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Mr. Motomichi Ikawa
Executive Vice President
Multilateral Investment Guarantee Agency
The World Bank Group
1818 H/18th Street, NW
Washington DC 20433

Dear Mr. Ikawa,

I write in response to your letter of September 26, 2001 responding to my letter to MIGA President dated August 23, 2001 and the subsequent meeting held the same day between MIGA staff and LEAT representative. Let me take this opportunity to draw your attention to a number of concerns of our own regarding MIGA's handling of this matter before I respond to the issues you raise.

At the outset let me inform you that I am baffled by your failure to address the totality of the issues I raised in my letter to President Wolfensohn. The letter stated – based on Barrick's and their Tanzanian subsidiary's own project documents for the Bulyanhulu Gold Mine - that the assurances that Barrick Gold Corporation had given to MIGA in support of its application for a political risk guarantee were "*misleading, erroneous and false.*" It is my understanding that these allegations were further amplified by LEAT's representative during the meeting with your staff when he submitted that the Bulyanhulu project had been tainted with numerous illegalities both before, during and after the forced eviction of the artisanal miners. Let me recapitulate the facts and evidence in support of our contention in this regard.

- FAILURE TO DISCLOSE THAT SUTTON RESOURCES AND KMCL'S ENTRY INTO AND ACQUISITION OF THE BULYANHULU AREA WAS ILLEGAL FOR WANT OF LICENSE.

In documents submitted to MIGA, as well as to Tanzania's Ministry of Energy and Minerals (MEM), the Division of Environment (DoE) of the Vice President's Office and the National Environment Management Council (NEMC), both Barrick and their subsidiary, KMCL, alleged that *"in August 1994, the government (of Tanzania) granted a prospecting license"* over the Bulyanhulu workings to KMCL, which was then a subsidiary of Sutton Resources of Vancouver, Canada.¹ Elsewhere in their multi-volume environmental impact assessment reports, the two companies have claimed that *"KMCL obtained an exploration license in 1992 following conclusion of an agreement between Sutton Resources and the Tanzanian Government..."*²

We also find in a press statement released by the Tanzanian police force on August 21, 1996 that the *"Government granted ... a prospecting license Number 216/94 to (KMCL) under section 28 of the Mining Act 1979 ... on September 6, 1994."*³ And more recently, Barrick and KMCL have claimed - in the media space they bought in Tanzania's leading newspapers to announce the official opening of the Bulyanhulu Gold Mine – that Sutton Resources obtained a prospecting licence over the area in 1994, through its subsidiary KMCL.⁴

However, the license itself shows clearly and unambiguously that *no rights of any kind whatever were conferred to Sutton Resources or KMCL to operate in the Bulyanhulu area.* The three-year prospecting license #216/94 - signed on September 6, 1994 by then Minister for Water, Energy and Minerals, Mr. Jakaya Kikwete – was in respect of *"Butobela Area, Geita District..." Bulyanhulu area is in Kahama District, Shinyanga Region while Geita District is part of Mwanza Region! Indeed, Bulyanhulu is not even mentioned at all in the entire license.*

Two subsequent renewals of PL #216/94 issued on July 24, 1997 and October 6, 1998 respectively and signed by the Commissioner for Minerals in the Ministry of Energy and Minerals Mr. Gray Mwakalukwa similarly described the contract area as being in Butobela, Geita District. In addition, a list of all prospecting licenses

1 See *Social Development Plan for Bulyanhulu Gold Mine, Republic of Tanzania*, BGC and KMCL, August 1999, at page 4).

2 See *Environmental Impact Statement, Bulyanhulu Gold Project, Tanzania*, Volume 3, KMCL, May 1998, at paragraph 5-1).

3 See "Allegations of Killings Inside Mine Shafts at the Bulyanhulu Gold Mines, Shinyanga Region", Press Release dated August 21, 1996 and signed by Assistant Commissioner of Police Aden A. Mwamunyange, on behalf of the Inspector General of Police.

4 See, Advertiser's Supplement, "President Benjamin William Mkapa to Officially Commission Major Underground Gold Mine in Tanzania", *Mtanzania*, Tuesday, July 17, 2001; "President Benjamin Mkapa to Commission the Country's Major Underground Mine, *Nipashe*, Tuesday, July 17, 2001; "Celebration as His Excellency President Benjamin Mkapa officially inaugurates Tanzania's largest underground gold mine", *The Guardian*, Tuesday, July 17, 2001).

granted to various mining companies between 1993 and 1996 which was published by the MEM in 1996 also shows that the license granted to KMCL was in respect of Butobela area.⁵ This list shows that a total of 39 prospecting licenses were granted in respect of various areas in Kahama District. *Not a single one of these licenses was granted in respect of the Bulyanhulu area, which is not even mentioned in the entire list. In addition, not a single prospecting license over any area of Kahama District was ever granted to KMCL during the period under consideration.*

It is my firm belief that both Minister Kikwete, Commissioner Mwakalukwa and various other senior government officials knew the difference between Butobela area in Geita District of Mwanza Region and Bulyanhulu area in Kahama District in Shinyanga Region. It is also my firm belief that the above discrepancy was too obvious to have been caused by an accidental slip of the pen. Had that been the case, the discrepancy could, and should, have been detected and immediately rectified by the supposedly competent staff at the MEM who continued to insist – despite the artisanal miners’ objections - that Sutton Resources and KMCL had been granted a prospecting license over the Bulyanhulu area! It could, and should, have also been detected by the presumably competent officers of both Sutton Resources and KMCL and, later, Barrick.

Furthermore, I first drew the Tanzanian government’s and public’s attention to the above evidence in my open letter to His Excellency President Mkapa on July 16, 2001. This letter was widely circulated and subsequently published in the local press. To this day my charge that KMCL entered the Bulyanhulu area illegally and without any colour of right remains unanswered. My letter also suggested that senior officials in the Ministry of Energy and Minerals actively condoned this illegality and connived with KMCL in that, contrary to the documentary evidence in their own files, the said officials continued to make deliberately false and misleading public statements to the effect that KMCL had license to operate in the Bulyanhulu area. This charge also remains unanswered.

The irregularities in the Bulyanhulu license which suggest that Sutton Resources and KMCL may have acquired the Bulyanhulu concession illegally, fraudulently or through corrupt practices is a matter of great public importance that Barrick Gold Corporation should have thoroughly investigated as part of their due diligence in the acquisition of Sutton Resources and KMCL. *Barrick should also have drawn MIGA’s attention to this evidence, as I believe MIGA had an interest in ensuring that the project it was being asked to support financially by way of political risk insurance had complied with the laws of Tanzania in order to comply with one of its key policies.* MIGA itself should also have reviewed the validity of the license as part of its own due diligence in insuring the project. The question,

⁵ See *Minerals Found in Tanzania*, Ministry of Water, Energy and Minerals, 1996 at pages 26-27.

then, is why did the company falsely claim - in documents meant for MIGA's and public consumption - that its subsidiaries had a license over the Bulyanhulu area?

- **FAILURE TO DISCLOSE THAT SUTTON RESOURCES AND KMCL'S ACQUISITION OF BULYANHULU WAS ILLEGAL FOR BEING IN VIOLATION OF LAWFUL ORDERS OF THE HIGH COURT OF TANZANIA**

Notwithstanding the lack of proper license, on 20th June 1995 the company commenced legal proceedings against the small-scale miners in the High Court of Tanzania at Tabora. In papers the company filed in the High Court, KMCL sought orders of the Court to evict the artisanal miners from, and permanently restrain them from interfering with, what the company claimed to be its concession area.⁶ In their defense and counter-claim, according to summary of the defendant miners' case as stated by the High Court, the miners claimed to have been in lawful occupation of the suit property since 1975.

The miners further claimed to not only have title to the area by virtue of customary law but also that their village had existed even before colonial days and had their ancestral graves, residential houses, livestock, farms and gold mining shafts. They also objected to being dispossessed without even being consulted and alleged that the government of Tanzania had connived with KMCL to grab land from indigenous people without compensating them or resettling them elsewhere. The miners also counter-claimed for compensation if their land and mines were to be taken over by KMCL.

On September 29, 1995 the High Court of Tanzania ruled in favour of the miners' application. In the ruling, Mr. Justice Mchome observed that "*on reading the Written Statement of Defence and Counter-claim farther and going through the contract between the government and (KMCL) ... I found no provision made for compensation and/or resettlement of the indigenous people.* This court found that the basic rights and duties of the applicants/defendants had been involved ... and ... ordered that the matter be heard by the High Court sitting with three justices as required under the Basic Rights and Duties Enforcement Act, No. 33 of 1994."⁷ The Court therefore ordered that status quo be maintained pending the constitution of the 3 judge bench of the High Court to hear the matter.

⁶ *Kahama Mining Corp. Ltd. Vrs. Maalim Kadau & 16 Others.* Civil Case No. 12 of 1995, High Court of Tanzania, Mchome, J. (Tabora) (unreported).

⁷ *Ibid.*

On October 9, 1995, the company which, according to Mr. Justice Mchome, had throughout maintained that the defendants were "... illegal miners and trespassers who deserved nothing but eviction from the 'property'", filed a notice of appeal in the Court of Appeal of Tanzania (the country's highest court) seeking to have the High Court ruling overturned. It would appear, however, that before its appeal could be heard by the highest court of the land, KMCL began to realize the courts of law were not as sympathetic to its cause as it had perhaps hoped. The company must have decided, as a result, to opt for extra-judicial processes to evict the miners. On May 22, 1996, the KMCL's lawyers wrote a letter to the Registrar of the Court of Appeal in which they stated that their clients did *not* "intend to prosecute the appeal" and requested that the Notice of Appeal lodged on 9th October, 1995, "... be marked withdrawn...."⁸ *By withdrawing their intended appeal KMCL was, in effect, admitting the validity of the High Court of September 29, 1995.* KMCL's lawyers also indicated in their letter that their clients intended to "withdraw the suit in respect of which the ruling was made...."⁹ *This is significant, too, for it meant that KMCL no longer wished to challenge the legality of the artisanal miners' presence and property rights over the Bulyanhulu workings.*

KMCL's letter was accepted the following day by the then Chief Justice Francis Nyalali who ordered that the notice of appeal be "marked withdrawn...."¹⁰ However, soon after the withdrawal of KMCL's notice of appeal, news stories with such headlines as "Company to Evict 7,000 Illegal Miners" started to appear in the print press.¹¹ KMCL also started to skip court appearances in the High Court where, contrary to their statement to the Court of Appeal, they had not withdrawn the lawsuit against the miners.¹²

Then on July 30, 1996, the then Minister of Minerals and Energy, Dr. William Shija called a press conference in Dodoma in which he issued one month's order for the Bulyanhulu miners to leave the area.¹³ According to contemporaneous

8 See Letter Ref. MRK/LIT/HC-TB/12/95/VOL. 11/816/96 from Maajar, Rwechungura and Kameja Advocates to the Registrar, Court of Appeal of Tanzania dated May 22, 1996

9 Ibid.

10. See *Kahama Mining Corporation Ltd. vrs. Maalim Kadau and 16 Others* (Miscellaneous Civil Notice No. 1 of 1996) (Court of Appeal of Tanzania, Dar es Salaam, Nyalali, C.J. (as he then was), dated May 23, 1996.

11. *The East African*, (date unknown but most likely June 1996), by J. Kithama.

12 KMCL and their lawyers did not make appearance on July 17, 1996, prompting the High Court to slap them with TShs. 700,000 for costs of the miners' attendance. See *Report of the Events at Bulyanhulu Mine*, op. cit.

13. See "Government orders those in Bulyanhulu miners to leave", Mtanzania, Wednesday, July 31, 1996; and M. Kitururu, "Government orders out Bulyanhulu miners", Daily News, Wednesday, July 31, 1996.

press reports, “soon after the radio announcement of the minister’s order at 1pm on the fateful July 30, Major General Kiwelu (then Shinyanga Regional Commissioner) arrived at Kakola village. Using a loudspeaker, the Regional Commissioner ordered the miners to disappear. The minister had given the miners one month to leave the place, but the Regional Commissioner cut this to seven days. He further ordered that mining activities in the area cease within 12 hours.”¹⁴ That same evening heavily armed paramilitary security forces were positioned in the miners’ settlements and the forcible evictions started the following morning.

On or about 1st August 1996, representatives of the miners who had been defending the lawsuit in the High Court rushed to Tabora where the Court’s zonal headquarters are located to consult with their lawyers. On 2nd August 1996, their lawyers filed as a matter of urgency an application in the High Court seeking a temporary injunction to restrain KMCL and the Government of Tanzania from evicting the miners before the lawsuit between the parties was determined by the courts of law. Arguing that “the affair cries haste and speed must answer it”, the High Court held *ex parte* hearings of the application that same afternoon and issued an injunction order against the Government and KMCL.¹⁵ In the ruling, the Court quoted with approval the miners’ claims that “*what the 1st respondent (KMCL) (had) failed to achieve in court he (had) decided to short-circuit the law by using the executive wing of government to get.*”

The Court also observed that given the fact that the suit between KMCL and the miners was still pending in the High Court, the government decision to evict the miners was “*quite uncalled for.*” It added: “*Democracy (sic!), Good Governance, the Rule of Law and Respect for Human Rights require the executive wing of government not to interfere in matters still pending in court. Natural Justice requires that even a poor peasant at least be consulted before a decision affecting his life is made. In court he deserves at least to be heard, whoever he has litigation against and deserves to have a decision made by the court on whether or not he has a right on what he claims before further action is taken against him on that matter.*”

The Court further described the case as being the most relevant to invoke its inherent powers “*to prevent abuse of the process of the court by the government.*” The Court felt entitled to use these powers and issue an injunction order particularly “*when it is necessary for the ends of justice and to prevent abuse of the process of the court like in this case.*” The order of the High Court –

14 A. Mbogora, “The day hell broke loose at Bulyanhulu”, *The Guardian*, Monday, September 9, 1996; see also A. Mbogora, “Final days at Bulyanhulu”, *The Guardian*, Wednesday, September 11, 1996

15 See ruling in *Kahama Mining Corporation Limited vrs. Maalim Kadau & 16 Others* (Civil Case # 12 of 1995) (High Court of Tanzania at Tabora, Mchome, J.), delivered August 2, 1996.

broadcast on national radio the same evening and later served to the police - was defied by the authorities supervising the mass evictions of the miners. Eyewitnesses agree to hearing Maj. Gen. Kiwelu stating clearly on a loud speaker that he was not an employee of the High Court and could not, therefore, take orders from the latter.

This is confirmed by the press statement released by the Inspector General of Police referred to above: *“After the radio broadcast on August 3, 1996 that the High Court of Tanzania had ordered that the small-scale miners should continue with mining operations until their lawsuits (sic!) were determined, many miners returned and started mining operations again.... Nevertheless, the government, through the Shinyanga Regional Commissioner directed the miners to vacate the area as ordered earlier (by the Regional Commissioner). The miners unwillingly left.”*¹⁶ The Regional Commissioner is also reported by eyewitnesses to have been waving what he described as his orders from the Prime Minister of Tanzania requiring him to ensure that Bulyanhulu was cleared of the small-scale miners.

KMCL and the Government of Tanzania thus defied a lawful order of the High Court of Tanzania. As far as we know, these illegalities were not disclosed to MIGA and they are, indeed, not acknowledged in the multi-volume project documents that Barrick submitted to MIGA. *Given the fact that MIGA policies prohibit issuance of political risk guarantees for projects that are associated with forced relocation of indigenous communities and that violate the laws of the recipient countries, failure to disclose the various illegalities that tainted the companies’ acquisition of the Bulyanhulu workings was a material non-disclosure that precluded MIGA from making more a more informed decision as regards Barrick’s application for political risk guarantees for its Bulyanhulu gold mine.*

- **ILLEGAL EVICTIONS AND FORCED RELOCATION OF HUNDREDS OF THOUSANDS OF LOCAL COMMUNITIES AND ARTISANAL MINERS.**

Equally unlawful were the forced evictions and relocation of the hundreds of thousands of small-scale miners subsequent to the illegal actions referred to above. The number of the people driven off from Bulyanhulu requires some consideration given recent attempts by Barrick to play down the extent and significance of the “community cleansing” that occurred in August 1996. According to project documents submitted to MIGA by Barrick and KMCL, the discovery of the deposits in 1975 “... attracted some small-scale artisanal mining

¹⁶ See “Allegations of Killings Inside Mine Shafts at the Bulyanhulu Gold Mines...”, op. cit.

to the site.”¹⁷ However, following a visit to the area by then President Ali Hassan Mwinyi in February 1993, “*artisanal miners requested the right to resume artisanal activities at Bulyanhulu*”, which “*permission was given by the President...*” As a result of this permission, that same year there was “*a massive influx, in which some 30,000 – 400,000 artisanal miners, associated entrepreneurs and ‘opportunists’ arrived.*”¹⁸ Elsewhere in that document, Barrick and KMCL repeat the same figure, stating that although no records were kept of the number of artisanal miners, “*estimates range between 30,000 and 400,000.*”¹⁹

Other sources that, unlike Barrick and KMCL, do not appear to have had the benefit of paid consultants to carry out socio-economic studies of the Bulyanhulu have provided similar estimates of the numbers of people who were “unwillingly” driven off their lands. For example, in his letter to the Minister for Water, Energy and Minerals protesting the apparent allocation of the Bulyanhulu mines to KMCL, then District Commissioner for Kahama stated that there were over three hundred thousand people in the area that were now supposed to be evicted. These people were, according to the DC, “*earning a living as well as contributing to the national economy.*”²⁰ For his part, the former Member of Parliament for the Msalala constituency that includes Bulyanhulu told the Tanzanian National Assembly a few days before his constituents were driven off their lands and settlements that the area had about 200,000 people.²¹ This figure is also supported by the Inspector General of Police in his statement referred to above.

Whichever figure is most accurate, however, the tragedy that befell the area was enormous. According to MIGA’s Communications Officer, “after the forced eviction of April (sic!) 1996, the project sponsors were left with 56 families to resettle; 40 on the site of the proposed townsite, and 16 on the site of the proposed tailings disposal area.”²²

In addition, those forced from their lands and settlements were never compensated nor was any resettlement program planned or implemented in that respect. Equally uncompensated was, as I told President Wolfensohn, the “extensive damage to property owned by the artisanal miners that were evicted...” Indeed even the 56 families that survived the tragic events of August 1996 appear not to have fared any better. In their *Social Development Plan for*

¹⁷ See *Social Development Plan for Bulyanhulu Gold Mine*, p. 4.

¹⁸ *Ibid.*, 21.

¹⁹ *Ibid.*, 20.

²⁰ See Letter Ref. K.30/1 Vol. III/54 from Edson M. Halinga, District Commissioner, Kahama, to Hon. Jakaya M. Kikwete, Minister for Water, Energy and Minerals, dated September 5, 1994, re “Small-scale Miners at Bulyanhulu, Kahama.”

²¹ See Speech by Hon. Bhiku Mohamed Salehe, MP, (now deceased) to the National Assembly, Dodoma, July 26, 1996.

²² See e-mail communication from Angela Gentile-Blackwell to Mark MacKinnon of the Toronto Globe and Mail, dated August 9, 2001.

the Bulyanhulu Gold Mine, Barrick and KMCL have boasted that there is “currently no apparent conflict between KMCL and customary land holders in the area.”²³ However, at just about the time the 3 volume EIS was being concluded in 1998, legal proceedings were commenced in the High Court of Tanzania, at Tabora.²⁴ The record of the Court describes the sixteen plaintiffs as “peasants engaged in subsistence farming and cattle-rearing at Kakola Village, Bulyankulu Area in Kahama District.” The defendant – Kahama Mining Corporation Ltd. - is described as “a corporation ... engaged in prospecting for and mining gold at the same area.”

In their plaint, the plaintiffs alleged that the defendant company had acquired a mining concession over an area that included their village and had “decided to evict the plaintiffs from their village and grazing lands covering some 10,000 acres.” The villagers also alleged that KMCL wanted to evict them and to dump gold mining waste in their village “which is a violation of their right to health (sic) and unpolluted environment.” The ruling and order of the Court that dismissed the suit for not being properly before the Court are dated June 28, 1999 and July 28, 1999 respectively, barely a month before KMCL published their *Social Development Plan for Bulyanhulu Gold Mine!* These legal proceedings are not acknowledged at all in the *Social Development Plan* that must have been under preparation at about the same period of time.

There is also evidence that both the government and KMCL have continued to use illegal coercion or threats of coercion to evict more people from the Bulyanhulu lands. For example, on May 12, 2000, the then Kahama District Commissioner, Hawa K. Mchopa issued the following notice:

“NOTICE
TO THE BARIADI AND NAMBAMBILI VILLAGERS
NOTICE TO VACATE KMCL PLOTS BY 13/5/2000
YOU ARE HEREBY ORDERED THAT YOU SHOULD HAVE VACATED FROM
THE PLOT BELONGING TO KAHAMA MINING CORPORATION LIMITED
(KMCL) BY 11.00 AM SATURDAY 13/5/2000 WITHOUT FAIL OR DELAY. IF
YOU DO NOT HEED THIS ORDER YOU WILL BE EVICTED BY THE
GOVERNMENT WITHOUT FURTHER NOTICE”

The notice was given over a year after Barrick had acquired Sutton Resources and KMCL and consequently the Bulyanhulu Gold Mine. Two issues arise in this regard. Firstly, Barrick has itself admitted - in information made public by its subsidiary Sutton Resources - that it “does not hold interests in land, or any other

²³ See SDP at pages 11-12.

²⁴ See *Mathias Masalisengwa and 15 Others versus Kahama Mining Corporation Limited*, Civil Case #15 of 1998, High Court (Tabora) (unreported).

form of property interest in the Bulyanhulu concession....”²⁵ In view of this, one wonders why Barrick’s subsidiary has been bearing on the Tanzanian authorities to evict the villagers from their lands or to otherwise interfere with the villagers’ peaceful enjoyment of their property rights. These actions, too, were and remain utterly illegal as the Constitution of the United Republic of Tanzania, 1977 and numerous other laws guarantee property rights and prohibit their acquisition without just, fair, adequate and prompt compensation.

It is my understanding that MIGA policies prohibit the agency from supporting projects that involve forced evictions or involuntary relocations of local and indigenous communities. This raises the question of whether the material non-disclosure was deliberately intended to preclude MIGA from making a more informed decision regarding Barrick’s application for political risk guarantees. They, in effect, either lied or concealed key information from MIGA to ensure that their application for political risk guarantee is approved.

It is this factual background that Barrick and their Tanzanian subsidiary were, or ought to have been, aware of but which was not disclosed to MIGA and which I had hoped would be addressed by President Wolfensohn. Since this has not happened, my question to you then is: Should this failure be taken as an admission by MIGA that Barrick Gold Corporation and KMCL failed to disclose material facts connected with their application for political risk guarantee from MIGA, thereby impairing the latter’s judgment in reaching its decision to issue the guarantee? Secondly, but equally importantly, should this failure to address these fundamental issues be taken as admission by MIGA that Barrick and KMCL have violated MIGA policies by engaging in illegal acts as articulated above? If so, what steps does MIGA plan to take to “treat with severity” these deliberate material non-disclosures and violations of its policies? If not, we respectfully invite you to give reasons for your and MIGA’s belief that Barrick and KMCL did not withhold material information as well as violate MIGA’s policies.

In response to the matters you raise in your letter, the following is my considered reply:

- **WHETHER OR NOT ARE THE ALLEGATIONS AND THE EVIDENCE PRESENTED NEW AND WHETHER OR NOT THEY HAVE BEEN THOROUGHLY INVESTIGATED BEFORE**

You state that the allegations raised in my letter to President Wolfensohn are not new and that they have been investigated by numerous parties and disproved. This thinking is echoed in a press release issued by MIGA in Washington DC on

²⁵ See Sutton Resources Ltd., Annual Information Form, January 31, 1997

September 26, 2001. MIGA is, apparently, not alone in entertaining this thinking. In a recent flurry of letters and statements concerning the allegations of a massacre of the Bulyanhulu small-scale miners, Barrick has claimed that the allegations have repeatedly been investigated by various institutions and found to be untrue. Indeed, Barrick now claims that KMCL has been in possession of “far more complete videotapes of the investigation ... since 1996.” The tapes, according to the claims, have been reviewed by Barrick and representatives of the World Bank group. “They have also been available to anyone else choosing to conduct a thorough investigation of this matter.”

The letters and statements from Barrick (whose substance you disturbingly repeat almost *verbatim*) have also alleged that investigations into the allegations of the killings of artisanal miners were conducted by local officials of the ruling party CCM; a local government official; the Criminal Investigation Division of the Tanzania Police Force; Sutton Resources; Amnesty International; the former Canadian High Commissioner to Tanzania; International Finance Corporation (IFC); and by Barrick itself. The latter has stated that “further inquiries were made by MIGA, the Export Development Corporation of Canada and others who could find no credible facts supporting the initial allegations that appeared in the Tanzanian media.”

These claims raise several issues. First, there seems to be a confusion on your part as to what exactly my letter to President Wolfensohn stated. In that letter, and indeed in all our public statements on this subject, I have never stated that the allegations were new. The evidence I referred to in my letter is, however, new. The police videotape that was submitted to MIGA staff on August 23, 2001 and the two videotapes we have recently acquired and which were taken by KMCL employees and any portions of their contents have, I repeat, “*never been made public before...*” Neither KMCL nor the “various Tanzanian authorities” that Barrick now claims have been in possession of the “far more complete videotapes” since 1996 have ever released this evidence in public before or since.

Barrick - that now claims the tapes “have been available to anyone else choosing to conduct a thorough investigation of this matter” - is no exception. Indeed, you may wish to know, our Tundu Lissu wrote to Barrick’s Patrick Garver on June 4, 2001 specifically asking for copies of “*any investigations that Barrick Gold Corp., KMCL or the Government of Tanzania may have conducted to disprove the serious allegations against (Barrick’s) Tanzanian subsidiary.*” It is my understanding that Mr. Lissu is still waiting for Barrick’s reply! It is also my understanding that Mr. Garver has apparently not only misdirected his reply to Mr. Lissu’s specific request for information to another address, he also appears to have misunderstood that seemingly clear and unambiguous request. According to the trade journal *American Metal Market* of Monday, October 8,

2001, when asked about Mr. Lissu's letter "Garver acknowledged the letter from Mr. Lissu but said he could not clearly understand what Lissu wanted to obtain from Barrick"!

Furthermore, in case you have not been informed, the Tanzanian police and security apparatus have recently raided LEAT offices, searched my home and Mr. Lissu's, confiscated the videotapes in our possession and arrested me and Mr. Augustine Mrema of the opposition Tanzania Labour Party who had also claimed to be in possession of the Bulyanhulu videotapes.²⁶ Mr. Lissu would also have been arrested had he not been out of the country. Although both Mr. Mrema and I have since been released on police bail, we have been threatened with possible sedition charges and are now compelled to report to the central police station in Dar es Salaam on a daily basis.²⁷

One may be forgiven asking why, if this evidence has been "available to anyone" wishing to conduct more thorough investigations of the allegations of killings, are we being persecuted for its possession and for saying we will make it available to the public through the mass media?²⁸ If these videotapes disprove the allegations of killings then why has the Tanzanian security apparatus acted so heavy-handedly as to continue detaining Mr. Mrema even after he was rushed to hospital with a severe case of high blood pressure and diabetes following his arrest?²⁹ Why has the police force taken such draconian measures as to prevent peaceful citizen demonstrations over police handling of the issues of the tapes?³⁰

As you may know, this heavy-handedness has drawn world-wide condemnation of the Tanzanian government actions. I hope you will lend MIGA's support to calls for the Tanzanian government to stop harassing those of us who have called for independent inquiry into the Bulyanhulu events as well as use your influence with the government to ensure that it does not interfere with the wide and open dissemination of the videotapes.

²⁶ See A. Komba, "Police hold LEAT president, seize tapes on Bulyanhulu killings", *The Guardian*, Monday, November 26, 2001; and A. Komba, "Police seize three Bulyanhulu tapes", *Nipashe*, Monday, November 26, 2001.

²⁷ Mrema to be dragged to the dock again", *Nipashe*, Tuesday, November 27, 2001; "Mrema discharged from hospital", *The Guardian*, Saturday, December 1, 2001; and C. Cyprian, "Mrema discharged from hospital with fanfare", *Nipashe*, Saturday, December 1, 2001.

²⁸ See G. Mngumi, "Call for television to air Bulyanhulu tapes", *Nipashe*, Tuesday, November 20, 2001.

²⁹ See N. Goima, "Mrema seriously ill in Muhimbili", *Nipashe*, Monday, November 26, 2001; N. Clement, "We won't release Mrema this time – Mahita", *Nipashe*, Wednesday, November 28, 2001 (citing Inspector General of Police Omari Mahita).

³⁰ See "Police ban a TLP demo over the Bulyanhulu tapes", *The Guardian*, Thursday, November 29, 2001; and G. Mngumi, "TLP to demonstrate for call to investigate Bulyanhulu killings", *Nipashe*, Friday, November 30, 2001.

The second issue that your letter raises is that if, indeed, Barrick, Sutton Resources and KMCL thought the allegations of the killings were serious enough to warrant all these investigations why, then, have these companies failed to even acknowledge the existence of the allegations in the project documents they submitted to the general public and to public agencies such as MIGA and Tanzanian government agencies and departments cited above? Thirdly, if indeed these companies have had these exculpatory investigations since 1996 why, then, have they never even acknowledged, let alone made public, the reports and the evidence that allegedly proves their innocence? Why have they had to wait for five long years to acknowledge the existence of this evidence and the investigations and then only after being forced out into the open by public disclosures of the evidence seemingly confirming the allegations of the massacre?

Fourthly, the so-called investigations were, as you may know, conducted by institutions whose impartiality is anything but guaranteed. Barrick itself has a heavy financial stake in the Bulyanhulu mine and could not be expected to conduct thorough and independent investigations that could affect its considerable financial interests in the mine. So does MIGA – which has issued “the largest amount issued to date for a single contract”, according to a World Bank press release.³¹ In fact, claims of an IFC investigation have been challenged by accounts of the very people that Barrick, KMCL and MIGA allege were consulted by the IFC team. A LEAT investigator visited Bulyanhulu on April 24, 2001 and met with, among others, the local government leaders at Kakola, Bulyanhulu’s main settlement that survived the 1996 evictions. When asked if the World Bank mission ever visited Kakola in connection with the allegations of killings of small scale miners, four local government leaders – all of them long-term residents at the settlement – emphatically stated that they never saw or heard of anybody from the World Bank who visited Kakola to investigate the allegations of the killings.

Interestingly, it is representatives of the Miners’ Committee who recalled a visit by the World Bank team. According to one Committee member, “in 1998, the World Bank specialists came to talk to us. They were staying at the Kahama Mining Corporation’s campsite. We told them about the burials and what had happened but they never really asked questions about the killings. They asked how much gold we were getting from the mining area and how much money we were making.” This version is supported by the accounts of the former Vice Chairman of Shinyanga Regional Miners Association (SHIREMA) and a prominent member of the Miners’ Committee who emphatically stated that “the Bank never asked us anything about the killings.” When told that the Bank officials had said they had had discussions with local community leaders who told

³¹ See message from Patricia Veevers-Carter pveeverscarter@worldbank.org: ‘MIGA Issues Largest Guarantee Ever for African Mining Venture’, undated.

them the allegations of killings were untrue he stated: *“The Bank officials were staying at the Kahama compound; they were sleeping and eating there; they were moving about in their vehicles. It is not surprising that they should say something like that!”*

All community leaders the Bank team claims to have consulted and who LEAT interviewed maintain that police investigations were greatly hampered by severe time constraints and want of appropriate equipment to be of any use. These officials were also doubtful of the independence and integrity of any police investigations because of the obvious interest on the part of the police force, the latter having been heavily implicated in the events complained of. In this regard, the statement by the Inspector General of Police cited above is revealing in respect of the nature and extent of the police investigations.

In trying to justify police unwillingness to exhume the mine shafts in which the miners were allegedly buried, the police chief stated: *“The facts have shown that most of the pits are over 70 feet deep. If these pits are exhumed it would take not less than 24 hours for each pit to be exhumed while the costs of feeding and paying the diggers would be not less (Tanzania) shillings five hundreds thousand. There are not less that 250 pits that have thus far been sealed, so considering the difficulties of the exercise and the enormous costs that are likely to accrue perhaps with no result of finding any person or persons buried in the pits it is advised to stop this exercise. After all the allegations are not supported by facts. And if there are those who still believe their friends, relatives and family were buried inside the pits they should exhume the pits at their own cost.”* Is this the kind of “thorough” investigation that Barrick, KMCL, the Tanzanian government and the World Bank Group would like the world to believe on such serious allegations as mass killings of civilians?

As far as the investigations by the Canadian High Commissioner – whom you claim investigated these allegations and could not discover that these killings took place - are concerned, I have the following response. According to Mr. Garver, the former *Canadian High Commissioner Verona Edelstein’s “inquiries” (not investigations), were limited to interviews with “the regional authorities and Kahama company officials.”*³² There is also no indication from Mr. Garver’s quote of Commissioner Edelstein’s statement that officials from Sutton Resources or KMCL ever showed her the video footage in their possession that shows company and regional and district administration officials, police and artisanal miners pulling a dead body out of one of the mine pits and another miner who was still alive but who – according to eyewitnesses – died shortly after for want of medical care. *In other words she inquired from the very institutions and persons*

³² See Letter of Patrick J. Garver, Barrick’s Executive Vice President and General Counsel to myself dated September 20, 2001.

accused of directly participating in the commission of the alleged crimes who, it would appear, withheld crucial evidence from her. Which is not at all surprising given the evidence we have given herein. In any case, what really did Commissioner Edelstein expect from these sources?

- **WHETHER OR NOT AMNESTY INTERNATIONAL INVESTIGATED THESE ALLEGATIONS AND COULD NOT SUBSTANTIATE THEM**

Your claim that Amnesty International investigated the allegations of the miners' killings "for several years" and your partial quote of AI's Pierre Sane's letter to the Tanzanian Government is most unfortunate, given Barrick's consistent and deliberate distortions and misrepresentations of AI's statements in this regard. For one thing, there is nothing in that statement that can be construed to mean that AI had investigated the allegations "for several years" and concluded that "it would not be useful to proceed further" as Barrick has deliberately misrepresented and that you seem to have uncritically and unfortunately adopted.

Amnesty International's most recent public statement states clearly that in 1998 in the course of a research mission to Tanzania it made "preliminary inquiries" into the allegations.³³ The statement further states that "while the organization was unable to substantiate that over 50 miners may have been killed, a Memorandum submitted to the Tanzanian government following the research mission did indicate that *there was compelling evidence to suggest that several miners may have been killed in the incident.*"³⁴ According to AI, its 1998 Memorandum then concluded that "... *the nature of any alleged deaths was clearly not accidental but the result of two governmental decisions – deliberate orders by government officials to evict the miners in violation of a court order, and deliberate orders to carry out the sealing operation despite impassioned appeals that miners' lives were at risk and deaths were imminent....*"

It was on that basis that AI urged the Government of Tanzania to establish an independent and impartial commission of inquiry to ascertain whether and to what extent the rights of miners were violated in the Bulyanhulu eviction and bulldozing operation. "That", according to AI's statement, "continues to be the organization's position." Amnesty International had also called for the inquiry to "investigate the defiance by the Shinyanga Regional Commissioner and Police Commander of the court injunction, the decision to seal the mines, the reports of deaths, and the decision to terminate the search for any possibly trapped miners." It further suggested that the inquiry should "thoroughly and impartially

³³ See "Amnesty International's Position Regarding the Bulyanhulu Gold Mines Incident of August 1996", dated October 11, 2001.

³⁴ Ibid. Emphasis supplied.

investigate all claims of deaths of miners, for example by holding public sessions in the mining area to enable witnesses to give their testimony and by guaranteeing that they would not be subject to any reprisal.”

It further added that the inquiry should report its findings “publicly and, if appropriate, should recommend that any official found to have been responsible for violating human rights should be brought to justice, and that compensation should be provided to any victims of human rights violations by public officials.” AI maintains that its June 14, 1999 letter should not be read to mean that the organization “had withdrawn its preliminary conclusions or its recommendation for an inquiry, or would not review its position on the matter if new evidence became available.” AI also confirms my argument that the videotapes and documentary evidence we have recently acquired and made public was “previously unavailable.”

It also makes clear that, in principle, “*any new evidence indicating that miners had been killed by being buried alive as the result of the government bulldozing of the area in defiance of the court injunction should be thoroughly investigated, for example by an independent judicial body. If there are prima facie grounds for suspecting that miners were buried alive, Amnesty International stands by its recommendation that a full independent and impartial commission of inquiry should be established into the incident.*” To state, as you do, that AI has investigated these allegations “for several years” and concluded that it would not be “useful to proceed further” is, therefore, a complete misrepresentation of the facts and circumstances surrounding the AI’s communications on this matter which reflects poorly on a public agency such as MIGA.

- **DID THE LIBEL LAWSUIT BROUGHT BY BARRICK IN ENGLISH COURTS EXONERATE SUTTON RESOURCES AND KMCL**

You state that as a result of a libel suit brought by Barrick against the *Sunday Observer* of London that had carried the story of the killings that the *Observer* “confirmed in court that Barrick was not involved in any alleged deaths nor had Amnesty International found any evidence of their involvement.” With all due respect, Mr. Vice President, I find this argument disingenuous. You know as well as anybody who has looked at this matter that the allegations of the killings of the Bulyanhulu artisanal miners have never been directed to Barrick Gold Corporation. These serious allegations have all along been directed at KMCL which was then a wholly-owned subsidiary of the Vancouver-based Sutton Resources and since March 1999 a wholly-owned subsidiary of Barrick. As you will have seen from my letter to President Wolfensohn, the allegations I raised concerned KMCL rather than its current parent company, Barrick. In there as well

as in other correspondence with other institutions, I have only questioned Barrick's role in these events to the extent of its knowledge of these events both before and after its acquisition of Sutton Resources and KMCL and, consequently, of the Bulyanhulu Gold Mine. Which is to say that whether or not the English courts made the determinations you claim they did is irrelevant to this matter.

Although I cannot pretend to know the reasons behind the *Sunday Observer's* decision to settle the libel suit, I am made to understand that in fact the High Court of Justice of England did not make any finding at all in favour of Barrick's position. I am further made to understand that the defendants in that settlement did not conclude that the alleged deaths had not taken place. Moreover, it is my understanding that the only finding of court based on evidence presented before it was Barrick could not claim, as they sought in their suit, nor otherwise assert on the basis of the settlement, that no one died at Bulyanhulu. Indeed, I am made to understand, the Court warned Barrick not to claim such a conclusion and ordered the company not to use the *Observer's* statements nor its own to be read as saying the killings never happened. I hope you did not receive this information from Barrick for, if so, Barrick will have acted contemptuously of the Court's directive and order.

- **DO THE POLICE AND KMCL VIDEOTAPES DISPROVE THE ALLEGATIONS?**

You state that videotapes of the Bulyanhulu events do not "seem" to support the allegations. In my letter to President Wolfensohn, I had stated that I believed "the video and the photographs provide incontrovertible evidence that dozens of deaths and widespread damage to property occurred during the evictions, contrary to assertions by KMCL, Barrick, MIGA and the Tanzanian government (including the senior police officers seen viewing the exhumed bodies.)" I still stand by that conclusion. Indeed, since that letter was written we have obtained the KMCL videotapes of the events and contemporaneous police statements which have further strengthened my belief that not only did the miners die inside mine shafts but also that there appears to have been a massive cover up their deaths.

In short, as we have already stated herein, the company videotapes depict regional, district and KMCL officials, police and miners viewing dead bodies and elsewhere pulling out of a mine shaft the body of a dead miner and another miner is pulled out alive. Although the date function in the tape shows this to have taken place on September 12, 1996, it is clear that the events depicted must have taken place earlier and particularly after the news of the alleged killings had broken out in the press. As you may know, and as admitted by Barrick's Garver, the Inspector General of Police issued a statement on August 21, 1996, in which

he stated that “the miners have now vacated the area and the claim that 52 miners may have lost their life (sic!) as a result of being buried alive in the shafts is not true and this has proved to be so through investigations conducted by officers of the Criminal Investigation Department of the Police Headquarters.” The fact that the dead bodies are depicted towards the end of the videotape also appears to be consistent with eyewitness accounts and contemporaneous newspaper reports that the police investigations and efforts to exhume the bodies were allegedly discontinued after the evidence of the killings began to emerge.³⁵

- ON THE ALLEGED BENEFITS FROM THE BULYANHULU GOLD MINE

Again seemingly taking your cue from Barrick, you claim that there is considerable evidence that the “anticipated benefits from the mine have occurred or are in the process of being realized.” Although I fail to see the relevance of this claim to the issue at hand, i.e. the allegations that artisanal miners were killed during the 1996 evictions, I have no choice but to respond as follows. In project documents submitted to MIGA, Barrick and KMCL had acknowledged the importance of the artisanal gold mining to the local economy and the local communities and the negative impacts of the forced evictions in the following terms: “The artisanal mining activities had the positive effect on local households of providing additional income-earning opportunities, increasing disposable income and the number of income generators, and improving services such as transportation and shops.... The closure of small-scale mining had a major negative effect on economic activity, population and social development, which has been felt beyond the immediate mining area.”

Likewise, “... it is believed that before the closure of small-scale mines, the average income in the study area was the highest in the Shinyanga region. These have fallen since the closure of small-scale mining.”³⁶ Elsewhere in these project documents it is readily admitted that “the closure of illegal small-scale mining activities and related works at Bulyanhulu had an extensive impact on the

³⁵ See, for instance, A. Swilla, "23 feared buried by 'graders' in Bulyankulu", *Majira*, Monday, August 12, 1996; M. Islam and M. Rweyemamu, "Uncertainty reigns over the Kahama Killings: The number of those dead in the mines feared to reach 52: Photos of the dead sent to Dodoma: They were allegedly buried by graders", *Mtanzania*, Tuesday, August 13, 1996; S. Thani, "Exhumation of dead bodies stops in Bulyankulu", *Majira*, Tuesday, August 20, 1996; S. Thani, "Miners volunteer to exhume the Bulyankulu pits", *Majira*, Sunday, August 25, 1996; S. Thani, "The Bulyankulu survivor names the dead: claims four colleagues died", *Majira*, Friday, August 30, 1996; A. Mbogora, "The day hell broke loose at Bulyanhulu", *The Guardian*, Monday, September 9, 1996; see also A. Mbogora, "Final days at Bulyanhulu", *The Guardian*, Wednesday, September 11, 1996; "Miners Allegedly buried in Bulyankulu" *Mtanzania*, Friday, September 13, 1996; and S. Thani, "No one was buried in Bulyankulu - Kiwelu", *Majira*, September 17, 1996.

³⁶ Paragraph 8-2.

socio-economic aspects of local people's lives. The mine was a source of income to a majority of people, both genuine and 'illicit' activities and made life different for many. (These) economic (activities) stopped after the closure."³⁷ I read, in addition, that as a result of the artisanal mining operations, "the lives of the majority of the people in Kakola and the whole of Bugarama Ward became closely linked to mining activities at Bulyanhulu." According to these documents, "significant sums of money spent in local villages, various markets and businesses also greatly stimulated the development of a local cash economy. There has been a significant decline in such benefits since the departure of the artisanal miners."³⁸

Barrick also claims that its Bulyanhulu investment has helped to create 900 direct jobs. My quick calculations tell me that MIGA's US\$ 115.8 million political risk guarantee for Barrick would have created those jobs at the rate of US\$ 128,666.66 per job in Bulyanhulu! In other places this would be termed corporate welfare disguising as job creation. Barrick further claims that these jobs "are among the most coveted in the country" in view of the salary, benefits, training and experience associated with a job with KMCL.

These claims have to be taken cautiously as, according to press reports, hardly five days after the mine was officially commissioned by Tanzanian President Mkapa, than close to two thirds of the 26 qualified engineers quit the company citing "low wages, discrimination and mistreatment of local professionals."³⁹ The reports had it that the local engineers, all university graduates, had undergone internship training in South Africa but upon returning they were deployed as manual workers at a monthly salary of \$245. In contrast, "artisans from (Great) Britain, Canada, Australia and South Africa with lower qualifications earn \$4,400 per month, besides better housing."⁴⁰

In any case, 900 jobs amount to nothing when compared to Barrick's own estimates of 400,000 jobs and livelihoods that were destroyed as a result of Barrick's and KMCL's investment. Furthermore, Barrick's and KMCL's jobs are out of reach of the local communities whose livelihoods and jobs were destroyed in the first place. According to the *Social Development Plan* prepared by Barrick, "low levels of skills and literacy possessed by the local population will restrict

³⁷ See EIS, Vol. 3, paragraph 5-1.

³⁸ See EIS Vol. 1 paragraph E-6).

³⁹ See, F. Rwambali, "17 Engineers Quit Tanzania's Giant Kahama Mines", *The East African*, Friday, August 23, 2001.

⁴⁰ Ibid.

their ability to realise employment opportunities offered by the mining development and will also reduce their ability to seize entrepreneurial opportunities.”⁴¹

Barrick also claims that its investment is making “a major contribution” to sustainable economic growth and generates income and export earnings which is the key to breaking the cycle of dependency and unsustainable levels of debt in Tanzania. While the company does not give any data to substantiate these claims, evidence exists elsewhere which suggests that the Bulyanhulu investment may not only be an economic calamity for the local communities but does not also add much in terms of the country’s foreign exchange earnings. According to MIGA, the Bulyanhulu project will pay approximately \$75 million in taxes, royalties and duties to the government during the initial 15 years and procure some \$10 million in local goods and services per year. By contrast, statistics from the Government of Tanzania show that at the height of the small-scale miners’ operations in the period 1990-94, export earnings from gold were averaging about US\$ 30 million a year.

Given these unsolicited admissions by Barrick and KMCL and the evidence of wanton destruction of a viable local economy, I find it difficult to understand how a public agency like MIGA, whose stated mission is to help “reduce poverty by promoting foreign direct investment into developing countries”, could have become party to a venture that has increased economic hardships to local communities in a poor country like Tanzania. I could go on and on to cite examples from the company’s own records and from other sources but then that will be giving too much credence to issues that should have been left out of this debate because they are not really relevant to the matters at hand.

- **LEAT’S EVIDENCE ESTABLISHES *PRIMA FACIE* CASE FOR INDEPENDENT INQUIRY OF THE ALLEGATIONS OF THE KILLINGS.**

After over two years of its own investigations, LEAT has collected not only the documentary background not publicly disclosed by Barrick and KMCL, but also the following information from eyewitnesses and family members of the dead miners and from other documentary sources:

1. A list of 36 names of the miners who were allegedly buried alive in mine pits in the course of the events of August 1996. Four other miners were allegedly

⁴¹ See SDP at page 36.

shot dead by the police while resisting their forcible eviction while others were allegedly buried alive in pits when shaft filling took place. Apart from these, there are eyewitness accounts that allege that about 22 other miners whose identities remain unknown were also killed inside the mine pits. Then there are eyewitness accounts to the effect that an indeterminate number of other miners who were inside the pits when back-filling took place and who are feared to have died.

2. The numbered pits where the miners died and the names of former owners of those pits as well as names of surviving family members and their whereabouts. Indeed, we have names of survivors, eyewitnesses and family members of the dead miners who are prepared – if an open and independent investigation were allowed – to show investigators where their loved ones perished and lie buried.
3. Copies of written testimony of survivors, eyewitnesses and family members of the dead miners both contemporaneous and more recent.
4. Names of government officials from the Ministry of Minerals and Energy, senior police officers, senior regional and district administrators and senior officials from KMCL and Sutton Resources who are alleged to have had a hand in the events that led to the alleged killings and in the ensuing cover up of the crimes. The names and identities of these individuals have already been made public in a recent open letter to the Tanzanian President sent by LEAT.
5. Eyewitness accounts that suggest that the information given by artisanal miners to the police and KMCL officials once back-filling began to the effect that there were other miners still inside the mine pits was dismissed and that subsequent attempts to rescue those trapped underground - some of whom were said to still be alive and crying out for help - were thwarted by the police and KMCL officials present.
6. Videotapes shot during the eviction operation and subsequent to the emergence of the allegations of the killings in the Tanzanian press. It is worth repeating that these videos show, among other things, the process of eviction and widespread destruction of property that was occasioned by KMCL and the Tanzanian government agencies. Even more revealing, the videos show bodies of dead miners as we have shown.
7. Numerous photographs of over a dozen dead bodies taken in various localities of the Bulyanhulu mines immediately after the evictions and eventual sealing of mine pits by KMCL. As well as these there are

photographs that indicate widespread damage to property that occurred during the evictions.

You will hopefully appreciate the fact that given the recent events in which our offices and homes have been raided, evidence confiscated and arrests made; that given threats of sedition charges being filed against us; and given heightened intimidation and threats against persons who have supplied information to LEAT and recent attempts to buy off potential eyewitnesses on the part of the Tanzanian government officials and KMCL employees, agents and operatives that have occurred since LEAT first made its evidence public, we are reluctant to release the names and identities of the dead persons, eyewitnesses and family members of the deceased unless and until we are firmly assured that these acts of intimidation and threats and attempts to tamper with potential witnesses have ceased and their personal safety is guaranteed.

In the end, I believe that in view of this new evidence and in view of the deplorable conduct of the companies involved, there is every reason for MIGA to suspend, with immediate effect, the political risk guarantee that it issued to Barrick last year until the following actions have been taken:

1. An international commission of inquiry composed of persons of undoubted integrity and independence is established to thoroughly inquire into, and make recommendations upon, the facts and circumstances of the events of August 1996.
2. An international panel of experts has been formed to undertake a thorough and unhindered exhumation of all the mine pits that are known or alleged to contain the bodies of the dead miners.
3. Proper and dignified burials befitting of human beings have been carried out without let or hindrance.
4. Reparations and full, fair and adequate compensation is paid to the families and relatives of all those who were killed or maimed; and to all those who lost property and whose sources of livelihoods were destroyed without recompense.
5. Decisive and immediate legal measures are taken by the Governments of Tanzania and Canada to bring to book all those who are known, or may be known, to have directly, or indirectly, been responsible for the deaths that occurred in Bulyanhulu that fateful August 1996 or for subsequent attempts to cover up the deaths. This would also include the Canadian and Tanzanian officials of Barrick Gold Corporation, Sutton Resources and KMCL who held, or continue to hold, positions of authority in the companies named above both before, during or after the period in question.
6. A public and unreserved apology be given and widely published by the government of Tanzania, Barrick Gold Corporation and their Tanzanian

subsidiary KMCL to all the families and relatives of the dead miners, to the maimed and to the individuals and communities that lost property and their livelihoods as a result of the events of August 1996.

These are the minimum demands that I submitted to President Wolfensohn of MIGA and the World Bank Group on August 23, 2001. I remain steadfast in our belief that they constitute the basic framework for resolution of the serious allegations of human rights abuses in Bulyanhulu. Indeed I remain at a loss as to why both MIGA and Barrick Gold Corporation and the latter's Tanzanian subsidiary appear reluctant to accept independent investigation of the matters in contention. After all, these institutions have claimed that they did not become involved with the Bulyanhulu Project until 1999 when Barrick acquired KMCL and the application for political risk insurance was made to MIGA. One would have reasonably expected that if they did not have anything to hide they would have unreservedly embraced the principle of independent investigation so that these serious allegations are finally and conclusively determined and laid to rest.

I remain truly yours,

Rugemeleza A.K. Nshala

President

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