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Widney Brown  
Senior Director  
International Law and Policy  
Amnesty International  
1 Easton Street  
London, WC1X 0DW  
United Kingdom

Dear Ms. Brown:

I am writing in respect of Amnesty International's ("AI") letter dated November 2, 2009, concerning AI's allegation of human rights abuses in the Porgera Valley, in Papua, New Guinea (the "Draft Findings"). As you know, the bulk of Barrick's response to the Draft Findings was provided to AI orally in a meeting in AI's London offices on December 3, 2009 ("the London meeting"), or subsequently.

The London meeting was attended by four representatives of Barrick and two representatives of the Porgera Joint Venture ("PJV"), all of whom had traveled to London at AI's request for that purpose. In view of the large number of AI's assertions with which PJV and/or Barrick disagree, and the fact that it was not possible to complete our discussion of such points during the time that the relevant AI representatives had available on the 3<sup>rd</sup>, Barrick and PJV agreed to provide AI the remainder of their comments on the Draft Findings, certain potentially relevant documents, responses to certain AI inquiries, and other relevant comments of Barrick or PJV, to AI in writing subsequent to the meeting. This letter and its attachments constitute Barrick's response, based on the state of its inquiries as at the date of this letter. As we described in the London meeting, however, inquiries by Barrick and PJV on various fronts are ongoing and Barrick may choose to supplement this letter in the future should it appear necessary.

In view of the urgency recently expressed by AI to publish another report, the travel and roster schedules of various PJV representatives in Papua New Guinea ("PNG"), and the sabotage of certain power facilities in PNG that provide power to the Porgera Mine during the week, we have been unable to satisfactorily coordinate and consult with all of the necessary PJV representatives on the full range of issues addressed in this letter, in the period following the

London meeting. Consequently, this letter represents the comments of Barrick only, and PJV may choose to provide a separate or supplemental response.<sup>1</sup>

## I. Summary Overview

In our view AI's correspondence and press releases focus on and attempt to demonize Barrick and PJV for their support of an initiative of the PNG police to restore law and order to the Porgera Valley. As we illustrated in the London meeting, the increased police presence in the Porgera Valley that permitted the enforcement of PNG law was not an initiative by or for a mining company. It was proposed and supported by virtually every community leader in the Porgera Valley. And, by every account we have heard it has been very successful. It began to restore peace and justice to a large area in the Porgera Valley that was increasingly becoming armed, violent, and lawless. The attendant improvements in the safety of Porgera Valley residents are significant, and, indeed, we understand that AI concurs with that assessment.

We appreciate AI's efforts to call public attention to an incident that occurred approximately two weeks after the PNG police began to increase their presence in the Porgera Valley. That incident apparently involved the PNG police and resulted in the displacement of some number of people from the Wangima area on April 27, 2009, as well as the destruction of some number of structures, including some number of permanent or semi-permanent dwellings.<sup>2</sup> To our knowledge it did not, however, result in any deaths or serious injuries, nor, for reasons unique to the central highlands of PNG, did it apparently result in any significant number of homeless people.<sup>3</sup>

Barrick and PJV apparently differ with AI on AI's interpretation of what occurred on April 27, 2009 and how, when and why it occurred, as well as the relationship of the PNG police, Barrick and PJV, and other local interests to that incident. The differences illustrate several of Barrick's concerns about the "findings" of AI outlined in the Draft Findings.

First, we believe that AI's interpretation of the relevant facts has been unduly influenced by what appears to be a preconceived view on the part of AI that *whatever* occurred at Wangima

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<sup>1</sup> In the preparation of these comments we have consulted at length with a number of PJV representatives and the information in the comments has largely been provided to Barrick by PJV. The documents being provided to AI are, without exception, courtesy of PJV.

<sup>2</sup> AI's May 11, 2009 Public Statement placed the number of structures burned by police on April 27, 2009 at 350 and the number of homeless at 1000. AI has apparently known since mid-August that those numbers are and were materially incorrect, apparently embellished by the very people with whom AI collaborated in early May in respect of the preparation of the Public Statement. We trust that AI will correct the public record in any future report it may issue.

<sup>3</sup> As indicated previously (see p. 4 of Barrick's letter to AI of May 22, 2009), PJV's inquiries indicate that the people in Wangima were largely in-migrants from other parts of PNG, temporarily residing in Wangima so that they could partake in illegal mining and other illicit activities and inquiries in the community indicated that such people have permanent homes in their own villages. See also, item 6 on the register of documents provided to AI at the London meeting (the "December 3 Document Register"), in which the principal landowner of Wangima advises that "the current residents are from Laiagam, Tari, Kandep and others who are lottering every day into the pit and underground" (*sic*).

it was the product of corporate misconduct. AI's focus on implying corporate misconduct has, in our view, materially impaired its assessment of the events on which it otherwise ostensibly objectively reports. We believe that AI's objective of allocating responsibility to a corporation, in turn, has caused it to ignore or discount material forces in the broader community that have far more direct and immediate influence and involvement in the events at Wangima than PJV. For example, AI's reports do not address – or even acknowledge - the roles and responsibilities and motivations of other affected parties, including specifically tribal leaders, landowners, landowners “representatives,” or the burgeoning population of transients and in-migrants that was occupying parts of Wangima, including many people engaged in a number of serious criminal activities.<sup>4</sup>

Second, as we will explain below, the apparent failure of AI to critically examine or address issues associated with (1) the composition of the population that was displaced, (2) the potential motivation/bias of the various persons who assisted AI with its May 11 Public Statement and investigation and provided AI with “testimony” about the displacement, or (3) who may have provided direction or consent to the police, has, in our view, led AI to oversimplify, mischaracterize or overstate both the relevant events of April 27 and their consequences. That, in our view, has the earmarks of an advocacy campaign, not a thorough, credible and independent investigation to determine the facts.

Lastly, we also believe that AI's decision to have its researcher visit the site only once, for a limited period<sup>5</sup>, *four months* after the April 27 incident prevented AI from carefully and thoughtfully distinguishing between the events of April 27<sup>th</sup> and subsequent events concerning which, it appeared to Barrick, AI has little or no reliable information. For example, information available to Barrick is consistent with AI's conclusion that there was some measure of PNG police involvement in the events of April 27<sup>th</sup>. However, by contemporaneous accounts,<sup>6</sup> the events of the 27<sup>th</sup> involved the destruction of 35-50 structures at Wangima. AI reports that when it first visited the site four months later all structures in the area had been removed except a church.<sup>7</sup> AI now apparently asserts the number of structures destroyed is at least 130. AI states unequivocally that all of those structures were destroyed by the police, that people occupied the structures and were displaced, and that it all was illegal. We have been unable to confirm the involvement of the police in events subsequent to April 27 allegedly affecting almost 100 additional structures and AI did not provide information in the London meeting that was specific enough to support that conclusion. While the draft report referred to other isolated events<sup>8</sup> in the

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<sup>4</sup> See letter from principal landowner of Wangima (item 6 on December 3 Document Register). See also item 9 on the December 3 Document Register, being the request by the RPNGC for assistance, noting “tragic loss of lives by members of the public as a result of tribal fighting and general lawlessness”.

<sup>5</sup> It is Barrick's understanding from the London meeting and other information available to us that Amnesty's researcher was at site in the Porgera Valley for less than three days. Please clarify the duration of the researcher's onsite investigation in any future report AI may issue.

<sup>6</sup> See document 16 on the December 3 Document Register, which details observations from April 27 and May 13, 2009, - several months prior to AI's visit.,

<sup>7</sup> Draft Findings, at 3.

<sup>8</sup> Draft Findings: alleged beating of a man on June 23, 2009 at Mungalep village (at 4); alleged destruction of houses in Kulapi village on or around May 21, 2009, and alleged destruction of reconstructed houses in Wangima on June 23 and July 24, 2009 (at 6).

following months, AI's description of those alleged events and the alleged relationship of PJV or Barrick to those events was so vague as to be impossible to assess.

We are also troubled with the magnitude of some of AI's errors in its Draft Findings. AI has referred in the Draft Findings to the fact that "In multiple interviews with *dozens of residents ... people gave consistent testimony that the Wangima area had been settled before the [Porgera] mine commenced operations.*" Yet, the photograph produced by PJV in the London meeting conclusively showed this not to be the case.<sup>9</sup> The video footage referred to by AI as having been dated 1994 and showing multiple structures was not as represented by AI. As promised in London, PJV reviewed the footage and can confirm it was made no earlier than *April 2008*, a fact that would have been obvious to anyone with some familiarity with the area.

In any event, while we agree with AI that it appears that some number of people were displaced, and we note that AI asserts that such displacement did not accord with international principles regarding the protection of human rights, evidence available to us does not support AI's assertion that there is now, or has ever been, any humanitarian crisis associated with the homeless people from Wangima not having access to food, water, or shelter, as stated in AI's various correspondence and public announcements. Nor, to our knowledge, were there deaths or serious injuries associated with the April 27 action of the police.<sup>10</sup>

We raise this not to excuse any contravention of law or international human rights standards by PNG police, if, indeed, any occurred, but rather to put some context around AI's May 11 worldwide public pronouncements – and subsequent repetition – of allegations implying corporate complicity in "gross violations of human rights."<sup>11</sup>

We also raise it to highlight the fact that, irrespective of whether the action of PNG police comported with international human rights standards, PJV has repeatedly advised AI that PJV has not identified anyone who was displaced from Wangima on April 27 that is currently without food, water or shelter. If AI can assist us in identifying any such an individual (and AI claims to have testimony from many of them) we will encourage PJV to step forward with some assistance, irrespective of the fact that it was not involved in the police action in question. PJV regularly voluntarily provides humanitarian assistance to parties across PNG in the face of natural disasters, serious accidents or other unfortunate events.<sup>12</sup>

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<sup>9</sup> The photo shows at most one structure in the relevant area at the time it was taken in approximately 1992.

<sup>10</sup> As previously reported to AI neither the local hospital and/or the PJV clinic reported treating any persons for injuries associated with the events of April 27. We are aware of no relationship between the events AI has reported that occurred in the village of Mungalep and the events of April 27.

<sup>11</sup> See AI's "Public Statement" dated May 11, 2009, at 1.

<sup>12</sup> See for instance the World News report of August 13, 2009 relating to actions of PJV's aviation search and rescue team in connection with the crash of a commercial flight, a copy of which is provided with this letter.

We note AI's insistence in its various correspondences that under the Voluntary Principles on Security and Human Rights (the "Voluntary Principles") PJV bears responsibility for action by the PNG police because, during the period of Operation Ipili, PJV has provided barracks-style lodging and meals to police personnel deployed to the Enga province. AI's assertion is incorrect – and very misleading in our view. PJV has, of course, openly and transparently provided some measure of passive support to the deployment of additional police to the Enga Province as part of the local communities' 2009 efforts to attempt to restore peace and justice to residents in the entire Porgera Valley. As PJV explained to you in detail, PJV did so in a transparent process at the request of the PNG police with the support of local communities. It did so pursuant to a formal agreement<sup>13</sup> (the "April 2009 MOU") with the PNG police that expressed PJV's expectations that the police would comport themselves in accordance with applicable standards of conduct and respect for human rights. And it did so only after it satisfied itself that the PNG police in question had adequate training in human rights.

You pointed out in earlier correspondence that AI was a founding member of the Voluntary Principles.<sup>14</sup> We applaud AI for its leadership on that issue in 2000. However, the interpretations (as to a company's responsibilities in its relations with a state security entity) that AI is advancing nine years later are neither consistent with the terms of the Voluntary Principles nor do they appear to be correct as a matter of law. And, with respect, they do not, in our view, reflect the same balanced view of the difficult issues addressed by the Voluntary Principles that we understand AI brought to the discussions that led to their adoption in 2000.

The Voluntary Principles guide relationships between companies and public security in connection with *security provided by the police to companies' facilities*.<sup>15</sup> The purpose of the increased police presence was *not* principally to protect PJV's mine. It was, by every account that we have seen, to restore law and order, security and respect for human rights *across the entire community*.<sup>16</sup> While one cannot ascertain this from any of AI's public statements on the matter, it was the *communities* that requested the increased police presence *in their communities*<sup>17</sup> and the PNG police presence was not focused on the mine.<sup>18</sup> Indeed, PJV provides its own

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<sup>13</sup> See letter to Gary Baki, Police Commissioner, dated 20 April, 2009, at 3 previously provided to AI (item 9 on the December 3 Document Register).

<sup>14</sup> See AI letter to Barrick Gold Corporation, June 29, 2009, at 2.

<sup>15</sup> Voluntary Principles on Security and Human Rights - "Interactions between Companies and Public Security". ("Companies may be required or expected to contribute to ... the costs of *protecting Company facilities* ..." "we have identified the following *voluntary principles to guide relationships between Companies and public security regarding security provided to Companies*".) See also the last paragraph of section II (D) of this letter. We noted AI's efforts in earlier correspondence (e.g., AI's letter of June 29) to equate the Special Mining Lease ("SML") with an area controlled and operated by PJV. As we explained in London, that is not at all how the SML works - in law or in practice. More importantly, the Voluntary Principles are intended to assist parties in establishing clear working relationships for the provision of security to companies by state actors. The April 2008 MOU represented the parties' common understanding of that relationship as it related to security around the Porgera mine and it does not resemble the expansive interpretation AI would now place on it.

<sup>16</sup> AI's effort in the Draft Findings (at 5) to imply that because PJV was in favor of a police deployment and because it indirectly benefitted it is responsible for all of the actions of the PNG police is nonsense. Virtually everyone in the Porgera communities who was not a criminal was in favor of the deployment and believed that they would benefit from it.

<sup>17</sup> See Letter from Philip Kikala, MP for Lagaip-Porgera, Aken Puluku, Chairman, Porgera Development Association, Mark Ekepa, Chairman, Porgera Landowners Association, Achen Pawe President Porger LLGC, et al

security within the Porgera mine and the agreement provides that “absent exigent circumstances, in the performance of their duties, the police shall remain *outside* the parameters of the Porgera Mine Site security fence...”<sup>19</sup> AI’s efforts to publicly assign blame to PJV and Barrick for alleged transgressions of the PNG police that occur outside of the mine but elsewhere throughout the Enga province<sup>20</sup> is unfair and improper – and, in our view, utterly inconsistent with the objectives of the Voluntary Principles, which recognize that while corporations don’t control host governments or public security services they can constructively encourage and assist such parties to respect human rights.

In that regard, it appears to Barrick that PJV in fact did what is expected of a company under the Voluntary Principles - had they been applicable - and more. For example,

- The Voluntary Principles encourage (not direct) companies to “communicate their policies regarding ethical conduct and human rights to public security providers, and express their desire that security be provided in a manner consistent with those policies by personnel with adequate and effective training.” PJV did that.<sup>21</sup>
- The Voluntary Principles encourage companies to “promote observance of applicable international law enforcement principles, particularly those reflected in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms.” PJV did that too.<sup>22</sup>
- The Voluntary Principles also encourage companies to “support efforts by governments ... to provide human rights training and education for public security...” PJV did so. In fact, it has for years actively promoted such training and provided assistance and resources to the PNG government to do so.

Once PJV became aware of the events of April 27 it immediately communicated with the PNG police<sup>23</sup>, inquired regarding the events in question, and reiterated PJV’s expectations. It has continued a constructive dialogue with the police on these subjects since that time.

The PNG police’s deployment of some 150 officers to the Porgera communities was concluded on or about July 3rd when Operation Ipili was terminated by the police. A smaller police deployment (approximately 70 officers) was initiated in mid-July and is currently in place,

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to Prime Minister Michael Somare, dated on or about February 12, 2009 re: “Grounds Supporting the Petition Seeking for the Declaration of State of Emergency in Lagaip-Porgera Enga Province” (item 7 on December 3 Document Register).

<sup>18</sup> See the publication in the National Gazette of March 4, 2009 relating to the Call-out of the Defence Force (which was subsequently reduced to a police call-out), noting the need for the restoration of law and order in the Liagap-Porgera Electorate generally, a copy of which is provided with this letter.

<sup>19</sup> See letter to Gary Baki, Police Commissioner, dated 20 April, 2009, at 2 (item 9 on December 3 Document Register). (Emphasis added)

<sup>20</sup> See, e.g., AI’s effort to connect PJV to the alleged beating of a man in the village of Mungalep. Draft Findings, at 4 and December 9, 2009 Public Statement, at 1.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> See text at section II (C)(II).

under a different commander. We understand that the current commander also is an ICRC certified human rights instructor.<sup>24</sup> A new MOU was concluded between PJV and the RPNGPC on July 13<sup>th</sup> to include additional safeguards relating to human rights issues, including an independent monitor.<sup>25</sup> We are not aware of any credible allegations that the current police deployment that has contravened any international human rights principles.<sup>26</sup>

In the two 2009 deployments mentioned above the police have been and are being temporarily housed at a PJV facility at the request of the PNG government.<sup>27</sup> We understand that it made that request because much of the Enga Province, including the Porgera Valley and the broad Lagaip-Porgera district, is remotely located and lacks substantial infrastructure. Alternative accommodations are severely limited in the district, as are facilities for meals and related administrative support. PJV has made these facilities available to the PNG government at no charge, in view of the fact that PJV has space available and the reality that there are very limited financial resources available to the PNG government law enforcement agencies. The lack of financial resources for law enforcement to deal with the very significant in-migration of people to Porgera is viewed as a root cause of the decreasing ability of the police and the law and justice agencies such as the Magisterial Services and the Correctional Services to effectively maintain law and order in the area. We are aware of no alternative accommodations that are available in the immediate area without charge and of the size capable of housing 70 police personnel and we do not believe the police have the necessary financial resources available for alternative housing for a large number of officers.

AI asserted in the London meeting that, because AI believes it is clear that there was non-compliance with international human rights standards by the PNG police, PJV is obliged to withdraw the support it is providing to the PNG police in the form of lodging, meals, and the like. That is incorrect as a matter of law – in the sense that that is not what the Voluntary Principles or the MOU require. It is also incorrect factually. And it is incorrect as a matter of common sense as it would be extraordinarily detrimental to the broad Porgera Valley community if PJV was to do so. We are, candidly, stunned that AI apparently believes that withdrawing support for the police would benefit the Porgera communities who must totally rely on the police assistance *they* requested to prevent the widespread violence and instability that characterized the valley before Operation Ipili commenced.

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<sup>24</sup> See Certificate of Achievement for Inspector N'dranou Perou issued by ICRC September 19, 2002 (item 12 on the December 3 Document Register).

<sup>25</sup> The first three reports of the independent monitor were provided to AI on December 3, 2009 (items 20, 21 and 22 on the December 3 Document Register).

<sup>26</sup> We note AI's reference in the Draft Findings to an allegation that police destroyed houses in Wangima on June 23 and July 24, 2009 (Draft Findings at 6) but when questioned AI said it couldn't confirm any actual dates and could not provide any details that would support the allegation. In view of the fact that AI had reported the allegation in its Draft Findings as based on "consistent testimony from various sources" we found it difficult to reconcile with the lack of specific details. In any event, no such activities have, to Barrick's knowledge, been reported to authorities or to PJV or reported in PNG press.

<sup>27</sup> See letter to PJV from Gary Baki, Police Commissioner, dated April 9, 2009 (item 9 on December 3 Document Register).

To be clear, Barrick does not, based on the facts as we presently understand them, plan to recommend to the PJV that it withdraw its support of PNG police, as adequate police resources are essential to the protection of the health, welfare and safety of the Porgera communities. In our view – and in the view of the community leaders with whom PJV has spoken - eliminating a significant police presence from the communities would be hugely detrimental and dangerous.

While one may fairly examine the propriety of the police involvement in the destruction of structures and displacement of people at Wangima on April 27, it appears to be an isolated incident in the context of the nine months the police deployments have been ongoing and as such, does not, in our view, alter the wisdom of the decisions of the leaders in the Porgera communities – including PJV - to support an adequate police presence in the Porgera Valley. PJV plans to continue to work constructively with the police to ensure that they continue to be mindful of human rights issues.

## **II. Answers to Issues Raised in the Draft Report:**

### **A. Summary of PJV/Barrick Comments Made to AI in the London Meeting on the Draft Report.**

As you will recall we spent the better part of a day meeting and discussing, in detail, the assertions that AI made in its nine-page single-spaced Draft Findings. We will not cover that ground again in detail but suffice it to say that the Draft Findings contained, from our perspective, scores of factual errors and inappropriate conclusions – so many, in fact, that we could not get through them all in one day. The number and nature of the errors we identified to you in our comments were not insignificant when one is making allegations as serious as had AI. We will send you a written summary of those comments for your records before year- end.

### **B. Seven specific questions posed by AI in the Draft Report.**

At the London meeting we were unable to get through all of our comments on the Draft Findings. Accordingly, we did not reach the seven specific questions that AI posed on page 8 of that document. Those seven questions and Barrick’s answers are as follows:

1. “What is PJV’s understanding as to why information was not passed between PJV and the police regarding police activities within the SML during Operation Ipili?”

To our knowledge, neither PJV nor Barrick has said “no” information was passed between PJV and PNG police. On the contrary PJV has confirmed that it had regular meetings with the police. But it also said that it did not have advance notice of any operational plans of the PNG police in respect of April 27 events at Wangima. It explained that the PNG police did not typically provide operational information in advance of an operation due to fears that it would leak within the PJV organization and that, as a consequence, such plans would potentially be compromised.



2. “Please clarify whether any PJV staff, security personnel, or members of the Asset Protection Department or Mine Police were present in Wangima on 27 April 2009 or provided any assistance to the mobile squad to carry out its activities in Wangima.”

PJV has advised us that they are not aware of any members of any of the functions you have listed being present in Wangima on that date, nor are they aware of any PJV assistance having been provided to the mobile squad on that date (other than the provision of food and lodging, etc., as provided in the April 2009 MOU.)

3. “When PJV became aware of the fires in Wangima, what actions, if any, did the company take to contact the authorities to stop the destruction of homes and assist people living in the area who might have been affected?”

As described in the London meeting, PJV, through the Country Security Manager, met with the head of the police deployment on the morning April 28<sup>th</sup> to discuss the nature of operations conducted at Wangima.

4. “Following the destruction of houses in Wangima on 27 April 2009, did PJV have discussions with the police to insist that the destruction of houses without adequate safeguards is contrary to human rights and should not be repeated.”

PJV has previously advised us that both before and after the events of April 27 PJV had numerous meetings with the PNG police, at several levels, in which PJV has discussed the subject of respect for human rights - in the context of Operation Ipili and any subsequent deployment. Some of those discussions are noted below at Section II (C)(2).

5. “What was PJV’s understanding of the activity likely to be undertaken by police in focus areas identified by the Illegal Mining section of the Law and Order Committee? Could you please advise whether Wangima and Kulapi were amongst the areas listed?”

We understand that the Porgera District Law and Order Committee is a community-based committee with up to 30 different community based representatives that meets to discuss law and order issues that affect the communities within the Porgera area. PJV usually has one or two representatives on the Porgera District Law and Order Committee, usually from PJV’s Community Affairs department, and the attending representative(s) usually is whichever senior member(s) of the Community Affairs department that is available on the day of the meeting.

PJV’s current Community Affairs Manager, Steve Gimpel recalls having attended only one meeting, in October 2008. As described in the London meeting, to PJV’s knowledge, the Porgera District Law and Order Committee October 2008 meeting which Mr. Gimpel attended had nothing to do with Operation Ipili. We understand that the Law and Order Committee met in October 2008 to discuss a possible police deployment in the Porgera communities that was to be funded by the communities themselves to deal with deteriorating law and order in the Porgera Valley. We understand that a brief deployment (of around 30

officers) in fact occurred at the end of 2008 and for several weeks in early 2009 (the “2008 deployment”). It involved a local police mobile squad, understood to be from the Enga provincial capital of Wabag, whereas Operation Ipili was directed by the national government and utilized police units from outside of Enga province.

The Porgera District Law and Order Committee is different from the Civil Steering Committee attached to Operation Ipili. Mr. Gimpel advises that he was not involved in the Civil Steering Committee associated with Operation Ipili, nor was anyone else from PJV a member of the Civil Steering Committee.

6. “What is the status of PJV’s plans to extend mining operations into or under the Wangima area and what is the status of negotiations with SML landowners regarding the impacts of these plans?”

As discussed in the London meeting, we are advised that PJV’s plan to develop a twin decline from the Wangima area was abandoned in 2008, and PJV commenced developing a twin decline at another site within the fenced area of PJV’s operations, thus discussions with landowners regarding a potential relocation associated with that project were terminated. The discussions never got to the point of being “negotiations.” Once the proposed twin decline was moved to a different location, landowners were informed that no further discussions were proposed for land acquisition related to the twin decline.

In March 2009, the landowners invited PJV to restart discussions regarding acquisition of a portion of Wangima by PJV; however, as the parties were still far apart on the terms of the acquisition and PJV had no immediate need for the land, PJV did not advance the discussions. To our knowledge, no further discussions regarding acquisition of any of the Wangima land are presently anticipated or ongoing.

7. “Does PJV intend to continue to provide support to the police in light of the information presented [in the Draft Findings]?”

Barrick certainly does not recommend terminating PJV support for the communities’ law and order initiatives and, as noted above, based on the facts as we currently understand them, Barrick does not recommend that PJV withdraw its support from the existing deployment, which we believe would be seriously detrimental to the safety and well being of the communities and likely lead to loss of life, sexual assault, increase of drug and alcohol abuse and destruction of public and private property in the Porgera Valley.

**C. Response to Specific Questions Raised by AI in the London Meeting Regarding the Draft Findings.**

In addition to the seven questions above, certain additional questions were raised by AI during the course of the London meeting. PJV and Barrick indicated that each would make some inquiries and revert to AI. Based on the recollection of the Barrick people at the meeting, the questions posed by AI included the following (with Barrick’s answers immediately following):

1. “When did Porgera first engage with police when it became aware that structures were being burned at Wangima?”

We understand that the Country Security Manager met with the head of the police deployment the next day to follow-up on the fires observed at Wangima. PJV was assured that the operation was lawful, and advised that prior notice had been given and that landowners had assisted in the operation.

2. “Who contacted the PNG government regarding the Wangima events, and when?”

The Country Security Manager met with the head of the Police deployment the next day to follow-up on the fires observed at Wangima.

The Country Security Manager spoke to the Commissioner of Police on Friday May 1, 2009, and discussed the Wangima situation and the nature of the police operation.

On May 4, 2009 the Commissioner of Police issued a public statement about the Wangima operation regarding the police actions.

On May 5, the Country Security Manager was advised by the Director of the Police Special Services Division that the police operation had been subject to scrutiny from a range of senior officials, including the Minister of Internal Security. He was advised that the inquiries of these parties were continuing and no findings of inappropriate conduct had been reported to that point.

In early July, the County Security Manager and another PJV representative met again with the Commissioner of Police and specifically discussed the allegations of AI. The Commissioner of Police appeared well briefed on the matter and the status of investigations.

3. “What were the employees in the photographs supplied by AI doing?”

We understand PJV believes they were working, as they normally would, when the Wangima events first came to their attention. PJV has initiated inquiries to try to identify these workers and obtain any other relevant information.

4. “Was there any discussion by the Porgera Law and Order Committee of Operation Ipili?”

No. See the discussion at section II (B)(5) above.

5. “What does PJV know about the nature of “notice” given to persons regarding planned police activities?”

PJV has identified a number of different kind of notices given in writing, orally, by radio, and otherwise; however, it has not completed its inquiries.

6. “What does PJV know about the composition of the population at Wangima before Operation Ipili?”

PJV received advice from Porgera landowners that the people staying in the Wangima area were largely in-migrants who had come to the area recently to conduct a variety of largely illegal activities and principally were “outsiders” whose principal place of residence was elsewhere, outside Porgera<sup>31</sup> lived elsewhere. We understand that this is consistent with PJV’s experience at other near-mine communities, where in-migrants have come to outnumber “locals,” in some cases by an estimated 7-1. PJV advises that its inquiries in this regard continue.

7. “Has PJV received any reports regarding PNG police allegedly burning houses in Wangima on June 23 or July 24, 2009?”

No. It did receive reports of additional houses being burned on and shortly after April 28<sup>th</sup> but the reports did not involve PNG police. The people burning the structures were believed to be temporary residents who were removing building materials from some of the remaining Wangima structures to take back to their villages and burning the remnants.

8. “What information does PJV have regarding homes being burned more than once?”

None. We understand that PJV has not heard any reports of fires at Wangima after April 28, 2009. The information provided by AI at the London meeting alleging that there were homes that were burned more than once was not specific enough to follow-up.

9. “What evidence does PJV have that suggests that some structures remained standing after April 27<sup>th</sup>? After August 2009? when AI visited the site?”

The PJV Security Manager and another person attended the area on May 13, 2009 and counted ~36-42 structures destroyed by fire. Due to the crude and temporary nature of many of the structures it was not possible to determine what they were at the time. It was reported that approximately 15 structures were still standing and untouched. The structures included lean-tos, animal pens and semi-permanent dwellings. People were reportedly observed rebuilding a few structures and some were removing building materials from untouched structures.<sup>32</sup>

10. “What evidence is PJV aware of that bears on the allegations of sexual abuse “during the police operation on April 27<sup>th</sup>?”

PJV is not aware of any evidence of sexual abuse during the police operation on April 27<sup>th</sup>. However PJV’s inquiries are ongoing.

11. “Were PJV employees approached by displaced persons seeking food or water?”

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<sup>31</sup> See item 6 on December 3 Document Register

<sup>32</sup> See item 16 on December 3 Document Register

With one exception, PJV has been unable to confirm any reports of PJV employees or government officials being approached for food or water. However, its inquiries regarding any such requests for assistance continue.

Following the London meeting PJV has made broader inquiries within PJV and we have been advised that a group of people approached a local Porgera Community Relations officer on or about the 29<sup>th</sup> of April requesting assistance with building materials and food. The officer apparently directed them to the Porgera Police Station Commander as their request apparently related to a police operation. PJV's inquiries regarding similar requests for assistance continue.

If there are other questions from the London meetings that AI believes are outstanding, please pass them along.

**D. Comments on that Portion of the Draft Findings that was not Reviewed in the London Meeting.**

In this letter we do not intend to respond in the same measure of detail that we did in London to the two pages of the Draft Findings that AI did not have the time to review when the Barrick/PJV delegation was there on December 3<sup>rd</sup>. We will, however, make a few more comments.

- On page nine of the Draft Findings AI asserts that “in several public statements Barrick has denied that the destruction of people’s homes without notice and without the provision of adequate alternative accommodation constitutes a grave violation of human rights.” Barrick never said that. It took issue with AI’s use of the term “gross violation of human rights” – which, in our experience is usually reserved for matters such as systematic genocide, slavery, or arbitrary or mass executions - as applied to a single event on April 27, 2009 where there were no reported deaths or reported serious injuries and with respect to which Barrick had been advised that there was no evidence of homeless people requiring alternative accommodation or people without food or water - and in which neither Barrick nor PJV were involved.
- On the same page of the Draft Findings AI asserts “AI is concerned by the continuing representation Barrick’s General Counsel that forced evictions generally are not a serious human rights issue...” That too, is not an accurate quote or representation of anything that Barrick’s General Counsel has said to AI. Barrick’s letter of May 22 to AI said “The police actions in question were, *to our knowledge*, neither evictions nor illegal.” When the statement was made it was our understanding based on representations of the police that the police had all required legal authorizations for any actions that were taken on April 27. We now understand the actions of the police to be the subject of an ongoing dispute in the PNG courts - which will ultimately determine if they were legal or not.

- Later on the same page AI suggests that Barrick and PJV have acted inconsistently with the Voluntary Principles because neither has recorded and reported credible allegations of human rights abuses. You misquote the Voluntary Principles. In fact, they say “Companies should record and report any credible allegations of human rights abuses by public security *in their areas of operation.*” As explained earlier in this letter the Wangima area is not within PJV’s area of operations. It is outside of the perimeter fence and it is an area in which PJV has historically been given little or no access by the landowners. As AI heard in the London meeting PJV’s effort to acquire surface interests necessary to permit it to become part of PJV’s operations was unsuccessful. In any event, if the allegations in question are credible, AI made sure that they were both publicly recorded and reported with its Public Statement of May 11.

**E. Discussion of the Credibility and Reliability of the Information Used by AI as the Basis for Allegations of Human Rights Abuses**

Both Barrick and PJV take seriously the need to try to ensure that the information used as the basis for allegations of human rights abuses is credible and based on reliable evidence as, we would assume, does AI. We were pleased that AI acknowledged the importance of Barrick’s and PJV’s efforts to vet the allegations that had been made, and that AI acknowledged the importance of its own role in making every effort to do so.

At the London meeting Barrick and PJV both expressed their doubts about the credibility and reliability of the information relied on by AI as the basis for the serious allegations of gross violations of human rights that it had directed at Barrick, PJV and the PNG police. We expressed our concern about potential bias, i.e., that there was evidence that AI made its initial Public Statement at the behest of anti-Barrick activists<sup>33</sup> and/or persons seeking to benefit financially from pressure brought to bear on Barrick and PJV by AI on the strength of AI’s public allegations,<sup>34</sup> and that collaboration with those same advocates and special interests continues to the present.

We expressed our concern that the investigation on the ground was too short<sup>35</sup>, too late<sup>36</sup>, and appeared to at least one witness to have been “stage managed” to blame Barrick and the PNG government.<sup>37</sup>

We also expressed concern that in the Draft Findings AI was advocating expenditures by PJV or Barrick of tens or hundreds of millions of dollars directed at many of the same individuals and

<sup>33</sup> According to several statements attributed to Catherine Coumans of Mining Watch Canada, she contacted AI and solicited their involvement in the Wangima issue, which coincided with a six week long anti-Barrick roadshow largely financed by Mining Watch Canada.

<sup>34</sup> E.g. representatives of the PLOA or ATA,

<sup>35</sup> We understand that the investigation on-the-ground in the Porgera Valley – one of the more difficult places to gather credible information in the world - was no more than three days

<sup>36</sup> While AI put out its initial Public Statement accusing various parties of gross violations of human rights two weeks after the incident in question, it did not visit the area until four months later.

<sup>37</sup> See item 19 on December 3 Document Register.

interests who were the primary source of AI's information regarding such alleged abuses<sup>38</sup> - and that AI's advocacy was in no manner limited to persons affected by alleged human rights violations at Wangima.<sup>39</sup>

We also expressed our concern about our sense that AI appeared to be (1) discounting any information or complexity regarding the events at Wangima that did not support AI's initial May 11 report; (2) receiving "testimony" only from individuals that it appeared were, or would be, seeking compensation from PJV and Barrick; and (3) focusing on PJV and Barrick as responsible for the action of the PNG police to the exclusion of any evidence to the contrary or that suggested the involvement of other interests, including elements within the communities who may have compelling reasons to have certain groups of individuals or structures removed from the area.

Having listened to AI's account of its investigation – and seen the magnitude of the errors in the resulting Draft Findings - our doubts as to the credibility and reliability of the information relied on by AI have only increased. It is possible, of course, that AI's investigation is adequate to support the findings it will make in its next report about what it thinks happened at Wangima, and at whose direction. But any findings, including those characterizing what the police did, who they may have been guided by, who was affected and how they were affected, are all very fact-specific. And, with respect, we are skeptical about the scope and depth of AI inquiries into the local dynamics that materially affect such matters. AI's Draft Findings entirely discount any issues - of inter-tribal fighting, disputes among clans, political interference, criminal activity, potential loss of historic tribal order, tension with transients and in-migrants and illegal miners, violence, drug and alcohol trade, or competition and posturing over anticipated compensation claims with PJV - as a basis for the destruction of buildings and displacement of individuals by various interests at Wangima.

We reiterate that we are not asserting that no structures were destroyed and burned on April 27<sup>th</sup> at Wangima. Nor are we suggesting that there was no measure of police involvement. However, we note AI's insistence from its May 11 public statement (before it conducted any meaningful investigation whatsoever) to the present that all of the police actions were illegal and its implication that it was all done at PJV's behest or direction, strongly suggests that AI has not brought an objective view to the issue.

In view of our concerns about the credibility and reliability of the information on which AI's allegations are based, we would like to explore the most efficient and constructive ways that AI can assist Barrick, the PJV, the PNG police, and other interested parties in evaluating AI's serious allegations. We ask AI to assist us with our efforts to ensure the credibility and reliability of AI's information by providing PJV or Barrick access to the witness statements and other documentary information reflecting the timing, nature, scope and results of the AI

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<sup>38</sup> We understand that the primary sources of AI's information for its May 12 Public Statement were Catherine Coumans, Mark Ekepa and Jethro Tulin. The latter two represent certain landowner or other interests that would have significant financial interests in such matters and who, as such, could be motivated to influence the nature of the "testimony" made available to AI.

<sup>39</sup> Draft Findings at 8. (*"We urge PJV to immediately take steps to recommence discussions with SML residents to ensure the fair and effective relocation of all SML residents."*) Emphasis added.

investigation. We would, of course, expect AI to redact any information as necessary to protect the security and safety of its sources. However, it is possible to preserve the identities of sources while still making sufficient details about the investigations available to understand the credibility and reliability of the information upon which conclusions are drawn and public allegations are made. If AI will not give us access to the results of the investigation on which its serious allegations are made we would ask that AI respond to the questions set out in Appendix A to this letter. Again, we recognize that you will need to do so in a form that protects the safety and security of sources.

In order to permit a fair understanding of the extent to which the issues raised in Appendix A and others were considered in the testimonies of the 90 people AI interviewed, is AI willing to provide copies of the tapes, witness statements and the like to PJV, Barrick or the PNG police?

As indicated above, we have significant concerns about the nature and sufficiency of AI's investigation of the serious allegations it is making, the extent to which the information and testimony made available to AI may have been influenced by vested interests (beyond those directly impacted by the events at Wangima), and the serious risk that AI's ability to objectively assess such information and testimony may have been inhibited by a lack of time, a significant language barrier, and a lack of understanding of the cultural, social, political and inter-clan and landowner dynamics in the area. Whether or not AI provides the requested information to Barrick, PJV or the government of PNG, we believe that an appropriate assessment of the credibility and reliability of the of the information upon which AI relies can only be made in the context of the kind of questions raised in Appendix A. Please advise us at your earliest convenience if you will cooperate in our efforts to our efforts to evaluate the credibility of the allegations in question.

#### **F. Documents Relevant to Comments Made in London Meeting**

At the London meeting Barrick or PJV provided to AI certain documents<sup>40</sup> that we identified in advance of the meeting as potentially relevant to the discussions we envisioned at that meeting. AI did not ask the six PJV or Barrick representatives questions about those documents at the meeting and we have received none since the meeting. We also advised AI that the comments of Barrick or PJV in the meeting were based on documentary evidence, and that if AI had concerns about the factual basis for the statements of either Barrick or PJV it should specifically request such evidence on issues of particular interest to AI so it could be provided following the meeting. With very few exceptions<sup>41</sup> AI did not ask for documentary evidence to support specific statements nor has it since the meeting.

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<sup>40</sup> See December 3 Document Register, a copy of which is attached as Appendix B to this letter

<sup>41</sup> AI requested to photograph the 1992 photograph of the Wangima area that was examined at the London meeting, requested additional information regarding PJV's discussions with the PNG police following the events of April 27 at Wangima (see II (C)(2), above), and requested information regarding any involvement of the Porgera Law and Order Committee in Operation Ipili, including any involvement of PJV in such committee (see II (B)(5), above).



Notwithstanding the lack of specific requests of AI we are sending along a couple of additional documents (referenced in the relevant footnotes) which are relevant to some of the matters that we discussed. In view of the broad range of topics covered in the Draft Findings and the London meeting it is impossible to guess what else to provide to AI. If AI has questions regarding the attached documents or any other documents please contact me.

Thank you very much.

Yours very truly,



Patrick Garver  
Executive Vice President  
and General Counsel

cc: Porgera Joint Venture

## Appendix A

### 215 Questions for Amnesty International Regarding its Investigative Methodology For its Reports on The Porgera Valley

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The Voluntary Principles on Security and Human Rights, of which Amnesty International ("AI") is a founding member, provide, in pertinent part:

**Every effort should be made to ensure that information used as the basis for allegations of human rights abuses is credible and based on reliable evidence. The security and safety of sources should be protected. Additional or more accurate information that may alter previous allegations should be made available as appropriate to concerned parties.**

(Emphasis supplied) The following questions address the efforts made by AI to ensure: (1) that the information it used as the basis for its very public allegations of human rights abuses in the Porgera Valley was accurate, credible and based on reliable evidence; and (2) that AI's erroneous public statements are publicly corrected as AI becomes aware that many were exaggerated, false or misleading.

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#### AI's Investigative Methodology and Assurance Processes

1. Does AI have standard operating procedures setting out clear written guidelines and standards for its investigations of alleged human rights violations under international law?
2. Are AI's guidelines documented in a manual?
3. Are AI's guidelines transparent and publicly available?
4. Were the due processes of investigative planning, execution and management followed by AI in its 2009 investigations and related publications regarding the Porgera Valley including but not limited to AI's May 11, 2009 Public Statement regarding alleged human rights

abuses that occurred in the Porgera Valley on April 27, 2009 (the "May 11 Public Statement").

5. Was a written investigative plan developed by AI in advance for AI's post-May 11 2009 investigations regarding the Porgera Valley? Was the plan vetted internally within AI? Did it satisfy the standard operating procedures of AI mentioned above?
6. Do AI's standard operating procedures, if any, allow for independent fact-checking and quality control on the findings of its investigation?
7. Do AI's internal procedures for conducting a human rights investigation, if any, require preservation of all documentation, including all electronic communications, video and audio recordings, photographs, and interview notes relating to the alleged abuses?
8. In the course of AI's 2009 investigations into events in the Porgera Valley what internal controls have been applied by AI to determine the credibility and reliability of the information upon which AI's various public statements have been based? Was the credibility and reliability of the information published by AI vetted by parties within AI independent of the researcher(s) who conducted AI's investigation? Is there documentary evidence of the application of that process in this instance?
9. What internal standards and procedures, if any, does AI have to select AI researcher(s) to conduct a human rights investigation to ensure that they have the requisite skills and experience to do so? What internal procedures does AI have to determine whether AI researcher(s) are free of conflicts of interest, bias, personal relationships, or other matters that could affect the objectivity of their research, including, particularly, their assessment of the credibility and reliability of the information upon which AI is reliant for its allegations of human rights abuses?
10. What internal procedures, if any, does AI have to address inquiries or complaints of third parties or the public generally that a particular researcher does not have the requisite skills or experience, or does not appear to be free of conflicts of interest, bias, personal relationships or other matters that appear to have affected the objectivity of any research or report?

11. What internal procedures, if any, does AI have to address inquiries or complaints of third parties or the public generally that a published report of AI that makes serious allegations of human rights abuses contains false and misleading information and does not appear to be based upon information that is credible or reliable?
12. What internal controls, if any, does AI have to ensure its researchers(s) employ AI's guidelines and procedures for human rights investigations, applicable ethical rules relevant to journalists publishing material such as AI's May 11 Public Statement, and otherwise comply with the requirements of the Voluntary Principles highlighted above?
13. Does AI audit its investigative activities and resulting reports? Who conducts the audits and are the results of its internal assurance processes reported to the AI Board and/or publicly disclosed?

#### **AI's Process for the Selection of Sources and Interviewees**

14. Could AI explain in detail the methodology it used to select the sources and any interviewees with whom it communicated regarding the events of April 27, 2009 prior to issuing its May 11 Public Statement?
15. Does AI have any internal controls that would be expected to identify any potential conflicts of interest, bias, personal relationships, or other concerns regarding the potential motivation of any sources and interviewees who provided the information upon which AI relied for the May 11 Public Statement?
16. Could AI please confirm whether it contacted the Commissioner of the PNG Police to inquire regarding the events of April 27, 2009 prior to issuance of the May 11 Public Statement? If not, why not?
17. Could AI please confirm whether it contacted PJV or Barrick to inquire regarding the events of April 27, 2009 prior to issuance of the May 11 Public Statement? If not, why not?

18. If prior to the May 11 Public Statement AI did not contact either the Commissioner of the PNG Police, PJV or Barrick, is that process consistent with AI's established research and investigative methodology in such circumstances?
19. In respect of AI's post-May 11 investigations regarding the events of April 27, 2009, please explain the methodology for identifying, selecting and scheduling the sources and any interviewees with whom AI communicated following its May 11 Public Statement and prior to its August 2009 visit to the Porgera Valley?
20. Could AI please explain whether it used local representatives or facilitators in connection with the identification of sources and persons to interview in the Porgera Valley, or in the scheduling or arranging of any such interviews, in connection with its August 2009 visit to the Porgera Valley?
21. Could AI please explain how the local representatives or facilitators it used in connection with its August 2009 visit to the Porgera Valley were identified and selected and whether their qualifications – experience, understanding of the local context and linguistic skills – were appropriate and matched Amnesty's own investigative standards, operating procedures and investigative plan, if any?
22. Were the AI researcher(s) required by AI's internal procedures to check for any potential conflicts of interests or bias that could impact upon the impartiality or veracity of the local representatives or facilitators in assisting with AI's investigation? For example, did AI have in place processes that would be expected to identify all local tribal, cultural, social or economic conflicts of interest, or economic or other interests that may bear on the impartiality of the local representatives or facilitators used to identify interviewees or gather information in connection with AI's allegations of human rights abuses?
23. If local representatives or facilitators used by AI in its post-May 11 investigation proposed specific sources or interviewees to AI, how did AI assess the motivation of such sources or interviewees to cooperate in its investigation to ensure the credibility and reliability of the information AI received?

24. Do AI's internal procedures require that AI vet all its sources and interviewees for any involvement in organized criminal activities such as any involvement in the illegal arms trade, the illegal theft or smuggling of gold, the illegal production or sale of alcohol or drugs, or human trafficking?
25. Do AI's internal procedures require that AI vet all its local representatives or facilitators for any involvement in organized criminal activities such as any involvement in the illegal arms trade, the illegal theft or smuggling of gold, the illegal production or sale of alcohol or drugs, or human trafficking?
26. Was the process employed by AI to identify, assess and select interviewees in connection with its August visit to the Porgera Valley initiated while the AI researcher(s) were in-country in PNG or was it conducted prior to the AI researcher(s) arriving in PNG to conduct an in-country investigation? If both, please describe the processes AI employed.
27. Is the process employed by AI for selecting and vetting of AI's post-May 11 sources and interviewees, along with the relevant methodology, transparent and publicly available?
28. Does AI have in place a process that would permit it to determine whether a source, local representative, facilitator or witness was paid or was promised or received anything of value - by AI or through or by a third party - in connection with its involvement in AI's investigation? Does AI have in place a process that would identify such a payment or promise if it were made - with or without AI's consent? Does AI have a prohibition on such payments or promises? Does AI know if such payments or promises were made in the case of its 2009 investigations in the Porgera Valley?
29. Does AI have procedures to vet, or attempt to corroborate or confirm, the substance of any information received from sources or interviewees? Are those procedures, along with the relevant methodology, transparent and publicly available?
30. How many people not directly employed by AI were involved in AI's interviewee selection process? Were there persons involved in AI's selection process who identified themselves to AI as allegedly affected by evictions or destruction of property, alleged witnesses to the events of April 27<sup>th</sup>, or those who identified themselves as affected

landowners? If so, what process did AI employ to determine in advance whether such persons had any affiliation with, or relationships to, local interests such as individual landowners, clan leaders, the Akali Tange Association (“ATA”), the Porgera Land Owners Association (“PLOA”) or others who may have social, cultural or economic interests that could affect the impartiality of the investigation?

31. Is AI confident that it had sufficient control over each of the elements of the investigative process and has assured itself that the investigation remained impartial throughout the planning and execution phase despite any involvement of parties who may have had a direct interest in characterizing whatever happened as the responsibility of PJV and Barrick?

#### **AI’s Post May 11, 2009 “Interviews” and “Investigation” in PNG**

##### **AI’s Basic Preparation to Conduct Interviews in the Central Highlands of PNG**

32. Did AI prepare in advance a written plan for its proposed interviews in PNG? Was it implemented in full?
33. Did the AI team conduct interviews, either in preparation for its in-country investigation or while in PNG, to secure more general testimony with regards to the specific events under consideration, the background to these events, and the social, cultural, tribal, and economic environment prevailing in the Porgera Valley, to ensure that its findings were placed in appropriate context and that its recommendations appropriate? With whom (in general, we do not want AI to provide specific names) were these interviews conducted? When were they conducted? Is there documentary evidence of such interviews?
34. What other research or preparation did the AI researcher(s) do to permit its researcher(s) to be prepared to understand and take into account the very unique characteristics of the population and culture in the Porgera Valley? Did AI become familiar with the difficulties other researchers have encountered<sup>1</sup> in gathering reliable and credible information in the central highlands of PNG? How?

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<sup>1</sup> See e.g., Jared Diamond.

35. We understand from our meeting in London that AI's principal researcher made only one trip to the Porgera Valley in connection with AI's 2009 investigations, during August, and that it was the researcher's first trip to the Porgera Valley. Is that correct? If not, on what other occasions has AI's London researcher visited the Porgera area?

**The number of the interviews conducted by AI in PNG.**

36. It appears that AI was able to move freely within PNG and did not experience any material interference with its inquiries. We understand that AI was not limited in the total number of interviews it could conduct during its August visit. Are those statements correct?
37. In AI's September 7, 2009 letter to Barrick AI explained that while visiting PNG AI's researcher had an opportunity to meet with:

*"a variety of stakeholders in Porgera, Wabag, Hagen and Port Moresby including local community members and leaders, landowners, government officials, medical personnel, court officials, and senior police officials, all of whom have been willing to discuss their views regarding the ongoing operations of the mobile police squad in Porgera."*

In total, how long was AI's principal researcher present on this matter in PNG, and how much time was spent at each of the locations noted above? How much time was spent meeting with each of the constituencies referenced by AI in the excerpt from its September 7 letter quoted above?

38. We understand that AI's researcher was in the Porgera Valley itself for a total of 3 days. Is that correct? If not, what period was AI's principal researcher present in the Porgera Valley? How much of that time was devoted to interviews? How much of that time was devoted to site tours? How much to other activities?
39. While in Porgera Valley, Wabag, Hagan or Port Moresby did AI become aware of the Independent Monitor arranged by PJV for the purpose of monitoring human rights matters associated with the most recent PNG police deployment? We understand that the Independent Monitor, Mr. Ila Geno, OBE, QPM, a distinguished PNG citizen who until 2008 was the Chief Ombudsman for PNG, was present in the Porgera Valley at essentially the same time as AI's researcher. He apparently was meeting with a long list of persons familiar with the



events of April 27<sup>th</sup> and/or the PNG police presence generally. Did anyone interviewed by AI mention the Independent Monitor to AI at that time? Did AI's researcher become aware that there was an Independent Monitor? Did AI attempt to contact the Independent Monitor while in PNG? If not, why not?

40. While in Porgera Valley, Wabag, Hagan or Port Moresby did AI become aware of the fact that shortly following the events of April 27 the Wangima site had also been visited by fact-finding delegations of public officials from Australia and New Zealand? Was AI aware of the press accounts of such visits? Did AI attempt to contact the Australian and New Zealand officials to enquire into the results of their relatively more timely fact-finding visits to the Porgera Valley? If not, why not?

#### **The Conduct of the August Interviews in Porgera Valley**

41. We understand from the December 3 meeting in London AI to have said that AI's researcher interviewed and received testimony from approximately 90 persons who identified themselves as "displaced" persons from Wangima during the August visit to the Porgera area. Is that number correct? If not, how many such displaced persons were interviewed by AI?
42. On what dates were AI's interviews conducted? How many interviews did AI conduct on each day? AI's estimate of the number of interviewees (90) who claim to have been displaced from Wangima appears to be a strikingly large number of people to interview in less than three days. How large was the AI interview team and how many AI people were involved in each interview?
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43. Were there any interviews conducted by AI where more than one person was being interviewed at the same time? How many interviews were conducted in total, and how many only involved a single individual? Was each witness among the 90 interviewed individually and in confidence to ensure that there was a reduced possibility of coercion or suggestion?
44. Were any of AI's interviews conducted in groups? Were there any occasions in which an individual spoke "on behalf" of a larger group? In such cases what was the relationship, if any, of the speaker to the remaining interviewees? How many of the 90 interviewees provided AI relevant substantive information?

45. If some interviews were conducted in groups how did the AI researchers assure themselves that each interviewee gave accurate testimony of what they had witnessed rather than concurring with others' statements?
46. What was AI's assessment of the clan, cultural and linguistic composition of the 90 individuals who claimed to have been displaced from Wangima?
47. We understand that the AI researcher that was responsible for conducting the interviews does not speak any of the local PNG languages in which the vast majority of the testimony was given. Is that correct?
48. The groups known and recognized to have been in the area speak different local languages and very few speak fluent English. Could AI please provide a breakdown of the languages used in the interviews? We understand from the London meeting that all of the interviews of persons who represented themselves as having been displaced from Wangima were conducted in Ipili. Is that correct? If not, please elaborate. How was the researcher able to distinguish between Ipili, Enga and Tari languages? Were any interviews conducted in Enga, Tari or another language distinct from Ipili? How many? What languages?
49. Who was the interpreter for AI's interviews? Did the AI researcher use multiple interpreters given the different languages spoken? If AI prefers not to reveal the name of the interpreter(s) please advise as to the interpreters' qualifications.

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50. How were the interpreters utilized by AI selected?
51. Were AI's interpreters in any way connected to or related to any local facilitators or to special interest groups such as ATA or PLOA, landowners or particular clans?
52. How did AI assure itself of the accuracy and impartiality of any interpretation? Does AI have internal controls that would require it to check on the accuracy and impartiality of any interpretation?
53. AI has referred to collecting "witness statements." How many has it obtained? In what language have they been prepared? Were any of the witness statements interpreted into English? By whom?

54. Were the interviews and testimony of interviewees all videotaped or audio taped? What is the total duration of the taped interviews and testimony of AI's visit to the Porgera area? How many tapes are there? Have transcripts of those tapes been prepared? If less than all interviews were taped or transcribed what criteria were applied by AI to determine which interviews to tape and which to document in some other fashion or not at all?
55. Did AI document all of the interviews that it conducted? Is the documentation relating to these interviews transparent and publicly available? Has any of the documentation been deleted or destroyed? If so, why?
56. Was any or all of the documentation and other source information obtained by AI in its August visit to PNG systematically reviewed, analyzed and verified by AI? Was it carefully compared to AI's statements in its May 11 publication?
57. AI referred in its November 2, 2009 Draft Report

*"... multiple interviews with dozens of residents from the SML area" who "... gave consistent testimony that the Wangima area had been settled before the mine commenced operation."*

Were any of those multiple interviews group interviews? How many, and with what size groups? As we have previously noted, PJV's photographs reveal only *one* structure in place at Wangima before the Porgera mine commenced operation. What specifically was the nature of the "consistent testimony" about the nature and extent of the settlement of Wangima before the mine commenced operation? How large a settlement did the dozens of interviewees consistently describe?

58. Were any of the "*... dozens of residents from the SML area*" referenced by AI in the Draft report as having given "*consistent testimony*" about Wangima's settlement claiming to have been a long-time resident of Wangima? How many? How many of the interviewees, if any, claimed to have been born in Wangima? How old were they? How many of the interviewees, if any, claimed to have been raised in Wangima? How old were they?

59. Apart from the question of when Wangima was settled we understand from the London meeting that AI characterized the rest of the testimony that AI received during its August visit from individuals who identified themselves as displaced from Wangima as "*remarkably consistent*." Did AI prepare questions for the witnesses in advance? Can we see the questions? Were witnesses given any indication in advance what the questions would be? Was the list of questions made available to the interviewees or local facilitators ahead of the in-country investigation? In what languages? Were the questions delivered in the same order to each interviewee?
60. Were the AI interviewees told of the purposes for which their testimonies would be used? Does AI know what "purpose" was communicated to the interviewees to secure their agreement to provide such testimony? Did each interviewee get the same briefing and was that briefing conducted by an AI researcher or a local facilitator? Is this brief available? Were any written materials provided in advance to any interviewees? In what languages? Are those materials available? Was AI in control of the communication with potential interviewees on AI's behalf regarding the purpose of the AI's visit and the purpose of the testimonies? Is there documentary evidence of AI's exercise of control over these processes?
61. In view of the AI's conclusion that the statements it has received from the interviewees who claim to have been displaced were "consistent," how did the AI researchers factor into their investigation a hierarchical power structure locally shaped by the dominance of landowners and clan leaders?
62. Were AI's interviewees in any instance informed of what other interviewees had stated? How did AI assure itself that there was no possibility of suggestion or coaching?
63. How did the AI researchers assure themselves that each interviewee was speaking free of coercion or suggestion? Did AI ask each interviewee if he/she had discussions in advance with any third-party regarding the purpose or subject of the interview? If not, why not?
64. Were all of the individuals who were interviewed by AI in the Porgera Valley claiming to have been displaced from Wangima? If not, how many actually claimed to have been displaced? Did any of the interviewees that said that they were displaced identify themselves as landowners in Wangima? If not, did any describe on what basis they

were able to occupy the lands at Wangima? Did any describe who owned the structure that they were occupying or the land upon which it was located? How many of the interviewees said they were landowners? How many said they were tenants? How many said they were squatters? How many said they occupied Wangima on some other basis? Did AI ask?

65. Did any of the individuals who were interviewed by AI and who claimed to have been displaced from Wangima on April 27 say how, when and for what purpose they came to reside in Wangima? Did AI ask any of the interviewees about how they made their livelihood and how and whether it was affected by the alleged eviction? If not, why not?
66. Of the individuals who claimed to have been displaced from Wangima how many indicated that they were displaced on April 27, 2009 as a result of action of the PNG police? How many claimed to have been displaced earlier than April 27? How many after April 27? Did AI ask? Did AI distinguish between alleged displacement as a result of the events of April 27 and other events before and after that date? Did the interviewees? If not, why not?
67. Did the interviewees say when people first started to vacate the Wangima area? Were there people from Wangima who left before April 27<sup>th</sup> in response to the widespread notices earlier in the month about Operation Ipili? How many? Was there consistent testimony in this regard?
68. What did the interviewees say about the nature and number of the people that left prior to April 27<sup>th</sup>? Did any say that they disassembled the structures that they occupied and took the materials with them? Did any leave the structure in place? Did AI ask these questions?
69. What did the interviewees say about the number of people left in Wangima after April 27<sup>th</sup>? What did they say about the nature and number of structures left standing after the events of April 27<sup>th</sup>? Did AI ask? Was there consistent testimony in this regard?
70. Of the structures still left standing after April 27<sup>th</sup>, how many were occupied? By whom? What were the interviewees' understandings of what eventually happened, if anything, to the structures that remained standing after April 27? Was there consistent testimony in this regard?

71. Did AI's investigation permit AI to determine if there were commercial establishments within the Wangima area? What was the nature of those establishments? Were any commercial structures removed or burned on April 27?
72. Did any of the interviewees speak about the living conditions that existed at Wangima in early 2009 prior to Operation Ipili? What did they say? What percentage of the structures in Wangima on April 27 were thought to be houses? What percentage of those houses were thought to be occupied as of April 27? Did AI ask?
73. Did any of the interviewees acknowledge or describe whether and how the evolving nature of the Wangima population (whether in composition or numbers) was affecting the traditional tribal order and authority at Wangima? What was the nature of their comments?
74. What did AI's research reveal about the composition of the Wangima community (in terms of number of permanent residents, houses, illegal miners, in migrants, non-Ipili people, recent arrivals, transients, etc.) as of April 27? What did it reveal about how the composition of the Wangima community had changed recently? Did AI ask about it?
75. Did any of the interviewees acknowledge or discuss the enormous recent growth in the population of Wangima? Did AI ask about the recent growth of Wangima?
76. Did any of the interviewees tie the recent growth to in-migration? Did any tie the recent growth to the prospect of relocation compensation by PJV associated with its proposal in 2007 to acquire land in Wangima for the twin decline associated with the Porgera Mine? Did AI ask about it? Was there consistent testimony in this regard?
77. Did any of the interviewees discuss their understanding of any plans of PJV to acquire land in Wangima? Did they describe their understanding of PJV's plans? Did any acknowledge that PJV had informed the local population that it did *not* intend to acquire any land in Wangima? Was it something that AI asked about? If not, why not? Did any of the interviewees express the view that their chances for, or their relative share of, any relocation compensation would improve if there was not such a large population of in-migrants?

78. Did any of the interviewees acknowledge or describe a recent boom in the construction of new structures in Wangima? Did they describe who was funding, authorizing or doing that construction, and for what purposes? Did AI ask about that? Did it ask about how many structures had been recently constructed, by whom, and for what purposes?
79. Did AI ask the interviewees how many of the structures at Wangima were houses, and how many were occupied? What was the response? If AI did not ask, why not?
80. Did AI ask the people who characterized themselves as displaced to describe the nature of the structure that was destroyed? Did it ask when the structure was built, and how and when the allegedly displaced persons first moved to Wangima?
81. Did any of the interviewees acknowledge the existence of in-migrants to the Wangima community? If so, did any comment on the relative numbers of in-migrants vs. local Ipili people? Did AI ask about the relative mix and numbers of in-migrants vs. local Ipili people in the community? What was the response?
82. Did any of the interviewees comment on any issues or tension regarding the existence of recent in-migrants in the Wangima area? Did AI ask about it?
83. Did any of the witnesses comment on “illegal miners” living in Wangima? What did they say? How many were there? How long had they been there? Did any interviewee address whether there were any illegal miners evicted by the police action? How many? Where did they live? Did AI ask?
84. Did any of the interviewees comment on any illicit activities that were prevalent in the Wangima area prior to Operation Ipili? (E.g., prostitution, illegal drug or alcohol production, use or sale, illegal possession or sale of firearms, illegal gold theft or trading, etc.) What did they say? Did AI ask how many people resident in Wangima were engaged in illicit activities? How long had they been there? Did the interviewees say whether there were any people involved in illegal activities evicted by the police action? How many? Where did they live? Where did those people go when they were displaced? Did AI ask?

85. Did any of the interviewees describe their understanding of the basis for the police having attended at Wangima? Did any of the interviewees provide opinions about why the police would knock down and/or burn structures? What were those opinions? Was the testimony consistent?
86. Did any of the interviewees suggest that the actions of the police were targeted at particular categories of structures used by in-migrants, illegal occupants, squatters, illegal miners or gold traders, drug or alcohol production or dispensaries, or any other category of structures in Wangima? If so, please elaborate. If not, did AI nevertheless consider that possibility? Did it ask? If not, why not?
87. Did AI inquire of the AI interviewees as to whether they thought the destruction of certain structures and eviction of certain people in the Wangima area might benefit any interests (other than PJV), such as longer term residents, clan leaders, or certain landowners? If not, why not?
88. Did any of the interviewees suggest that the action of the police was taken at the behest of one or more landowners at Wangima? Did AI ask?
89. Did any of the interviewees suggest that the action of the police was somehow in concert with PJV? What specifically did they say that their suggestion was based on? Did AI ask?
90. To what extent were AI's interviewees related to or associated with landowners or clan leaders at Wangima? Did AI ask?
91. To what extent were AI's interviewees related to or associated with representatives of local organizations such as PLOA or ATA? Did AI ask?
92. Of the interviewees who claimed to have been displaced how many expected to be compensated for the structures that they assert were removed and/or burned? Did AI ask each of the interviewees if they had such an expectation? Who did they expect would pay the compensation? The PNG police? PJV? Barrick? Was there consistency in the testimony in this regard? Was there any discussion of the role of potential compensation in the actions of the police? Was there any distinction in terms of compensation expected between those who said



that they owned the house or the land they were occupying and those who admitted not owning the house or the land?

93. In AI's discussions with alleged former Wangima residents what percentage of the residents discussed relocation and compensation claims relating to PJV and/or Barrick? AI described the results of the interviews with former Wangima residents as very consistent. Did AI come to understand that substantially all of the former Wangima residents expected to be compensated by PJV or Barrick in connection with their displacement from Wangima? If so, did they explain why they expected to be compensated by PJV or Barrick? Was there any consistency in the testimony that they gave in that regard? Did the residents explain whether one or more special interest groups in the Porgera Valley had indicated that they might be entitled to such compensation from PJV or Barrick as a result of their displacement? Or as a result of providing an interview to AI documenting their claim?
94. In its interviews did AI ask the former Wangima residents if PJV or Barrick conducted mining operations outside of the fenced PJV operations and within the village of Wangima? Did AI ask the former Wangima residents if PJV or Barrick conducted law enforcement activities outside of the fenced PJV operations and within the village of Wangima? Did any of the former Wangima residents assert that PJV or Barrick had any day-to-day access to, or involvement with, the village of Wangima? Was there consistency in their answers on these points?
95. Apart from any statements referenced above, please identify any other "consistent" messages delivered to AI by the former Wangima residents regarding the events of August 27 or PJV's or Barrick's involvement in such events?
96. We have previously provided to AI a copy of an e-mail dated August 27, 2009 regarding the observations of a local PNG woman who witnessed AI's researcher's interview process on April 26 or 27 as it relates to Wangima. It notes that the local woman

*"considered that these interviews had been arranged by [a local party]. Also she considered the response had been rehearsed. They were all along the lines that: The PJV and the government caused all the damage. They have done nothing to help us since then. We have no food or water. The*

*mine is spending all this money on the fence but will not do anything about our relocation.”<sup>2</sup>*

Is it true that the specific AI researcher named in the e-mail was conducting interviews in Wangima on or about August 27? Is it true that the interviews had been arranged in advance by the local person, as suggested in the e-mail?

97. Is it true that AI received testimony of a woman generally along the lines described in the e-mail? Is it true that the testimonies of many of the interviewees were consistent with one another? Was AI involved in any rehearsals of testimony or did it otherwise discuss the testimony in advance of taking it? If AI was not involved in rehearsing the testimony is it aware of any preparation of the witnesses that may have occurred involving third parties?
98. Is it true that a woman interviewed by AI attributed, in substance, all the damage at Wangima to “PJV and the government?” Did more than one interviewee express that view? How many of the interviewees expressed that view? Did any elaborate on why they attributed responsibility to PJV? What did they say?
99. Is it true that AI received testimony of a woman who said, in substance, “*The mine is spending all this money on the fence but will not do anything about our relocation?*” Did more than one interviewee express that view? How many of the interviewees expressed that view? How many of the interviewees mentioned PJV’s expenditures for a fence?
100. If interviewees in fact expressed their views about PJV’s expenditures on a fence, was it in response to specific questions by AI regarding PJV’s expenditures for a fence, i.e., questions that would elicit answers that mention the fence? If not, did the fact that multiple interviewees noted PJV’s expenditures for a fence suggest to AI that witnesses had been collaborating in advance regarding the substance of what they would say to AI’s researcher? Did PJV ask the interviewees if they had discussed their proposed testimony with one another in advance of the interviews with AI? If not, why not?

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<sup>2</sup> See e.g., e-mail from Ken Egan to Mark Fisher, August 27, 2009 (previously provided to AI).

101. If it is true that AI received testimony from persons who indicated, in substance, that the mine is spending money for a fence rather than their relocation, did the witnesses state that they expected to be relocated or compensated by PJV? Did they explain the basis for their expectation of relocation or compensation from PJV? Did AI inquire?
102. While interviewing the people who identified themselves in August as displaced former Wangima residents did any say to AI that they were currently homeless? If so, how many? AI claims to have documented the lack of adequate shelter for displaced persons. What specifically is that documentation?
103. How many of the interviewees who claimed to have been displaced also claimed to be without food or water?
104. How many of the witnesses who claimed to have been displaced claimed to have been denied access to productive land? Did they identify land where they were producing crops which was no longer available to them? Did they explain why it was no longer available to them?
105. In the London meeting AI advised Barrick that it had inquired of the interviewees as to whether those who identified themselves as displaced former Wangima residents had sought assistance from the PNG government and PJV in the form of food, water or lodging. We understand from AI that at least two interviewees told AI that they had sought such assistance from PJV and the government. Is that correct? Did AI also inquire if those same individuals had sought such assistance from local government leaders, landowners, and clan leaders, PLOA or ATA? If not, why would AI only ask the interviewees about whether such individuals had approached the PNG government, PJV and/or Barrick for assistance but not ask the same questions in respect of other local parties with the means to provide assistance?
106. Did AI inquire of any persons who identified themselves as displaced former Wangima residents as to whether they had received humanitarian assistance from third parties? If not, why not? How could AI determine if these persons required any humanitarian aid without such inquiries?

107. In May 2009 – immediately following AI’s publication of its May 11, 2009 Public Statement – ATA, PLOA, MWC and a number of other special interest groups became involved in fundraising campaigns predicated on AI’s May 11 Public Statement and the need to aid the “... more than 1000 homeless” identified by AI at Wangima. (e.g., “*This is an appeal for emergency funds for the Akali Tange Association and Porgera Land Owners Association...*”) In these campaigns the organizations stated the funds should be directed to the organizations themselves but stated donations were earmarked for relief of the Wangima homeless. Was AI aware of these campaigns?
108. Did AI direct any of the persons it interviewed in August who claimed to be homeless or otherwise required humanitarian assistance to the organizations noted above, which had been raising funds for that purpose for several months? If not, why not?
109. Has AI followed up with such organizations – which initiated fundraising campaigns based on AI’s Public Statement – to ensure that the funds raised by such organizations ostensibly for the homeless or needy from Wangima were directed to such persons? Given AI’s enquiries in May of “persons affected”<sup>3</sup> did AI provide assistance to the fundraising organizations so that they could identify persons from Wangima who required such assistance? Did AI make any effort to ascertain whether any of the funds raised by these organizations on the strength of AI’s Public Statement – ostensibly for such humanitarian purposes – were instead actually directed to the continuing advocacy campaigns of such organizations? Does AI have any documentation that reflects its involvement in these fundraising campaigns?
110. These fundraising campaigns were initiated by ATA, PLOA, WMC, FOE Australia, RightsAction, etc., immediately following issuance of the AI Public Statement. Was AI aware in advance that these organizations intended to use AI’s May 11 Public Statement as the centerpiece of fundraising campaigns for their organizations? Did AI have any concern that such fundraising plans may cause such organizations to exaggerate or embellish their accounts of events at Wangima, or, given their respective anti-PJV/Barrick-centric missions, color their characterizations of responsibility for such events?
111. We note that while AI’s researcher was present in PNG in August 2009 the Porgera Alliance, which is a coalition of ATA and PLOA,

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<sup>3</sup> See e.g., AI’s letter to Barrick, June 29, 2009, at 2 (“...our information is based on contact with witnesses and those affected”)

announced publicly that it intended to shut down the Porgera Mine within 30 days if PLOA did not get a positive response to a petition delivered by Mark Ekepa of PLOA to the PNG government on August 25, 2009. The petition demanded that PJV cease constructing a fence around the mine "... and divert the funds to resettle landowners." The petition demanded that the PNG government and Barrick immediately resettle *all* SML landowners - not just those ostensibly displaced by the events at Wangima. Did AI's researcher participate in any respect in the planning of the petitioners to file such a petition? Did AI's researcher participate in any respect in the drafting of the petition or the public announcement of the Alliance's intention to shut down the mine if compensation was not immediately forthcoming?

112. AI has indicated in numerous letters to Barrick and PJV that while in the Porgera Valley in August it spoke with various "landowners." Apart from its assertion that the individuals it spoke with owned land "on the SML", AI did not indicate whether such landowners were actually landowners in Wangima. Could AI please explain how many SML landowners it spoke with? How many of those landowners claimed to be landowners in Wangima?
113. What is AI's understanding of how many landowners exist in Wangima and what percentage of those landowners actually spoke with AI? How did AI determine which landowners to speak with? Did any of the landowners with whom AI spoke actually claim to be residing in Wangima as at April 27, 2009? If not, did AI ask where they were living? Did it ask who, if anyone, was living in structures on the land they claimed they owned in Wangima? What did they say?
114. Did AI ask any landowners from Wangima whether they were seeking compensation from PJV or Barrick associated with any structures that had been removed by the PNG police on April 27? If so, did AI inquire as to the basis for their expectation of compensation from PJV or Barrick? Did any of the landowners explain the basis for their expectation of compensation? What was it? Was there any consistency among the Wangima landowners regarding their expectations of compensation?

115. How many of the 90 ostensibly displaced persons with whom AI spoke were *not* landowners? Did AI ask the non-landowners if they were also seeking compensation from PJV or Barrick associated with any structures that had been removed by the PNG police on April 27? Did AI inquire as to the basis of their expectation of compensation from PJV or Barrick?
116. If the principal landowner with whom AI spoke was Nixon Mangape, did AI understand him to be a person with whom PJV recently had had unsuccessful preliminary discussions regarding acquiring some of his land before PJV determined to put its underground portals within PJV's currently fenced area owned by PJV? Did AI understand whether he was the person responsible for recently constructing many of the new structures in the Wangima area during the course of discussions with PJV in expectation of enhancing his compensation claims? Did AI consider whether Mr. Mangape may have significant commercial motives that could color any statements he may make regarding who was responsible for any events at Wangima? Did AI discuss these matters with Mr. Mangape?
117. Did AI ask the Wangima landowners with whom AI spoke if any landowner had advance notice of any sort of planned police operation at Wangima on April 27, 2009? What were the responses?
118. Did AI ask the Wangima landowners if any had collaborated with the police in respect of the identification of specific structures in Wangima that they would like to be removed by or with the assistance of the PNG police? If so, what did they say? If AI did not ask, why not?
119. How many of the landowners with whom AI spoke did not claim to own land at Wangima but did claim to own land at other locations within the SML? Did AI ask those landowners whether they were also seeking relocation compensation from PJV or Barrick? What did they say? Why was AI interviewing landowners who did not own land at Wangima? What was the basis for the expectation of the non-Wangima landowners of compensation from PJV or Barrick, if any? Did AI ask? Did AI consider how their hope or expectation of compensation from PJV may color their statements?
120. We note that following these enquiries AI continued to assert that 50 homes had been destroyed. Did any of the witnesses, persons affected, or landowners address with AI the number of homes allegedly destroyed at Wangima on April 27? If so, what did they say? Was

there consistency among the answers? Were their answers consistent with AI's statement that there were 50 houses destroyed?

121. Is AI of the view that it in its August visit it interviewed everyone it needed to speak with to understand the events of April 27? Is AI of the view that it interviewed everyone it needed to interview to be assured of the credibility and reliability of the statements as to what occurred in Wangima on April 27, and at whose request or direction?

**AI's Researcher(s), Sources, Interviewees, Local Representatives and Facilitators used in connection with the May 11, 2009 Public Statement.**

122. Barrick understands that in the period immediately following April 27 AI's participation in publicizing such events was solicited by Catherine Coumans of Mining Watch Canada ("MWC"), acting in concert with two PNG-based special interest groups (ATA and PLOA) <sup>4</sup>, both of which were then engaged in lobbying PJV and Barrick for multi-million dollar compensation payments for various parties as well as in conducting an ongoing anti-Barrick advocacy campaign. What diligence did AI do with respect to MWC, PLOA, or ATA - or their respective representatives - prior to agreeing to work with them with a view towards having AI issue a public statement regarding Barrick to publicize the April 27 events?
123. If AI had one or more AI researcher(s) on-the-ground in the Porgera Valley prior to May 11, how many did it have and when did they arrive there? Did any such researchers prepare a written report or any other account of what they understood occurred at Wangima on April 27, 2009? What, if any, relationship did the AI researcher(s) have to any PNG based special interest group or interest (including but not limited to ATA and PLOA) that may have a commercial or other interest in the nature of any report AI might issue regarding the events of April 27, 2009?
124. How did AI identify the appropriate researcher(s) within AI to investigate the allegations made by Mining Watch Canada and others following the events of April 27, 2009?

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<sup>4</sup> Barrick's understanding is based largely on public statements of representatives of MWC, ATA and PLOA.

125. When AI selected a principal researcher to address the events of April 27<sup>th</sup>, did AI attempt to ascertain at that time whether there may be issues associated with the researcher's background and experience, personal relationships, or recently established mission within AI, which could adversely affect the researcher's objectivity and ability to conduct an impartial investigation of the allegations in question? Does AI have internal procedures which would result in the identification of any such issues? Were those procedures followed in respect of AI's selection of its researcher in this instance?
126. Has AI put in place any internal safeguards to ensure that personal relationships or biases, or specific advocacy responsibilities within AI, would not affect the ability of a researcher to conduct an impartial investigation or draft a fair and transparent public statement? If so, what are they? Were such safeguards, if any, implemented in this case?
127. If AI's researcher(s) did not personally visit the Porgera Valley to investigate the events of April 27, 2009 in the period prior to the May 11, 2009 Public Statement, what were the sources of its May 11 Public Statement?
128. In AI's June 29, 2009 letter to Barrick AI states that on the basis of AI's researchers' enquiries of "*persons affected by the evictions*", "*witnesses to the event*" and "*landowners*" "... [AI] discovered that police had destroyed approximately 50 homes on 27 April 2009." Is it true that as of May 11, 2009 AI researchers had spoken with "*persons affected by the evictions*", "*witnesses to the event*", and "*landowners*?" How many such people did AI speak with prior to publishing its May 11 Public Statement? When did these enquiries occur? Did AI retain documentary evidence of such conversations?
129. To the extent that AI's May 11 Public Statement is not based on personal knowledge of AI researcher(s), how many third-party sources or interviewees were utilized by AI in connection with the preparation of AI's May 11 Public Statement?
130. How were the "enquiries" of the three categories of persons referenced in AI's June 29 letter made? If AI's pre-May 11 enquiries were made by telephone, how were the persons who claimed to have been affected by the alleged evictions - and others that AI says it used as sources - identified? How were the "*witnesses*" to which AI refers identified? Did the "*persons affected*," "*witnesses*" and "*landowners*"



with whom AI communicated speak English? If not, what language was spoken in AI's pre-May 11 enquiries and who translated the telephone conversation(s) for the AI researcher(s)? Is there documentary evidence that memorializes the substance of these various conversations?

131. Based on information available to us we understand that apart from their initial solicitation of AI's participation in publicizing the events of April 27, 2009, three of AI's principal sources of the information that AI included in its May 11 Public Statement were MWC (Catherine Coumans), ATA (Jethro Tulin), and PLOA (Mark Ekepa and Jeffery Simon). Was each of these organizations and individuals, in fact, among the principal sources upon which AI relied for its May 11 Public Statement?
132. What steps, if any, did AI researcher(s) take to identify any potential conflicts of interest of each of the sources utilized by AI in connection with AI's May 11 Public Statement? Did AI understand the various interests of each of the three sources identified above (i.e., MWC, ATA and PLOA)? If so, how and when did it come to understand the agendas and motivations of each of those three principal sources?
133. In connection with AI's May 11 Public Statement what steps, if any, did AI researcher(s) take to identify any potential conflicts of interest of any alleged "*persons affected*", "*witnesses*" or "*landowners*," who were identified to AI in the first instance by MWC, PLOA or ATA? Did AI understand the various interests/motivation of each of the alleged "*persons affected*," "*witnesses*" and "*landowners*" so identified? How and when did AI come to understand such interests/motivation?
134. Each of the three sources identified above (i.e., MWC, ATA and PLOA) and their respective representatives had previously made scores of public statements regarding the Porgera Mine, Porgera Valley, PJV and Barrick. Before utilizing information provided by such sources what steps, if any, did AI researcher(s) take to become familiar with such statements and to test the objectivity, reliability and credibility of such sources in respect of their previous public allegations involving Porgera, PJV and/or Barrick?
135. Did AI's researcher(s) understand that, prior to the events of April 27 - and thereafter - each of MWC, ATA, and PLOA had been actively involved in an annual anti-Barrick "road show" across North America, which by April 27 had been in progress for nearly a month?

136. Did AI understand that as of April 27 Catherine Coumans to personally be in the middle of a series of anti-Barrick speeches, testimony and legislative lobbying in which she and her “protestbarrick”<sup>5</sup> colleagues, including but not limited to Jethro Tulin of ATA, routinely attacked Barrick with outlandish and wildly exaggerated claims concerning Porgera? Was that information known generally within AI?
137. For example, when AI’s researcher(s) began communicating with Catherine Coumans concerning the events at Wangima did Ms Coumans explain that in a speech in Toronto earlier in 2009 she and her protestbarrick colleagues had recently accused Barrick of murdering 60 persons at Porgera *every year*? Did AI find those accusations to be remotely credible or reliable?
138. Barrick understands that as of April 27 neither Ms Coumans nor any other MWC representative was in PNG to witness any events in the Porgera Valley first-hand. Based on MWC’s website, it appears any information regarding the events of April 27 provided to AI by MWC was almost exclusively predicated on reports from one or more individuals at ATA. Did AI understand that MWC’s information regarding the events of April 27 was essentially all predicated on information from ATA?
139. The Mining Watch Canada information published immediately following April 27 also included photographs of events at Wangima that were attributed to an ATA representative. Did AI receive the photographs of the events at Wangima by or through ATA or MWC?
140. Barrick understands that during the period of approximately ten days in May that AI’s researcher was working on the May 11 Public Statement AI had multiple conversations with representatives of MWC in which AI’s researcher was provided with the substance, if not the text, of various communications originating from ATA regarding ATA’s accounts of the events of April 27, and that AI ultimately repeated some of those accounts in the May 11 Public Statement. Is that correct? If so, how did AI determine the accuracy, credibility and reliability of such ATA reports?

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<sup>5</sup> “protestbarrick” is an on-line networking organization in which MWC, PLOA, ATA are active participants which appears to exist largely to provide a vehicle to publicly vilify Barrick with unsubstantiated and unaccountable claims of improper or illegal behavior at various mines around the world with which Barrick is associated.

141. Barrick understands that in May its researcher also met on several occasions in New York City with Jethro Tulin, the President of ATA. Was AI aware at that time that Mr. Tulin is an anti-Barrick activist and was then on tour in North America on a six-week long anti-Barrick road show that was centered around his appearance in Toronto at Barrick's Annual General Meeting of Barrick shareholders on April 29?
142. Was AI aware that Mr. Tulin's road show, including his travel to New York, was largely organized by protestbarrick and MWC, and largely financially underwritten by MWC? If AI came to be introduced to Mr. Tulin as a source of information by MWC, was MWC forthcoming with AI that it was also paying Mr. Tulin's expenses for his North American anti-Barrick road show and simultaneously conducting fundraising on his behalf?
143. When AI's researcher met with Mr. Tulin in New York in May did AI understand him to be an essentially full-time advocate for compensation from PJV and Barrick?<sup>6</sup> What did Mr. Tulin report to AI regarding his potential conflict of interest regarding his comments concerning the events at Wangima? (This cannot be a question of AI protecting the safety and security of sources – Mr. Tulin was as public as possible about his allegations against PJV and Barrick (and regarding his newfound association with AI).)
144. What enquiries did AI make of Mr. Tulin as to any personal interest that he might have in, or control over, any compensation payments that might be made to persons he claimed to represent in connection with other events in the Porgera Valley that predated April 27, 2009? What enquiries did AI make as to whether Mr. Tulin or ATA or any other party had discussed representing, or made arrangements to represent, any of the parties ostensibly displaced from Wangima in connection with efforts they may make to obtain compensation associated with the events of April 27? If AI did not make such enquiries, why not?
145. Did AI consider whether the nature and substance of any compensation arrangements and initiatives of Mr. Tulin, ATA, PLOA or others to potentially have a bearing on AI's investigations of, and publications regarding, the events of April 27? Did AI consider how

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<sup>6</sup> E.g., Sydney Morning Herald, June --, 2009 (“*Tulin is demanding that Barrick relocate and compensate thousands of people he claims have been hurt by the operation, either through violence, mine expansion or environmental degradation.*”)

such arrangements and initiatives may color how events were characterized or reported by Mr. Tulin or individuals who claimed to have been affected?

146. What did AI's researcher report within AI about Mr. Tulin's/ATA's conflict of interest between his role as a principal source for allegations of human rights abuses and his compensation demands of PJV and Barrick and his ongoing anti-Barrick advocacy campaign? What did he say about any plans to use any public statement issued by AI as the cornerstone of a fundraising campaign to underwrite his continuing travels and advocacy? Did AI consider whether his fundraising objective or compensation demands may color information he provided to AI or cause him to exaggerate, embellish or misrepresent the facts?
  147. In assessing the reliability and credibility of Mr. Tulin did AI become aware of the specific statements regarding Porgera he was making on his 2009 road show? Was AI aware, for example, that Mr. Tulin, Ms Coumans and their colleagues on the MWC-protestbarrick road show were accusing Barrick of routinely gang raping women and murdering 60 persons a year at Porgera? As at May 11, did AI find those accusations remotely credible and reliable?
  148. Subsequent to May 11, did AI try to ascertain whether Mr. Tulin's statements regarding Porgera, PJV or Barrick in the course of his road show were correct? For example, based on the investigation that AI said it has undertaken to date does AI believe there is any basis whatsoever to support the statements of Mr. Tulin and his MWC-protestbarrick colleagues that Barrick has been routinely gang raping women and murdering 60 people a year at Porgera?
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149. Barrick understands that as of April 27 Mr. Tulin was not in PNG and therefore did not witness any events in Porgera Valley first-hand. Did AI ask Mr. Tulin to identify the sources of any information regarding the events of April 27 that he provided to AI? Did AI determine whether the sources were affiliated with ATA or PLOA? Did AI determine whether the sources actually existed? Did AI determine whether the sources were credible and reliable? How? When?
  150. In its conversations with Mr. Tulin in early May did AI inquire whether he or his colleagues at ATA had any basis to confirm press reports out of PNG of 300 more houses being burned? What, if

anything, did Mr. Tulin say about any factual basis for AI to repeat the initial press report of 300 additional houses burned?

151. We note that Mr. Tulin or others at ATA eventually further embellished the number of houses reported destroyed and burned at Wangima on April 27<sup>th</sup> and announced that the number of houses burned was 600 – as opposed to 35, or 50 or even 350. Did AI researchers become aware of that statement regarding 600+ houses burned on or before May 11<sup>th</sup>? If not, why not?
  152. Did AI try to ascertain whether Mr. Tulin's/ATA's report of 600 houses destroyed was credible? If AI could not find any factual basis to support ATA's statement on its website did AI question Mr. Tulin's or ATA's credibility or reliability as to the accuracy of other information that he/it had provided to AI? If not, why not?
  153. In its conversations with Mr. Tulin in early May did AI inquire whether he had any basis to confirm reports of more than 1000 people having been made homeless by the events of April 27? What, if anything did he say about any factual basis for AI to make that report?
  154. What, specifically, did Mr. Tulin report about the events on-the-ground at Wangima on April 27? Did AI compare those statements to other contemporaneous public statements of Mr. Tulin or ATA to determine whether they were consistent? If not, why not? Does AI have internal controls that would require diligence by an AI researcher regarding other relevant public statements of a source, particularly a source with obvious conflicting interests? Has AI retained any documentary evidence regarding what Mr. Tulin reported to AI prior to May 11?
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155. Once AI became aware that there was no credible basis to imply that 600 houses had been burned, did AI inform Mr. Tulin or ATA that the statements on ATA's website were inaccurate?
  156. Since Mr. Ekepa was reportedly in Port Moresby or otherwise absent from the Porgera Valley for months prior to the events of April 27<sup>th</sup> he obviously was not present in the Porgera Valley to observe first-hand whatever occurred on-the-ground at Wangim. Was AI aware that Mr. Ekepa was not in the Porgera Valley on April 27, 2009? Was it aware that he only infrequently goes to the Porgera Valley? Did Mr. Ekepa purport to pass on first-hand accounts of those events? Were the ostensible sources of those first-hand reports identified? Did AI

determine whether the sources were affiliated with ATA or PLOA? Did AI determine whether the sources actually existed? Did it determine whether the sources were credible and reliable sources? How? When?

157. Did Mr. Ekepa's previous statements regarding Porgera suggest to AI that his principal focus is relocation compensation? Did AI consider that Mr. Ekepa and the PLOA may have had a compelling reason to characterize the events of April 27 in a manner that he believed would put pressure on PJV or Barrick to engage in commercial settlement(s) that would serve the financial ends of Mr. Ekepa and his constituents?
158. Was AI's researcher aware of the extent of the collaboration among MWA, PLOA and ATA in their anti-Barrick advocacy efforts generally, and in connection with the events of April 27, 2009 specifically?<sup>7</sup> Does AI have internal controls that require its researchers to attempt to identify any collaboration among the sources of the information that it utilizes in a human rights investigation? Was there full disclosure within AI as to the nature of this longstanding collaboration among these three principal sources for AI's May 11 publication?
159. If AI's researcher was aware of the conflicts of interest of MWA, PLOA and ATA vis a vis PJV and Barrick what disclosure, if any, was made within AI regarding the motivations and conflicts of interest of these three key sources of AI's "information" for the May 11 Public Statement? What consideration did AI give to publicly acknowledging the limited investigation that it had conducted in advance of making its May 11 Public Statement and the conflicting agendas of its principal sources? Does AI have any internal standards or controls regarding disclosure of any significant limitations on the quality of information that it discloses publicly?
160. While AI made no reference in its May 11, 2009 Public Statement concerning the potential motivations of its three principal sources of information it appears that it did uncritically accept the statements of those same sources reported in the press concerning the purported motivation of the police and PJV and Barrick to remove the residents at Wangima (e.g., "*Ekepa said landowners were targeted. Tulin said the first houses razed were closest to the mine, allowing for an expansion of the site. He said the actions were clearly in Barrick's interests.*"<sup>8</sup>) If AI believed that

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<sup>7</sup> In a January 2<sup>nd</sup>, 2009 article on the protestbarrick website MWC characterizes the relationship of MWC, ATA and PLOA in this context as a "partnership."

<sup>8</sup> [www.greenleft.org.au/2009/799/41137](http://www.greenleft.org.au/2009/799/41137)

the incident on April 27, 2009 may be related to PJV's or Barrick's mine expansion plans, why did AI's inquiries prior to May 11 not include contacting PJV or Barrick to see if PJV actually planned to expand the mine in that area? Does AI have internal controls that would require that the target of its allegations be contacted for information and comments in such a circumstance prior to publishing such allegations?

161. On or about April 30, 2009 protestbarrick posted an article on its website that stated "*Barrick Gold had demanded that the land be cleared of local villagers*" and attributed the statement to ATA.<sup>9</sup> It further provided "*Local human rights organizations in Porgera claim that these fires are part of a strategy to clear people out of the way for the expansion of Barrick Gold's Porgera mine.*" Did AI become aware of the article on the protestbarrick website? How? Once aware of the article, did AI make inquiries of protestbarrick or ATA as the basis for the statement that "Barrick had demanded" that the land be cleared of villagers? Did AI make inquiries of protestbarrick or ATA as to the basis for the statement that the fires were part of a "strategy" of Barrick or PJV to do so? If AI thought that Barrick or PJV may have demanded the clearing of the village why did AI not contact Barrick or PJV to see if either actually had made such a demand?
162. AI's May 11 Public Statement was unusual in that it mentioned Barrick Gold Corporation, "headquartered in Toronto", ten times but never once mentioned PJV or any other local party or interest that could have been involved directly in the events in question. Did AI consider whether the mission of its principal researcher (i.e., to publicize corporate accountability for human rights violations of "extractive companies") may have affected that researcher's impartiality in respect of gathering information necessary to ensure a credible and reliable account of the events of April 27<sup>th</sup> as well as responsibility for such events? Did AI consider whether the researcher's choice of AI's principal sources may have affected the impartiality, credibility and reliability of AI's resulting report?
163. Having become committed to the account of the events of April 27, 2009 by virtue of AI's May 11 Public Statement (issued prior to any investigation of any substance), did AI consider whether it may be inappropriate to have the author of the May 11 Public Statement be responsible for conducting further investigations, if any, by AI? What steps, if any, did AI take to ensure that its researcher(s) considered

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<sup>9</sup> [www.indybay.org/newsitems/2009/04/30](http://www.indybay.org/newsitems/2009/04/30)

alternative accounts or explanations for the events of April 27 - as opposed to trying to defend a Public Statement made by AI May 11 before it had conducted any substantial independent investigation?

164. Does AI have internal controls and safeguards that require it to assess whether AI's programmatic goals regarding promoting corporate accountability for human rights led it to discount or ignore the involvement and interests of non-corporate actors in this investigation?

### **The Specifics of AI's May 11, 2009 Public Statement**

165. In its May 11 Public Statement AI stated, as a matter of fact, that there was *"more than 1000 people who had been left homeless"* after police officials burned down their homes. Was that number (i.e., *"more than 1000"*) determined in the first instance by AI? If not, when specifically did AI first receive the information that *"... more than 1000 people had been left homeless?"* From whom? Was that number received from a single source? Was it corroborated by any other sources? Has AI retained its records indicating the source(s) of that number?
166. At the time of the May 11 Public Statement AI had not, to our knowledge, visited the Wangima site or conducted any first-hand investigation in the Porgera Valley regarding the events of April 27, 2009. Upon what information was that specific statement of fact (of more than 1000 people homeless) of AI based? If the information came from a third-party how did AI determine whether that information was credible and based on reliable evidence? Was any documentary evidence provided to AI that would support AI's statement regarding *"more than 1000...homeless"*? If so, what?
167. In the May 11 Public Statement AI stated, as a matter of fact, that *"On 27 April 2009 police officials burned down 50 houses within the Porgera mining area, owned and operated by Canadian based Barrick Gold Corporation."* Upon what information was that specific statement regarding *"50 houses"* based? If the information came from a third-party how did AI determine whether the information was credible and based on reliable evidence?
168. When AI made these two statements on May 11<sup>th</sup> how did it reconcile the numbers (i.e., *"50"* and *"more than 1000"*) in the two statements above? The two statements, taken together suggest that, on average,



more than 20 people would have had to reside in each of the 50 houses for more than 1000 people to have been rendered homeless on the 27th. Did that make sense to AI at the time? Does it now? What was it based on?

169. If the information supporting AI's conclusion that "*more than 1000 people*" had been left "*homeless*" was provided by a third-party source (as opposed to having been independently developed by AI) did that third-party say he/she was an eyewitness to the events at Wangima? If not, did AI ask the third-party source to identify the source of its information? Can AI describe the original source of the information (not by name, but in sufficient detail - including any affiliation with special interest groups, landowners, clans, etc., - so that Barrick can assess any potential bias affecting the credibility and reliability of the report?)
170. What information was provided to AI by its pre-May 11 source(s) as to the details (including any affiliation with landowners, clans, special interest groups, etc.) regarding the "*more than 1000 people*" living in "*50 houses*" that permitted AI to assess the credibility or reliability of such information before such statements were published as facts by AI? For example, did the source(s) provide details as to the demographics of the displaced individuals? For example, were the 1000+ people all Ipili? Were some from other tribes or clans? Were some in-migrants? Were some temporary occupants or visitors? Were any or all of the people landowners? Was the source of the estimate someone who had some prior association with the Porgera Mine, as a landowner, landowners' "*representative*," or potential claimant for compensation, which may have affected the objectivity of its reports or its characterization of the demographics of the displaced?

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171. How did the source(s) say they determined how many people were displaced from Wangima on April 27, 2009? How did the source(s) say that they determined that such people were rendered "*homeless*" by the destruction of the structures at Wangima, *i.e.*, how did the source(s) determine that the people who left Wangima did not own or have access to other residences in other communities more distant from the Porgera Mine area? Did AI ask questions of the sources that would permit it to determine that AI's numbers of "*homeless*" were materially correct? Does AI have any documentation that corroborates its statement of more than 1000 people homeless?

172. What did AI do between April 27 and May 11 to try to verify the information that “*more than a 1000 people*” were homeless? To Barrick’s knowledge, the reference to “*more than 1000 people... homeless*” has not been verified by *any* information that we have seen and appears to have been materially incorrect from the moment the statement was made. When did AI determine that statement was not based on credible and reliable information? Did AI still believe it was credible and reliable on May 11 when it included that statement in AI’s Public Statement? If so, why did it think it was credible and reliable information?
173. We have previously provided AI copies of a press article that predated its May 11 Public Statement which indicate that many people left the Porgera area well in advance of April 27, 2009, following various public announcements that the PNG police intended to begin to enforce existing laws regarding illegal weapons, drugs, alcohol, and various illegal commercial activities. Was AI aware of that article (or other similar articles) when it published its May 11 Public Statement? How did it reconcile the conclusions of that article with AI’s conclusions that more than 1000 people were rendered homeless by the police action at Wangima on April 27th?
174. We understand that AI came into possession of certain photographs of the Wangima area that apparently depicted the existence of the structures on the ground at Wangima as of April 27, 2009 and showed some of the structures to have been set afire. Were those photographs in AI’s possession prior to the publication of its May 11 Public Statement? When were they received?
175. Having reviewed the five photographs<sup>10</sup> provided to Barrick by AI it appears to Barrick that the substantial majority of the structures in the photographs appear to be small one-room enclosures. How did AI reconcile the size of the structures depicted in the photographs with its implicit conclusion that on average more than 20 people would have to reside in each such structure? Was that a credible or reliable conclusion?
176. Having reviewed five photographs provided to Barrick by AI we notice that only a small fraction of the structures in the photos had been set afire on April 27, 2009. As of May 11, 2009, how did AI arrive

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<sup>10</sup> We have still not received copies of the other photographs in AI’s possession which illustrate the full sequence of events at Wangima. We reiterate our request for those photographs, which we understood had been promised by AI at the London meeting.

at the number 50 houses having been burned as of April 27, 2009? Does AI have information that would indicate when any of the other structures at Wangima were subsequently dismantled, destroyed or burned? What is it?

177. Having reviewed the photographs provided by AI we were struck by the fact that despite the police presence and certain burning structures we could see no clear evidence of *any* people fleeing from the police or from the burning structures, removing or carrying possessions, etc. How did AI reconcile that fact with its implicit estimate of 20+ occupants per structure being forcibly displaced by the PNG police on April 27th?
178. If "... *more than 1000 people*" were rendered homeless on April 27th, where *were* all those people when the photographs were taken? If AI's account of facts is correct, the photographs should have revealed a mass exodus of people from Wangima village on April 27 coincident with the initiation of the arrival of the police. Did AI consider whether the structures may have been unoccupied? Did it consider whether many of the structures were not houses at all? Did AI consider whether many or most the occupants the structures, if any, had left Wangima days or weeks earlier in response to notices of the police, landowners or clan leaders or others as to their intentions to begin to enforce the law? If not, why did AI dismiss these possibilities? Did AI ask these questions of the interviewees it spoke with in August? What did they say in response?
179. As indicated in the December 3rd meeting in London with AI, information available to PJV indicates that the April 27, 2009 police action at Wangima was coordinated in advance with certain local landowners and related interests. If, as AI suggests, its sources for its May 11 Public Statement were not limited to Mining Watch Canada, ATA and PLOA, were AI's other sources for its Public Statement affiliated with either landowners, clan leaders, or others with an interest in either the composition of the population in Wangima or in the compensation relocation issues? How did AI attempt to determine if its various sources (other than MWC, PLOA and ATA) had any agenda(s) other than reporting objectively regarding the events on the ground?
180. We note that a recent letter from AI acknowledges that the source of the photographs was "a local SML landowner." We also note that the photographs were originally posted on various websites with credits

for the photographs being given to ATA. Did an ATA or PLOA representative take the photographs? If not, how did ATA receive the photographs? How did AI receive the photographs?

181. Did the fact that the photographs came from a landowner and were credited to an advocacy group raise any questions within AI regarding the likelihood that local landowners or other interested local parties may have had advance notice of the proposed police action to remove certain structures at Wangima? Did it raise any question within AI as to whether local landowners or other interested local residents may have coordinated with police to identify certain structures that they wanted to have removed from their land?
182. Did AI ask the PNG police whether it had coordinated in any respect with any local residents or landowners to identify certain structures to be removed at Wangima? If not, why not?
183. We note that the sequence of photos of Wangima taken on April 27 in AI's possession begins *before* there were any structures removed or set fire at Wangima. We note that the photos were of professional quality, taken in a very remote spot in the central highlands of PNG over a period of approximately two-hours, apparently using some sort of tripod or stabilization device and from a location across the valley, ideally situated to capture images of any activity at Wangima. This strongly suggests that the photographer had adequate advance knowledge of the police action to be on location and prepared to take numerous high quality long-range photographs of a sequence of events, with the sequence beginning *in advance of* any police activity at Wangima. Did this set of facts raise questions within AI as to whether local landowners, special interest groups, or other interested parties had advance notice of some planned police action at Wangima and thought it in their interest to capture the details of such activity on film?
184. Before making the May 11 Public Statement did AI make inquiries into whether and which individuals in the Wangima area had advance notice of any planned action of the police at Wangima? If not, why not? If so, what was the nature of the notice?
185. Before making the May 11 Public Statement did AI make inquiries as to whether and which individuals in the Wangima area had collaborated with police to remove certain structures? Did AI attempt to ascertain whether there were certain parties in the local

communities that supported and/or directed the police action, and would have benefited from it? If not, why not?

186. To the extent that AI was relying on news articles as sources for its May 11 Public Statement did it attempt to identify the source(s) of the those news articles? Did it try to ascertain whether the articles had been solicited by Mining Watch Canada, ATA or PLOA? Or local landowners or other special interest groups? Or whether the underlying "facts" for such articles had been provided to the local or Port Moresby media by such interests?
187. We note AI's assertion on May 11 that "*A further 300 houses of villagers living near the mine are also reported to have been burnt down as part of the same operations.*" That statement was repeated by AI on June 29 and still remains on the AI webpage. What was AI's understanding of the original source of that report? How did it determine that report was credible and reliable enough to repeat?
188. When did AI come to understand that the report of 300 other houses having been burnt down was false? Once AI knew it to be falsely reported why did it not make that information available to concerned parties in the same manner as its original statement had been publicized on May 11th?
189. If AI did not have any independent basis to suggest that there were 300 other house burned why did it repeat an unattributed "report" which by the date of AI's May 11<sup>th</sup> Public Statement was already two weeks old and had not been confirmed by any other party? Alternatively, why did AI announce publicly on May 11 that it had discovered that 50 houses were burned if it actually thought it might be 350?
190. We understand that AI's researcher became aware of the events of April 27 by approximately May 1. Is that correct? If AI had credible and reliable sources of information in the Porgera Valley why couldn't it determine in the first 10 days of May - and before its May 11 Public Statement - whether there was any credible or reliable basis for repeating the report of 300 houses burned? If AI had credible and reliable sources why couldn't it determine in the first 10 days of May - and before its May 11 Public Statement - whether there was any credible and reliable basis for AI's statement that there were more than 1000 people that had been rendered homeless by the events of April 27?

191. We note AI's statement of fact in the Public Statement that more than 200 police had been sent to the area. We understand that number to be significantly overstated. What was the nature of AI's source for the estimate of 200? Did it originate with either a news article or a special interest group in the Porgera Valley?
192. We note AI's assertion in its May 11 Public Statement that the police action was a "forced eviction" and that a forced eviction "*should never be used as a punitive measure.*" What facts did AI have to suggest that any eviction by the police was being used as a "punitive measure?" What group of people was AI implying was being punished by the police - and for what were they ostensibly being punished? What was that statement based on?
193. In the May 11 Public Statement AI urges "*Barrick Gold Corporation to prioritize the needs of villagers within the mine area and work to ensure a fair process for relocation and appropriate and adequate compensation.*" As at May 11 what did AI actually know about any process that had been employed by PJV or Barrick Gold Corporation for relocation or compensation?
194. When did AI first learn enough about the process for relocation and compensation employed by PJV at Porgera that gave it a credible and reliable basis to comment on May 11 regarding the fairness of the existing process? What was the nature of the source of AI's information? Was it ATA? Was it MWC or PLOA or an individual or organization lobbying for compensation? What credible or reliable facts did AI have to imply that any process that had been employed by PJV was "unfair?"
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195. In the May 11 Public Statement why were the relocation or compensation processes of PJV (or Barrick) even raised in connection with the April 27 actions of the PNG police? It strongly suggests that AI's sources of the information upon which its various statements made in its May 11, 2009 Public Statement were made are people who were directly involved in and have an interest in the relocation and/or compensation processes with PJV. Is that correct? Were they representatives of various individuals or groups seeking compensation? Did AI have *any* sources for its statement that were not directly involved in a relocation compensation process with PJV? How did AI deal with whatever measure of bias may be attendant to

repeating “facts” provided by people who are advocates for relocation compensation?

196. Is it true that AI permitted Ms Coumans, (of Mining Watch Canada) to review and/or edit the draft May 11, 2009 Public Statement prior to its publication? Why would AI do so? Are there electronic or other records that memorialize the communications between AI and Ms Coumans during this period?
197. If AI permitted MWC or others to review and/or edit a draft of the May 11 Public Statement prior to its publication did AI consider permitting the PJV or Barrick to do the same? Does AI have internal procedures which require that the targets of its allegations be given a fair and transparent opportunity to comment on or respond to such allegations prior to publication? Does AI observe ethical standards generally applicable to journalists prior to publishing a public statement such as the statement it published on May 11?
198. In its June 29 letter to Barrick AI denies that the principle sources of information for the May 11 Public Statement were Mining Watch Canada, PLOA and ATA. Does AI deny that in the period from April 27 to May 11 that it communicated and/or met with each of these sources on several occasions and that AI utilized information from each of those sources in the May 11 Public Statement? If these individuals – or the websites or publications of their organizations – were not the principal sources of information for the May 11 Public Statement, then what were the sources? Were they predominately individuals or organizations that were free from bias associated with continuing advocacy campaigns or interest in securing relocation compensation?

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199. We note that AI thought it appropriate to make reference in the May 11 Public Statement to the fact that *“locals claim that they practiced alluvial gold mining before the mine operation began... and that they continue to mine.”* As at May 11, 2009 did AI have facts that supported the implication that mining by locals was relevant to the events of April 27<sup>th</sup>? In what respect does AI think that mining by locals is relevant to the events of April 27<sup>th</sup>? Is AI suggesting that any individual displaced on April 27 was a local alluvial miner?
200. We note that in the May 11 Public Statement AI urges the Canadian Government *“to insist that Barrick Gold Corporation implement [the Voluntary Principles on Security and Human Rights]”*. What information

did AI have as at May 11 that permitted it to conclude that Barrick Gold Corporation or PJV did not implement the Voluntary Principles? What was the source of that information? Was it someone who AI knew to be an advocate for compensation or who otherwise was an anti-Barrick advocate? If AI thought it appropriate to comment on Barrick's corporate practices as they relate to its interaction with state security agencies why did it not contact Barrick or PJV to attempt to understand what policies or practices were implemented by Barrick?

201. In the May 11 Public Statement AI mentions Barrick ten times. In the sentence announcing that 50 houses had been burned down, AI asserts that the Porgera mine is "*owned and operated by Canadian-based Barrick Gold Corporation.*" However, the Public Statement never mentions PJV, the actual owner and operator of the Porgera Mine. As at May 11, 2009, did AI have any understanding about what entity owned and operated the Porgera mine? Was it aware of the PJV? Why didn't it mention PJV?
202. Despite AI's assertion in the May 11 Public Statement that the mine is "*owned and operated by Canadian-based Barrick,*" AI subsequently includes in the Public Statement vague references to "*the company operating the mine*" and the "*company responsible for the mine*" - as being distinct from Barrick. What was AI's purpose in telling the world that Barrick "*owned and operated*" the mine when AI apparently knew the statement to be false?

### **The Post-May 11 Response of Barrick and PJV**

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203. In response to the May 11 Public Statement Barrick promptly sent Irene Khan, Secretary General of AI, a letter dated May 22 asserting that AI's published statement contained "*significant factual errors*" and that "*virtually every fact*" was either without foundation or presented in a context to be fundamentally misleading. Barrick described the results of its own inquiries and those of PJV - which included first-hand on-the-ground enquiries in PNG - regarding the events of April 27, and noted that it appeared AI's Public Statement was not produced in a credible or transparent way. Following receipt of that May 22 letter what internal inquiries or review did AI conduct, if any, to determine if the public allegations of human rights abuse with which AI tried to associate Barrick and PJV had been based on information



that was credible and reliable and had been gathered and vetted by AI in a transparent and fair way?

204. Following receipt of Barrick's letter of May 22, what steps did AI take to use the additional or more accurate information made available to it by Barrick or PJV in that letter to modify and correct any of AI's previous incorrect statement, as envisioned by the Voluntary Principles?

#### **AI's June 29, 2009 Response to Barrick Gold Corporation**

205. To assess the reliability and credibility of the information that AI asserts it obtained and publicly reported we would like to better understand AI's investigative methodology both prior to and following the May 11 Public Statement. What steps, if any, did AI take following receipt of Barrick's letter of May 22 and before its June 29 response, to reassess the credibility or reliability of facts stated by AI on May 11?
206. AI's June 29, 2009 letter asserts that "AI researchers continue to monitor the situation in Porgera." What specifically did that "monitoring" entail? Apart from the monitoring, in the period from May 22 to June 29 was AI actively involved in reviewing the credibility or reliability of facts upon which it made its initial Public Statement? If not, why not? When did AI resume any investigation of substance?
207. In AI's June 29, 2009 response AI states that on the basis of its researchers' enquiries "*AI discovered that police had destroyed approximately 50 homes on 27 April 2009.*" As at June 29, 2009 had AI done anything else (beyond its initial inquiries prior to May 11, 2009) to corroborate the number of structures that were destroyed at Wangima on April 27, 2009 or to determine whether the structures destroyed were "homes?" What else, specifically, had it done? As at June 29, 2009 did AI have any new information to alter its initial finding that approximately 50 homes had been destroyed?
208. The June 29 letter from AI to Barrick acknowledges the information submitted to AI by Barrick as to the number of structures destroyed and people affected during the police operation. AI notes that its information is "*different,*" and was "*based on contact with witnesses and those affected.*" As at June 29 had AI made any contacts with "witnesses" or "those affected" beyond those contacts made prior to

May 11? If so, how, when, and where? How many additional contacts? Is there documentary evidence that memorializes the substance of these additional contacts?

209. In the May 11 Public Statement AI asserted "*A further 300 houses of villagers living near the mine are also reported to have been burnt down as part of the same operation.*" On June 29, AI changed its characterization to "*We received reports that a further 300 homes had been targeted in Ungima and Kulapi villages.*" (Emphasis supplied) As of May 11, had the houses been reported to have been "burnt" down or were they reported to have been "targeted"? Did AI receive additional reports subsequent to the May 11 Public Statement regarding the 300 houses that caused it to alter its characterization of the earlier report from "burnt down" to "targeted"? If so, what did those additional reports indicate about the initial report? Does AI presently have any credible factual basis to assert that 300 additional homes were burnt down? If not, why did it and why does it continue to refer to a report that it knows to be incorrect? Having apparently concluded that its initial report was incorrect, what reliable and credible basis does AI now have to say that 300 homes were "targeted"? Why is AI persisting in the republication of a number (300 homes) that does not appear to have any reliable or credible basis in fact?
210. In its June 29 letter to Barrick, AI states that "*the evictions were carried out within the Porgera Mine Lease Area, operated by the Porgera Joint Venture (PJV) mining operation.*" AI's Public Statement stated that the evictions on April 27 were carried out within the village of Wangima. While that village may be located within the Special Mining Lease, what factual basis did AI have as at June 29 to assert that the village of Wangima is an area "operated by the Porgera Joint Venture?"
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211. As at June 29 was AI aware that the village of Wangima was outside of PJV's fenced area of operations? Did it know on June 29 that PJV has had little or no access to the Wangima area? Did it know that Wangima landowners had not agreed to allow PJV to operate in Wangima? What sort of mining operations does AI assert PJV conducts in Wangima? What facts did AI's sources provide to AI to support the claim that PJV was operating in Wangima?
212. AI also asserts in its June 29 letter that Barrick has "*responsibilities*" in relation to how security operates "*across the PJV Mine Lease Area, a principle widely accepted amongst extractive companies.*" As at June 29 what facts did AI have to support its assertion that extractive

companies “widely accept” the proposition that a subsurface mineral “lease area” defines its responsibilities on human rights issues? To AI’s knowledge as of the date of the statement which extractive companies accepted that proposition? What factual basis did AI have to make that assertion?

213. On what basis does AI assert that Barrick – as opposed to PJV – has responsibilities in relation to how PNG state security operates?

**AI’s November 2, 2009 “findings” and AI’s December 3 meeting in London with PJV and Barrick.**

214. On November 2, 2009, without meeting or having substantive discussions with PJV or Barrick, AI shared with PJV and Barrick AI’s draft report and “*findings of our research*” and requested PJV and Barrick to respond. AI’s findings recited multiple conclusions of fact. PJV and/or Barrick ultimately took issue with almost every one of those conclusions. Did AI consider it important to meet with or have substantive conversations with Barrick or PJV prior to making its findings public? Does AI have internal processes or controls which would require such a meeting or conversation prior to publishing a report?
215. On December 3, 2009 AI met with Barrick and PJV at AI’s offices in London for the purpose of conveying the responses of Barrick and PJV to AI’s Draft Report, as AI had requested. AI, however, was unwilling or unable to continue the meeting as required to finish the discussion of all of the questions outlined above. The Voluntary Principles provide that: **“Every effort should be made to ensure that information used as the basis for allegations of human rights abuses is credible and based on reliable evidence.”** In view of its obligations under the Voluntary Principles does AI have any internal guidance or standards that require it to make adequate time available for third parties that are the subject of AI’s public accusations of human rights abuses when such parties have serious and substantive questions and comments that will inform AI and help it address whether AI’s own information is credible and based on reliable evidence? If not, why not?