnel are secured in a manner that respects human rights. That includes the human rights of the intruders who enter the mine to steal gold daily in large numbers, sometimes in organised criminal groups and often armed with pangas.

When Mine security guards have been unable to prevent intruders from entering active areas of mining, the Mine historically has called the police. Acacia seeks to exert what influence it can over the police, who are directed by and responsible only to the State, to urge them to conduct their law enforcement activities in the vicinity of and, in case of emergency, on the property of the Mine in a manner that respects human rights. To that end, it has entered into a Memorandum of Understanding with the Tanzanian Police Force (“MoU”) which commits the police to:

- Conduct themselves in accordance with international security and human rights standards (including the United Nations Code of Conduct for Law Enforcement Officials, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the VPs), as well as applicable domestic and international law;
- Use force only when strictly necessary, the least force necessary to address a security threat, and force in a manner proportionate to the threat, and otherwise consistent with national law and the international standards; and
- Use lethal force only where there is an imminent threat to human life or consistent with international humanitarian law as applicable.

A copy of the MoU with the police was provided to you in December. Acacia seeks to enforce these undertakings by the police through various protocols that are set out in the MoU and agreed with the Inspector General of Police (“IGP”). For example, a Senior Officer must certify that every member of the unit that is called out to protect or enter the Mine site in case of emergency has been vetted in advance to screen out human rights abusers and has been trained on human rights. Regrettably, police officers sometimes have been met with resistance or violence by armed intruders and sometimes have resorted to force to apprehend or protect themselves or others from intruders.

When there is an indication or allegation that a police officer may have used excessive force, Acacia follows protocols set out in the MoU and agreed with the IGP. For example, it reports the incident to the Regional Police Commander (“RPC”) for investigation and possible disciplinary and criminal proceedings; insists on the prompt and permanent departure of the accused officer(s) from its property and the unit near the Mine; and requests the immediate attendance of a police investigator. It also asks to be kept informed of the status of investigations and the outcome of disciplinary and criminal proceedings.

Acacia is reluctant to publish information relating to fatalities and injuries and disciplinary sanctions at a time when a number of disciplinary and criminal investigations are believed to be ongoing, while the Tanzanian Government currently is looking into the sensitive issue of the conduct of its forces and the company is assisting the Government in this effort. At this time we believe that most criminal inquiries conducted by the Government have concluded with a determination by the Attorney General’s Office that the accused police officer’s use of force or firearms against intruders on the Mine was reasonable, proportionate and an exercise of self-defence, defence of another or defence of property pursuant to Section 18 of the Tanzanian Penal Code.

c. Clarification of how long the “second order mechanism” appeal system has been in operation within the grievance mechanism and how many such appeals have been made.

A Second Order Mechanism has been available at the Mine since Acacia published its Grievance Management and Resolution Procedure. A claimant formally appealed an adverse decision of the Mine’s First Order Mechanism regarding a human rights issue for the first time in November 2016. A three-member Second Order Mechanism panel was constituted and met with the complainant twice in December 2016. The grievance was resolved by consensus.

As discussed during our meeting in December, we welcome your ideas regarding the design of a Second Order Mechanism for the purpose of the pilot project and a permanent Grievance Mechanism.

d. In the March 2016 meeting with Acacia, reference was made to existing process and policy documents behind the grievance mechanism – around logging claims, handling claims, reporting – which Acacia was consolidating under its revised grievance mechanism for North Mara.

You may be referring to the effort we made in 2016 to transfer the management of all grievance mechanism documents onto a new document management system. You also may be asking to see template documents for logging claims, handling claims and reporting. We appreciate that this

request reflects your interest in transparency with respect to the procedural aspects of the Grievance Mechanism. We would be happy to engage with you on your views about the appropriate forms and processes to use for logging claims, handling claims and reporting and the appropriate degree of confidentiality to accord them.

You note that the documents you request “are important in understanding how previous claims have been dealt with.” The requested documents are relevant to decisions taken to date in response to grievances by some of the complainants you are representing in confidential negotiations with us. We will be willing to share these documents with you in the context of those confidential negotiations and related pilot project and would consider releasing them for publication following the pilot project.

e. Again at the March 2016 meeting, Acacia agreed that it could share non-confidential parts of the arrangement with Assaye Risk (a UK private security firm, in charge of investigating human rights claims).

Although Assaye Risk continues to provide security management services to Acacia, it is no longer in charge of investigating human rights claims for the Mine. The Human Rights Investigations Manager for the Mine is an Acacia employee. The current manager is suitably qualified, trained and experienced for this role. He has an LLM in human rights law from Queen’s University Belfast. For many years, he was a Senior Investigating Officer with the Police Service of Northern Ireland and advised and trained the Service as well as the Policing Board on human rights.

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The Grievance Mechanism receives claims for compensation by individuals who were intruding and stealing at the time they allege that they were the victims of the excessive use of force by police called to arrest them. We appreciate the opportunity to explore with you ways to ensure that the Grievance Mechanism addresses this factual complexity to our mutual satisfaction and the satisfaction of the mechanism’s intended users.

I would like to take this opportunity to introduce you to Charlie Ritchie, who joined Acacia as General Counsel at the beginning of the year and will be the key point person for the company in its engagement with you and your partners going forward.

We look forward to continuing our constructive engagement in 2017 and hope to achieve mutually agreeable solutions to the issues you have raised.

Best regards,



**Peter Geleta**  
**Head of People**

cc: Charlie Ritchie, Head of Legal & Compliance

