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Geneva, Switzerland

By email to: ohchr-registry@un.org

21 June 2024

Your Ref: AL OTH 55/2024

Dear Ms. Balbin,

Firstly, I would like to begin by saying that LBMA appreciates the interest that the UN Special Procedures
Mandate Holders have taken in our work. We agree that the issues laid out in your letter of 22 April 2024 are
important issues for the industry as a whole and want to be clear that we at LBMA take human rights issues
extremely seriously.

I wanted to begin by providing some context of LBMA and its role. Where it is possible, I have also addressed
the specific claims raised in your letter.

LBMA is a not-for-profit member-based association which sets global standards for the precious metals industry including accreditation to refiners of gold and silver via LBMA's "Good Delivery List". The Good Delivery List, first and foremost, sets technical standards (fine ounce weight, purity and physical appearance) which refiners must meet in order to receive accreditation by LBMA. In addition to these technical standards, refiners seeking to obtain LBMA Good Delivery List accreditation are also obligated to implement LBMA's 'Responsible Sourcing Guidance', which comprises the Responsible Gold Guidance and Responsible Silver Guidance, and to annually obtain independent third-party assurances reporting on their compliance with this guidance. LBMA has made clear to refiners that the Guidance should be interpreted as a minimum threshold upon which they should build and continually improve their responsible sourcing practices for each of the applicable precious metals.

LBMA's role in this process is to assess the robustness and veracity of the third-party assurances which are submitted in relation to refinery feedstock, and in so doing to attempt to ensure an acceptable standard is met. Additionally, we work with our members and other international stakeholders to support raising standards around human rights and other areas in the global gold and silver supply chain.

The concept of continuous improvement is an integral component of the Responsible Sourcing Programme. It underpins the spirit of the OECD Due Diligence Guidance, its five-step framework, and responsible business practices, in which LBMA participated in as key player in the multi-stakeholder development process.

We at LBMA remain committed to bringing all stakeholders together across the industry including, of course, civil society groups. Through our work, significant progress has been made but we recognise that, as always, there is more to do. We welcome a continual dialogue and engagement with you to this end.

Please find our substantive reply to your letter below.

Yours sincerely,



Ruth Crowell
Chief Executive Officer
LBMA

1. The London Bullion Market Association (“**LBMA**”) is an independent precious metals association that seeks to use its position to set global standards within the precious metals industry and, further, to raise non-technical standards in respect of matters such as ethical sourcing and human rights. Your letter refers, on a number of occasions,¹ to LBMA’s “operations” and to “adverse human rights impacts” of our “activities”. In this respect, it appears that you may have misunderstood the role played by LBMA. LBMA does not carry out any mining activities, nor does it carry out refining activities, nor any other form of operational activities. The work of LBMA in raising standards undoubtedly has positive, not negative, human rights impacts; if LBMA were to cease to exist then it is to be anticipated that the effect would be only detrimental in terms of human rights within the industry. It is through the mandatory requirements under the Responsible Sourcing Programme (“**RSP**”) that refiners must identify and mitigate risks. Without these requirements being an obligation, overall the industry would be in a worse place.
2. To avoid any further misunderstandings, we set out an explanation of LBMA’s role, and how we work to raise standards in respect of human rights amongst refiners, in Section A below.

A. The role of LBMA

LBMA’s work

3. LBMA is a not-for-profit member-based association that, *inter alia*, provides accreditation to refiners of gold and silver via LBMA’s “**Good Delivery List**”. The Good Delivery List, first and foremost, sets technical standards (fine ounce weight, purity and physical appearance) which refiners must meet. This is important because, in the Loco London Market,² precious metals are traded between two parties without the involvement of an exchange. This system depends on all bars meeting a specification.
4. To be accepted onto the Good Delivery List, refiners must undergo checks on their history in the market, financial standing and ability to produce bars that meet LBMA’s exacting technical standards and minimum levels of production. The Good Delivery List of acceptable refiners of gold and silver maintained by LBMA lists those refiners whose gold and silver bars have been found to meet the required standard for acceptability by the London Bullion Market.

¹ Your letter does not contain paragraph numbers and so it is difficult to refer to specific sections, but see, for example, requests 2, 6 and 7 of your “requests” on page 14.

² The term ‘Loco London’ simply refers to gold and silver bullion that is physically held in London vaults to underpin the trading activity in this market.

5. In addition to these technical standards, refiners must also implement LBMA's "**Responsible Gold Guidance**"³ to achieve Good Delivery accreditation.
6. First published (Version 1) in 2012, the Responsible Gold Guidance has been set up in order to help combat systematic or widespread abuses of human rights, to avoid contributing to conflict, to comply with high standards of anti-money laundering, to help combat terrorist financing practices, and to also comply with the Environmental Social and Governance ("**ESG**") requirements. The Responsible Gold Guidance, amongst other things, follows the five-step framework for risk-based due diligence of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas ("**OECD Due Diligence Guidance**"). LBMA was actively involved in drafting the OECD's Due Diligence Guidance and continues to support the OECD's work in supply chain due diligence and related projects.
7. LBMA is in contact and engages regularly in discussions with civil society organisations ("**CSOs**") and other bodies to ensure it is constantly working toward raising standards within the industry. It regularly reviews and improves the Responsible Gold Guidance, currently on version 9, with work progressing on version 10. Indeed, version 9 raised the bar for best practice, introducing many new requirements, a number of which were in direct response to earlier recommendations for improvement, including those made from industry stakeholders such as CSOs. Requirements included, enhanced clarity on due diligence expectations regarding the responsible sourcing of recycled gold, broadening the scope of **ESG** requirements, the elimination of cash transactions and the introduction of independent third-party assurance for intermediate refiners.
8. All refiners producing 'Good Delivery' bars must comply with the Responsible Gold Guidance to remain on the Good Delivery List. Any refiner applying to be a Good Delivery accredited refiner must implement the Responsible Gold Guidance and pass an assurance covering a 12-month period prior to becoming a Member of the Good Delivery List. Once a refiner is on the Good Delivery List, they must continue to obtain and submit to LBMA on an annual basis an independent third-party assurance of their supply chain due diligence. Refiners must use an assurance provider on LBMA's 'Approved Service Provider List'.⁴ An LBMA 'Responsible Gold Certificate' will only be issued to refiners who have successfully completed their annual assurance.
9. In addition to the assurance process described above, LBMA has an 'Incident Review Process'. An Incident Review Process is launched when LBMA becomes aware of allegations of criminal activity and/or potential serious breaches of the Responsible Gold Guidance. This is described in more detail below.

³ Or Responsible Silver Guidance, as appropriate.

⁴ Available on LBMA website: <https://www.lbma.org.uk/responsible-sourcing/approved-service-providers#->

10. At present, there are 66 gold refiners and 79 silver refiners included on the Good Delivery List. A list of current⁵ and former⁶ refiners included on the list is included on LBMA's website.

The scope of LBMA's role

11. LBMA is based in London and currently has 32 full-time employees and two part-time employees. A very substantial amount of its work is devoted to ensuring compliance with technical standards. Whilst it is not, and never has been, an organisation focused primarily on human rights issues, over the past 10-12 years it has worked hard to use its position to improve standards in respect of a number of supply chain risks (as highlighted in paragraph six above), including human rights within the industry globally.
12. With approximately 100 refiners operating across 37 countries, LBMA functions, by relying on refiners to provide annual independent third-party assurances of its operations and by engaging with their third-party assurance providers to understand the audit deliverables. LBMA undertakes an assurance provider approval and monitoring process for vetting assurance providers, and refiners must select an Assurance Provider from the Approved Service Provider List (available on www.lbma.org.uk).

Sanctions which LBMA can impose and unintended consequences

13. The powers of LBMA are limited. Ultimately, LBMA can remove a refiner from the Good Delivery List if it has cogent evidence of breaches, by the refiner, of the standards which refiners are expected to meet. Such evidence would usually be obtained via an Incident Review Process. In summary, eight refiners have been removed from the Good Delivery List during the period 2015-2024 for failing to meet the requisite standards. Though the specific issues involved vary from case to case, three of these refiners were removed following Incident Review Processes initiated by LBMA which determined that zero tolerance risk(s) were identified.
14. LBMA plays an important role in applying government-led international trade and economic sanctions, for example as was seen in the cases of sanctions against Russian Gold.
15. To be consistent with LBMA guidance, refiners must adopt a gold supply chain policy that incorporates the risks and risk management measures outlined in Annex II of the OECD Due Diligence Guidance which extends to addressing adverse ESG factors in the refiner's primary gold supply chain. This includes immediately suspending or discontinuing engagement with upstream suppliers where the refiner identifies a zero tolerance risk, for example where they are sourcing from, or linked to any party committing serious abuses. These abuses include: (i) any forms of torture, cruel, inhuman and degrading treatment; (ii) any forms of compulsory labour; (iii) the worst forms of child labour; (iv) other

⁵ <https://www.lbma.org.uk/good-delivery/gold-current-list#>

⁶ <https://www.lbma.org.uk/good-delivery/gold-former-list#>

gross human rights violations and abuses such as widespread sexual violence; and (v) war crimes, crimes against humanity or genocide.

16. This control mechanism, via refiners, must, however, be exercised with care and caution. LBMA must be mindful that if it sanctions a refiner by removing it from the Good Delivery List because of an inadequate response against a miner in respect of alleged human rights abuses at a particular mine, then the likely outcome is that the relevant mine will continue to mine gold and supply it to alternative markets, free from any restraints which might be imposed on it by a Good Delivery List refiner. There is no shortage of buyers of gold which is not sourced from a Good Delivery List refiner, albeit that such gold will usually be sold at a discount to the market price, which, in turn, may lead to cost-cutting measures and reduced standards at the relevant mine. Given this context, we focus on working with refiners to drive improvements and to promote continual third-party monitoring. To be clear, the importance of working with refiners to meaningfully improve does not and has not precluded LBMA from exercising its powers to remove a refiner in cases where “zero-tolerance” issues are identified. In particular, where a refiner has clearly been acting in deliberate breach of the Responsible Gold Guidance or is unable to implement appropriate procedures to observe it.
17. LBMA takes zero tolerance risks extremely seriously. It is important to understand that many refineries, acting in good faith and with complete transparency with LBMA and their third-party assurers, procure raw materials from a wide variety of sources and often need to address allegations of human rights abuses in real time with their source mines as these issues are brought to their attention. As a result, it is critically important for LBMA, and for the industry, to allow refineries the opportunities to rectify issues, and meaningfully improve whenever possible and in line with Annex II of the OECD Due Diligence Guidance.
18. There are further downstream effects that the removal of a refinery from the Good Delivery List can have on the surrounding communities of that refinery's source mines, and as such LBMA focuses on improvement measures first. We seek to ensure that diligent assessment is made by refineries' expert third party assurers so that mitigation efforts can be carried out in an effort to decrease the potential for a significant deterioration in terms of adverse human rights impacts in these areas.
19. In the event that a gold or silver mine ceases active mining operations because a refiner has been removed from the Good Delivery List, then a possible consequence is that the mine may be “mothballed” by the owners, assuming that the gold is not sold to a refiner who is not on the Good Delivery List. This means that the mine ceases to be actively mined, but it will still be protected by security because of the value of the gold assets. Thus, where there are human rights issues arising out of the activities of police or security forces at an operational mine, such issues are highly unlikely to be resolved by a mine being mothballed. Rather, the fact that the mine is no longer making a profit and is

no longer being monitored by a Good Delivery List refiner is likely to lead to costs being cut in respect of security and the potential for a significant deterioration in terms of adverse human rights impacts.

20. Accordingly, LBMA is very mindful of the potential for unintended consequences of removing a refiner from the Good Delivery List. LBMA's preferred course is to attempt to work with refiners who are sourcing gold from mines which are struggling to meet the requisite standards in terms of human rights issues, with a view to attempting to bring pressure to bear to secure improvements in standards at the mine. This, however, is not straightforward, given that LBMA does not have any direct relationship with the miner.

Particular problems arising in respect of artisanal and small scale miners

21. As you know, in many parts of the world there are long-standing traditions of artisanal and small-scale miners ("**ASM**") operating in areas rich in gold ore. Such miners will typically be self-employed and may work full time or may work seasonally during periods when other work (often agricultural) is harder to find. Occasionally, the number of artisanal miners will increase in a particular area because of "push" factors, such as a natural disaster (e.g. flooding destroying crops), or because of "pull" factors, such as an increase in the price of gold, making even small finds more attractive.
22. Where possible, LBMA uses its influence to encourage refiners to work with mine operators to put in place systems which support and assist local artisanal miners. Indeed, in recognition of the issue, LBMA launched a strategic 'ASM initiative' two years ago to address the governance challenges this market poses to legal supply chains. These issues are complex, not least because artisanal and small-scale mining may often involve very poor health and safety standards and the use of child labour. Thus, many mine operators and refiners have been reluctant to support artisanal and small-scale mining because of the difficulties of controlling working conditions, leading to a risk of injury and legal claims.⁷ Whilst it is difficult to obtain accurate figures, it is estimated that only approximately 2% of ASM-mined gold is refined by refiners on the Good Delivery List. In October 2022,⁸ LBMA proposed a series of concrete steps designed to realise its ambition to encourage the inclusion of gold produced by ASM into mainstream supply lines so that standards can be raised.
23. Equally, it must also be recognised that there are, undoubtedly, real problems faced by some gold mine operators in seeking to protect highly valuable gold ores from individuals who seek to gain access to the gold mine to steal gold ore. In many countries, both local police forces and private security contractors may be employed to protect the gold ore contained in mines, just as they are involved in security to protect refined gold in banks or other private property. Occasionally, there can be violent

⁷ See, for example, the legal claims brought in respect of child labour in artisanal mining of cobalt in the Democratic Republic of Congo: <https://www.glencore.com/media-and-insights/news/Glencore-statement-on-child-labour-allegations>

⁸ <https://www.lbma.org.uk/articles/lbma-moves-to-support-the-worlds-artisanal-gold-miners>

confrontations between those seeking to steal gold ore from a mine and those seeking to protect gold ore from being stolen. Some mines face illegal incursions by individuals who are well organised and well-armed. LBMA is not in a position to prevent such confrontations and/or to prevent injury being caused by such confrontations. However, LBMA takes allegations of human rights abuses in these instances extremely seriously.

24. LBMA is committed to constantly improving and refining its work, and therefore welcomes the interest expressed by the UN Human Rights Working Group in the complex, difficult and very longstanding issues concerning ASM and the mining industry as a whole. LBMA looks forward to working with all relevant UN agencies and their partners in their efforts to engage with these issues and mitigate the potential for adverse human rights impacts arising from gold mining operations.

Interactions with Barrick Gold and/or the North Mara Mine

25. We note that your letter focuses on the operations of Barrick Gold Corporation (“**Barrick Gold**”) at the North Mara Mine. We further note that your letter has been sent “*to those other business enterprises that are involved in the alleged violations*”, also referred to as “*involved actors*”, which includes Barrick Gold and the security services deployed at the North Mara Mine.⁹
26. However, LBMA is not a business enterprise “*involved in the alleged violations*”. As noted above, LBMA does not accredit mines. It maintains a Good Delivery List and issues a Responsible Gold Guidance which applies to refiners, not to mines.
27. Barrick Gold is not an accredited refiner and is not certified in any way by LBMA. It is not on the Good Delivery List. It is not subject to the Responsible Gold Guidance and its compliance / assurance requirements.
28. LBMA does not carry out operations in Tanzania, nor does it have any personnel located in Tanzania. Furthermore, none of the refineries on LBMA’s Good Delivery List are located in Tanzania.
29. Our understanding is that some gold that was mined from the North Mara Mine was refined by MMTC-PAMP India Private Limited (“**MMTC-PAMP**”) during periods which appear to be relevant to the allegations advanced in your letter. More information as to MMTC-PAMP is provided below.

⁹ We note it has also been sent to the main investors and pension funds relevant to Barrick Gold, and all home-states of “*all involved actors*” (said to be Tanzania, the U.S., Canada and the UK).

Relationship with relevant refiner

30. As set out above, LBMA is aware of MMTC-PAMP¹⁰ as being one refiner that, during periods relevant to the allegations advanced in your letter, sourced gold from the North Mara Mine. Its refinery is located in Haryana, India.
31. MMTC-PAMP is accredited by LBMA and is on the Good Delivery List. Its first listing was in 2014. MMTC-PAMP is therefore required to comply with LBMA's Responsible Gold Guidance and its operations are subject to assurances in this respect by an independent third party, subsequently reviewed by LBMA.

Incident Review Process in June 2019

32. We note that the majority of the human rights abuse allegations set out in your letter pertain to events at the North Mara Mine since December 2019 (and following a change in ownership and operational control at the North Mara Mine¹¹). As explained further below, LBMA has limited knowledge and information related to such issues beyond what is reported in the media.
33. In June 2019, LBMA became aware of similar types of allegations at the North Mara Mine following several investigative articles appearing in various international newspapers around that time (the "**Forbidden Stories**" articles). We were very concerned by this reporting and so invoked LBMA's Incident Review Process. To explain the sequence of events:
 - 33.1. On 2 April 2019, MMTC-PAMP provided an Independent Reasonable Assurance Report from Ernst & Young (dated 29 March 2019) as part of the assurance process described at paragraph 8 above. This related to MMTC-PAMP's compliance with the Responsible Gold Guidance for the period 1 January 2018 to 31 December 2018. This report did not make any reference to media reports relating to the North Mara Mine.
 - 33.2. Following media reports of serious human rights and environmental allegations relating to the North Mara Mine in mid-June 2019, LBMA invoked its Incident Review Process on 18 June 2019. Our starting point in any Incident Review Process is that disengagement should be considered as a last resort, and only where the adverse impact is irremediable and there is no prospect of change. This is not least for the reasons set out above at paragraphs 18 to 20.
 - 33.3. As part of the Incident Review Process, LBMA spoke to a number of relevant stakeholders in June 2019 and obtained verification wherever possible. This included speaking to Ernst &

¹⁰ <https://www.mmtcpamp.com/>

¹¹ Our understanding is that, from 2006, the North Mara Mine was owned and operated by Acacia Mining plc, then a UK-listed company, in which Barrick Gold held a majority shareholding. On 18 September 2019, Acacia was taken into private ownership under a scheme and renamed Barrick TZ Ltd. Since that date, the North Mara Mine has been owned and operated by Barrick Gold, via its Tanzanian subsidiary, in a joint venture with the Government of Tanzania.

Young, who confirmed that the North Mara Mine transactions had been treated as high risk¹² and that it would follow up with written confirmation of the same.

- 33.4. MMTC-PAMP provided LBMA with details of its past relationship with the North Mara Mine, including details of a site visit in February 2018. MMTC-PAMP also stated that they had already been in touch with Acacia and were planning a further site visit, at which they would be accompanied by an independent expert consultant.
- 33.5. All of these matters were confirmed by MMTC-PAMP publicly when it issued a press release on 28 June 2019 in response to the Forbidden Stories articles¹³. MMTC-PAMP explained:
- a. It rigorously follows LBMA Responsible Gold Guidance, and it is subject to an assurance process by independent accredited assurance providers on an annual basis for its compliance with this guidance. Those assurance reports are publicly available.
 - b. It took the reports in the media *“very seriously and challenged the mine on the issues raised”*. It had assessed the measures taken at the North Mara Mine to remediate the human rights claims, which were said to be *“largely historical and related to the activities of the State police force operating in the area of the mine”*.
 - c. It noted that the parent company of the mine operator, Acacia Mining: (i) had adopted and implemented the World Gold Council’s Conflict-Free Gold Standard¹⁴, which confirms that the gold produced at North Mara Mine has been extracted in a manner that does not fuel unlawful armed conflict or contribute to serious human rights abuses or breaches of international law; (ii) operated a Community Grievance Process, as required by the UN Guiding Principles on Business and Human Rights; (iii) had its progress recognised in the form of the North Mara Mine winning a national CSR award in 2015 for its activities; (iv) had issued a press release refuting the various claims as well as explaining the factual background and context where appropriate; and (v) confirmed to MMTC-PAMP that it was addressing the environmental claim promptly.
 - d. It would, *“for an abundance of caution”*, organise *“a new site visit, together with an independent expert, to verify on site that the measures taken by the mine comply with*

¹² High Risk – as defined in the LBMA Responsible Gold Guidance.

¹³ <https://www.mmtcpamp.com/documents/41872/225059/Response+to+Forbidden+Stories+Articles.pdf>

¹⁴ The World Gold Council: (i) sets standards for its members in relation to gold mining itself (<https://www.gold.org/gold-standards>); (ii) one of its members is Barrick (<https://www.gold.org/about-us/our-members>); and ‘World Council Member Operations’ include various mines in Tanzania (as per prior website link). We further understand that companies implementing the WGC’s Responsible Gold Mining Principles are required to obtain external assurance from a third-party assurance provider (<https://www.gold.org/industry-standards/responsible-gold-mining>).

our Responsible Sourcing Policy as well as the internationally recognised sourcing standards.”

- e. It also confirmed that it would “*immediately suspend or discontinue engagement with the North Mara mine if we had identified a reasonable risk that they were committing serious abuses or supporting public or private security forces committing human rights abuses*”.
- 33.6. Ultimately, LBMA were satisfied that the due diligence undertaken by MMTC-PAMP was reasonable and that appropriate measures had been put in place by the refiner to mitigate potential and actual adverse impacts. We noted MMTC-PAMP’s ongoing proactive engagement and their commitment to an additional review. In the circumstances, the decision was made to approve MMTC-PAMP’s assurance and issue their annual certificate on 3 July 2019.
- 33.7. LBMA continued, however, to press MMTC-PAMP for details regarding the scope of the further assessment promised by MMTC-PAMP, as well as the identity of the independent advisor that would be assisting it. On 31 July 2019, LBMA was notified that [REDACTED] [REDACTED] was likely to be appointed to conduct the assessment.
- 33.8. By late September 2019, MMTC-PAMP had confirmed [REDACTED] had been appointed. A visit was scheduled for November 2019 and MMTC-PAMP shared the scope of work mapped out for this visit. LBMA commented on this scope, recommending, for example:
- a. that [REDACTED] be engaged for post-visit support as well as in the preparation of a summary of the assessment and next steps that can be publicly disclosed;
 - b. that a collaborative approach with Barrick Gold was to be supported, although it was important that [REDACTED] must be allowed the independence necessary to carry out an impartial assessment and report;
 - c. that constructive engagement with RAID was important; and
 - d. that given the recent takeover by Barrick Gold, our expectation was that the nature of the assessment would be mostly forward-looking, but it must also give due consideration to the appropriate remedy for affected stakeholders to date.
- 33.9. In May 2020, Barrick Gold requested LBMA to provide a “*more formal confidentiality confirmation*” before [REDACTED] finalised report could be provided to LBMA. This

[REDACTED]

confirmation was provided, and thus LBMA received the report on a confidential basis. Our view of the report was that it provided a very comprehensive assessment which appeared to be aligned both with the relevant OECD Due Diligence Guidance and the Responsible Gold Guidance. The Executive Summary of that report was published on 3 July 2020.¹⁶ The report concluded that MMTC-PAMP can continue sourcing provided they engage with Barrick Gold on the mitigation of the risks identified at the North Mara Mine.

34. MMTC-PAMP has continued to be subject to independent third-party assurances every year as usual for its compliance with the Responsible Gold Guidance. It also continued to work with [REDACTED] in reviewing the progress being made at the North Mara Mine. A second independent on-site assessment has been conducted in 2022. The related Executive Summary report has been published. [REDACTED] concluded that MMTC PAMP can continue sourcing based on the mitigation of the risks.

Claims brought in relation to the North Mara Mine

35. As you are no doubt aware, multiple legal claims have been brought by claimants in relation to operations at the North Mara Mine. One such case was brought by [REDACTED] in England in 2013 against Barrick Gold's then-subsiidiary, UK-based African Barrick Gold Plc, and the North Mara Gold Mine Ltd.¹⁷ More recently, claims have been brought against Barrick Gold by [REDACTED] in England, which claims have apparently now been settled,¹⁸ and by [REDACTED] in Canada.¹⁹
36. [REDACTED] have commenced claims against LBMA in England in respect of two alleged fatalities, which are the subject of an anonymity order. LBMA takes the anonymity of the claimants in this case very seriously and, in respect of that anonymity, is unable to investigate the factual basis of these specific allegations. LBMA denies that it owes the alleged, or any, duty of care to the claimants and the claims will be defended.

B. Allegations contained in your letter

37. We note that you have written directly to Barrick Gold, the operator of the North Mara Mine. LBMA will, of course, pass your letter on to MMTC-PAMP, the Good Delivery List refiner which was acquiring some gold from the North Mara Mine during the relevant periods to seek further information. However, since end of 2023, Rand Refinery has also entered a contract with the North Mara Mine, and therefore there are two Good Delivery List refiners who have contracts to take ore from the North Mara Mine. Should

¹⁶

[https://www.mmtcpamp.com/documents/41872/225059/NorthMaraGoldMineLimitedSynergyAssessm
entreportExecSumm.pdf](https://www.mmtcpamp.com/documents/41872/225059/NorthMaraGoldMineLimitedSynergyAssessm
entreportExecSumm.pdf)

¹⁷

This was settled out of court in 2015, on behalf of 13 Kuria villagers:

[REDACTED]

¹⁹

<https://www.barrickontrial.ca/>

you so require, we are happy to pass further questions you may have to - or put you in contact with - said refiners.

38. Your letter contains a large number of very serious allegations, but no information as to the identity of any individual alleged to have been affected and no information about the various sources on which you appear to rely for your information. In order to investigate and respond to the allegations, it would be necessary for us to have full details of the allegations (while of course maintaining the anonymity of those who wish to remain anonymous) and copies of any and all documents which you have seen relating to the allegations, so that we may put forward any relevant questions to relevant Good Delivery List refiners, who may be able to reach the mine for clarification. In the absence of paragraph numbers in your letters allowing us to cross-refer to the allegations, we have attached, at Annex 1, an annotated copy of your letter identifying the information that we anticipate it would be necessary for you to provide in order to enable the relevant Good Delivery List refiners, MMTC-PAMP and Rand Refinery, to investigate and respond. **Please confirm whether you are prepared to provide such information to us or whether you wish to provide such information directly to MMTC-PAMP and/or Rand Refinery.**

C. Requests set out in your letter

39. With the facts and matters set out above in Section A serving as important context, in this section we address the specific requests for information numbered 1–8 set out in your letter.²⁰

Request 1: Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations

40. We do not have any information concerning the anonymised allegations set out in your letter. We note:
- 40.1. We do not certify Barrick Gold or the North Mara Mine itself. Rather, we certify MMTC-PAMP, which used to refine gold sourced from the mine at its refinery in India. We do not carry out operations in Tanzania and do not have personnel there. The information we obtain concerning the North Mara Mine is that provided to us by MMTC-PAMP, predominantly from third party assurances ensuring compliance with LBMA's Responsible Gold Guidance. In addition, we are, of course, aware of media reporting.
- 40.2. As stated above, LBMA did initiate an Incident Review Process in June 2019 in relation to certain previous allegations. The steps taken in relation to this have been set out at paragraphs 32 to 34, and further information that may be of use is set out in: (i) MMTC-

²⁰ On pp.14-15

PAMP's press release of 28 June 2019;²¹ and (ii) the executive summary of the [REDACTED] [REDACTED] assessment report, published on 3 July 2020.²²

40.3. As set out at paragraphs 35 above, two claims have been issued against LBMA in the English High Court which raise allegations relating to previous human rights abuses at the North Mara Mine. Specifically, it is alleged that two individuals were killed by the North Mara Mine's security forces after they had entered the mine to prospect for gold. However, as explained above, LBMA has been unable to properly investigate the factual basis of the claims, not least because of an anonymity order that is in place which imposes stringent restrictions that hinder the prospect of carrying out such investigations.

Request 2: As a private company limited by guarantee without share capital, and the industry association representing those trading in gold and certifying gold as responsibly sourced, please provide information about the human rights due diligence policies and processes put in place by LBMA to identify, mitigate and account for adverse human rights impacts of your activities, in line with the UN Guiding Principles on Business and Human Rights

41. LBMA is not involved in gold mining or refining and does not carry on any operational business. The activities of LBMA are limited to establishing standards and market conventions, which involves the promotion and protection of human rights in respect of global gold supplies; LBMA sets minimum standards which refiners must meet or exceed, but it does not advise refiners, far less those companies actually carrying out mining activities and does not, of course, prevent refiners from adopting higher standards. The work of LBMA therefore does not give rise to adverse human rights impacts.
42. LBMA's commitment to promoting responsible sourcing is well documented. We were actively involved in the drafting of the OECD Due Diligence Guidance²³ and its Gold Supplement. We also continue to support the OECD's work in supply chain due diligence and related projects. For example, we are also the co-chair of the Multi-Stakeholder Group on conflict minerals and due diligence.
43. All refiners that wish to be included on the Good Delivery List are required to implement LBMA's 'Responsible Sourcing Guidance', which comprises the Responsible Gold Guidance and Responsible Silver Guidance, and obtain annual independent assurances reporting on their compliance with this guidance. The failure to appropriately adhere to the Responsible Gold Guidance may result in the refiner being removed from the Good Delivery List, following LBMA's robust Incident Review Process.

²¹ <https://www.mmtcpamp.com/documents/41872/225059/Response+to+Forbidden+Stories+Articles.pdf>

²²

[https://www.mmtcpamp.com/documents/41872/225059/NorthMaraGoldMineLimitedSynergyAssessm
entreportExecSumm.pdf](https://www.mmtcpamp.com/documents/41872/225059/NorthMaraGoldMineLimitedSynergyAssessm
entreportExecSumm.pdf)

²³ OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas

The minimum standards promoted by LBMA for the protection of human rights in relation to global gold supplies include:

- 43.1. Refiners being required to implement the Responsible Gold Guidance. The Responsible Gold Guidance, amongst other things, follows the five-step framework for risk-based due diligence of the OECD Due Diligence Guidance.
- 43.2. Refiners are then required to obtain and submit to LBMA on an annual basis an independent third-party assurance of their supply chain due diligence. Refiners must use an assurance provider on LBMA's 'Approved Service Provider List'.
- 43.3. In the event LBMA becomes aware of allegations of criminal activity and/or potential serious breaches of the Responsible Gold Guidance, it launches an Incident Review Process. Further:
 - a. At all times, LBMA reserves the right to request information and supporting documentation from refiners.
 - b. LBMA may also carry out a 'Special Audit', which has a very specific focus and helps to provide a second opinion to confirm the refiner's compliance with LBMA's Responsible Gold Guidance during the reporting period. A Special Audit may arise out an Incident Review Process, market intelligence, media allegations, whistle-blowing or country or origin data analysis. Under a Special Audit, LBMA selects an auditor that is independent of the original auditor.

Request 3: Please provide information on any of the environmental and social impact studies that are carried out by LBMA, or by LBMA's accredited refiners, that can help to ensure that only gold refined by LBMA's accredited refiners and placed on its Good Delivery List (GDL) can be traded on the London market. Please confirm whether any such studies were prepared with a human rights approach and whether they were conducted with meaningful consultation with affected stakeholders. In particular, please indicate whether any such studies include consideration of any steps taken to avoid negative social and cultural impacts on the Kurya communities located in the area of the project, including by seeking their free and informed consent prior to the approval of the project on their traditional lands

44. LBMA does not directly audit the 100 refiners in 37 countries which have Good Delivery List status. Rather, it relies on those refiners to provide annual independent third-party assurances of its operations and engages with their third-party assurance providers to understand the audit deliverables which are used to determine Good Delivery List status. Again, LBMA accredits refiners, not mines, who are subject to the World Gold Council Conflict-free standard. It does not accredit mines and is not in a position to do so. It therefore does not audit, let alone carry out environmental and social impact studies, relating to any of the hundreds of mines around the world from which refiners may acquire gold.

45. LBMA does not certify mines and is not involved in the operations of any mine or any “projects”, such as the Kurya project mentioned in your letter, of which LBMA has no knowledge. LBMA’s work is concerned with the accreditation of refiners.
46. As part of the Responsible Gold Guidance:
- 46.1. Refiners are encouraged to forge close long-lasting relationships with all relevant stakeholders, in order to provide material benefits to everyone concerned. Refiners are encouraged, in accordance with best practice, to report material risks in their supply chains to their assurance service providers (and, where relevant, publicly too) and mitigate these risks by developing programmes where short-term actions support a long-term future by attracting and retaining upstream and downstream counterparties, and by having a clear focus on the durability of supply chains.
- 46.2. LBMA also encourages initiatives facilitating responsible and sustainable supply chains for all forms of mining in areas considered as Conflict-Affected and High-Risk Areas. LBMA encourages refiners to work together with national governments, central banks, donor agencies, industry associations and large-scale mining to support artisanal and small-scale mining, as appropriate. Refiners must also ensure, particularly when sourcing from a location designated by a national government as ‘Protected’, that such sourcing is undertaken within the local regulatory or legislative framework.

Request 4: Please provide information about specific human rights due diligence measures taken before a decision was made to trade on the London market the gold extracted from the mine referred to in this letter

47. LBMA is extremely concerned around any allegations of human rights abuses in the global gold supply chain. As we have set out above our role is to drive improvements across the sector through our certification of refiners. To confirm, LBMA does not accredit the North Mara Mine or undertake due diligence measures relating to the North Mara Mine, or any mine. As explained in Section A above, LBMA accredits refiners, who may source gold from multiple mines. MMTC-PAMP was an LBMA accredited refiner which, during the period identified in your letter, refined gold sourced from the North Mara Mine. As a Good Delivery List refiner, MMTC-PAMP was:
- 47.1. Responsible for complying with the Responsible Gold Guidance, which, amongst other things, follows the five-step framework for risk-based due diligence of the OECD Due Diligence Guidance.
- 47.2. Responsible for obtaining and submitting to LBMA on an annual basis an independent third-party assurance of their supply chain due diligence.

48. In addition, LBMA undertook an Incident Review Process in June 2019 following media reporting (as described at paragraphs 32 to 34 above) of incidents relating to the North Mara Mine. This resulted in further assessments being carried out at the North Mara Mine by an independent consultant, [REDACTED] [REDACTED] was engaged by, and reported to, MMTC-PAMP, as the relevant refiner, not to LBMA. The Incident Review Process was concluded when LBMA issued the certificate to the refiner.
49. Any decision to trade any gold on the London market is ultimately that of the trading entities concerned. If an entity is an LBMA Member, then they are required to observe LBMA rules to remain a Member, and may choose to take some comfort from Global Delivery List rules and LBMA Responsible Gold Guidance, but London market is always free to reject trade in any gold at any time if there are concerns about its origin.

Request 5: To the extent your institution is already aware of the allegations made in this letter, please describe the measures that your institution has taken, or plans to take, to address the issues raised and to prevent gold extracted from the mine referred to in this letter being traded on the London market until the alleged abuses referred to in this letter have been adequately addressed, in accordance with the provisions of the UN Guiding Principles on Business and Human Rights

50. It is the responsibility of the mine operator (in this case, Barrick Gold) to ensure that it complies with the UN Guiding Principles on Business and Human Rights. LBMA does not accredit mines and is not in a position to ensure compliance of any mine operator with the UN Guiding Principles.
51. As you note, the allegations relating to the North Mara Mine are, at this stage, allegations. The allegations set out in your letter are all anonymised and little or no detailed information is provided. As noted at paragraphs 21 to 24 above, human rights abuses of legitimate artisanal and small scale miners need to be separated from the complex issues relating to the nature and extent of security measures taken by a national police force and/or by a mine to protect the mine from the criminal acts including attempts to illegally appropriate gold ore from a mine. It is not clear from your letter whether you have investigated the allegations independently and, if so, whether you have concluded that the reports which you have received fall into the former or the latter category. It would be very helpful and appreciated if you could please confirm (while of course maintaining the anonymity of those who wish to remain anonymous) what independent investigations you have undertaken in relation to each individual allegation, and what conclusions you have drawn in respect of each individual allegation.
52. We will pass your letter, and any further information relating to each of the allegations you have described which you are able to provide, on to MMTC-PAMP. We will also pass your letter onto Rand Refinery, the other refiner which we understand is also acquiring gold from the North Mara Mine.
53. Refiners must adopt a gold supply chain policy that incorporates the risks and risk management measures outlined in Annex II of the OECD Due Diligence Guidance and extends to addressing adverse ESG factors in the refiner's primary gold supply chain. This includes immediately suspending or discontinuing engagement with upstream suppliers where the refiner identifies a zero tolerance risk

that they are sourcing from, or linked to, any party committing serious abuses, which include: (i) any forms of torture, cruel, inhuman and degrading treatment; (ii) any forms of compulsory labour; (iii) the worst forms of child labour; (iv) other gross human rights violations and abuses such as widespread sexual violence; and (v) war crimes, crimes against humanity or genocide.

54. Refusing to renew any relevant refiner's Good Delivery List accreditation as a result of security-related incidents at any particular mine is fraught with difficulty as such an action may well result in adverse human rights impacts at the relevant mine, as noted at paragraphs 18 to 20 above. Where possible, LBMA would first seek to undertake an Incident Review Process, which may result in a further independent third party being engaged to assist in auditing and investigating the issues, determining the facts, and advising on ways in which the refiner may be able to work with the mine operator to achieve improvements in security processes and procedures with a view to mitigating adverse consequences.

Request 6: Please provide information on steps taken by your institution to establish or participate in an operational-level grievance mechanism to address any adverse human rights impacts caused by your operations

55. Many mine operators around the world will have operational-level grievance mechanisms in place. Further, LBMA encourages refiners, via the Responsible Gold Guidance, to establish (either directly or through collaborative arrangements with other companies or organisations) a grievance mechanism to allow employees and external stakeholders to anonymously voice concerns about the identified risks in the supply chain.
56. All refiners on the Good Delivery List must constantly review their processes to make sure they address their risk profile and draw on intelligence provided by credible organisations to inform ongoing due diligence. This may at times (in the discretion of the refiner) include appointing on-the-ground agents to support their due diligence. Refiners also rely on external feedback to inform their KYC and due diligence practices. For example, LBMA is a partner in the online cross-industry Minerals Grievance Platform ("MGP") designed to screen and address grievances linked to minerals supply chains. The MGP enables external stakeholders anonymously to raise any grievances that may concern any Good Delivery List refiner. Every time a concern is raised against either a refiner or one of its suppliers, LBMA tasks the refiner to establish the facts of the case and requires evidence of a mitigation strategy if the circumstances warrant. Failure to engage or comply may lead to suspension of a refiner's Good Delivery List status.
57. We have also referred at paragraph 22 above to our 'ASM initiative', which has sought to address the governance challenges that the artisanal and small-scale mining market poses to legal supply chains. Our initiative represents the most concerted effort by any industry group to date to support engagement with legitimate ASM actors. At a 'Responsible Sourcing Summit' hosted by LBMA in March 2024, LBMA released the first fruits of this engagement: an 'ASM Toolkit'. The hope is that this

toolkit will support Good Delivery List refiners and their ASM suppliers during the due diligence assessment.

58. However, also as noted above, it is important to emphasise that LBMA does not carry out any operational mining activities, nor does it certify mines. LBMA sets minimum standards which must be met, or exceeded, by refiners who wish to achieve/maintain accreditation. LBMA therefore does not carry on operations which may have adverse human rights impacts and is not involved in any operational-level grievance mechanisms relating to the activities carried out at any of the hundreds of gold mines around the world.

Request 7: Please explain what measures have been adopted to ensure that the staff of your institution have adequate awareness, knowledge, and tools to identify and report on human rights abuses, including those alleged in the present letter, throughout your operations

59. Again, as noted above, it is important to emphasise that LBMA does not carry on 'operations' which may have adverse human rights impacts.
60. LBMA does, however, regularly produce supporting toolkits and training materials for both refiners and approved assurance providers to enhance the quality and consistency of their application of the Responsible Gold Guidance. For example:
- 60.1. A 'Refiners Toolkit' is made available on LBMA's website²⁴ so as to assist in implementing the requirements of the Responsible Gold Guidance. Refiners are also asked to justify any deviations from the scope of the Refiners Toolkit on a comply or explain basis.
- 60.2. We have revised the mandatory training for assurance providers. Rather than working in conjunction with a third-party provider, LBMA brought the process in-house by developing the curriculum and designing an e-learning platform. The online training modules were supplemented by a live case study session with a trained assurance provider who had supported LBMA in the drafting of the 9th version of the Responsible Gold Guidance.
- 60.3. LBMA has also prioritised a consistent application of the RSP, which includes; the planning of annual training for assurance providers, responding to reports from whistle-blowers and public reports, escalating issues with assurance service providers to the Compliance Panel, and working closely with external stakeholders such as non-governmental organisations and governments to ensure that LBMA is constantly improving and refining its work.

²⁴ <https://www.lbma.org.uk/responsible-sourcing/refiners-toolkit>

Request 8: Please provide information regarding efforts undertaken to ensure the prompt identification, referral for protection and full range of assistance and specialized support services to victims and survivors of sexual abuse and violence, namely women and children

61. Again, LBMA does not operate mines, accredit mine operators, or audit mine operations. It is not in a position to identify or refer victims and survivors of sexual abuse relating to mining operations by third party mine operators. Such responsibilities rest entirely on the relevant mining operators, such as the operator of the North Mara Mine, Barrick Gold.
62. As stated above, all refiners named on LBMA's Good Delivery List are required to comply with the Responsible Gold Guidance, which follows the five-step framework for risk-based due diligence of the OECD Due Diligence Guidance.
63. As part of this, refiners must adopt a gold supply chain policy that incorporates the risks and risk management measures outlined in Annex II of the OECD Due Diligence Guidance and extends to addressing adverse ESG factors in the refiner's primary gold supply chain. This includes immediately suspending or discontinuing engagement with upstream suppliers where the refiner identifies a known instance that they are sourcing from, or linked to, any party committing serious abuses, which include: (i) any forms of torture, cruel, inhuman and degrading treatment; (ii) any forms of compulsory labour; (iii) the worst forms of child labour; and (iv) other gross human rights violations and abuses such as widespread sexual violence; and (v) war crimes against humanity or genocide.
64. All refiners included on LBMA's Good Delivery List are subject to an assurance process by an independent third-party assurance provider for compliance with the Responsible Gold Guidance. Further, as mentioned above, LBMA regularly produces supporting toolkits and training materials for both refiners and approved assurance providers to enhance the quality and consistency of their application of LBMA's guidance.

Conclusion

65. We hope that this letter assists with your important work.

As noted above, we have attached, at Annex 1, an annotated version of your letter identifying the further information which it would be helpful if you could provide.