

To the Ministry of Finance

Recommendation of 14 August 2008

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1 Introduction

At a meeting held on 4 October 2005, the Council on Ethics for the Government Pension Fund – Global decided to assess whether investments in the company then known as Placer Dome, currently Barrick Gold Corporation, would imply a risk of the Fund contributing to severe environmental damage under the Ethical Guidelines, point 4.4.

As of 31 December 2007 the *Government Pension Fund – Global* held shares worth some NOK 1,274 million in the company.

Barrick Gold is a Canadian mining company, which, in several countries, has been accused of causing extensive environmental degradation. The Council has investigated whether riverine tailings disposal from the Porgera mine in Papua New Guinea generates severe environmental damage, and finds it established that the mining operation at Porgera entails considerable pollution. The Council attributes particular importance to the heavy metals contamination, especially from mercury, produced by the tailings. In the Council's view heavy metals contamination constitutes the biggest threat of severe and long-term environmental damage. The Council also considers it probable that the discharge has a negative impact on the population's life and health, including both the residents of the actual mining area and the tribal peoples who live along the river downstream of the mine.

The environmental damage that riverine disposal may cause are well known, but the company has not implemented any appreciable measures to prevent or reduce this damage. Neither has the company been willing to present data to underpin its allegations that environmental and health damage does not occur.

The Council started its survey of the Porgera mine in the autumn of 2005. In connection with Barrick Gold's acquisition of Placer Dome in 2006, the Council chose to defer further investigations in case the company would stop the riverine tailings disposal or implement other measures to reduce the pollution after the take-over of the mine. So far this has not happened, and the Council therefore decided to continue its assessment of the company in the autumn of 2007.

Through Norges Bank, the Council has made two enquiries to the company. In November 2007, the Council contacted the company requesting it to send the 2006 and 2007 environmental reports for the Porgera mine. The company declined the Council's request in a letter of 30 November 2007¹, presenting its viewpoints on the riverine tailings disposal, to which reference has also been made in this recommendation. On 7 April another letter was written to Barrick, giving the company an opportunity to comment on the Council's draft recommendation, in accordance with the Guidelines, point 4.5. The Council received the company's reply on 14 May 2008.²

In order for there to be a risk that the Pension Fund may contribute to severe environmental damage, there must be a direct connection between the company's operations and the environmental impact. The Council takes as its point of departure that the damage must be extensive, attributing importance to whether the damage causes irreversible or lasting effects

¹ Hereinafter referred to as Barrick's first letter to the Council.

² Barrick's letter is dated 25 April 2008, but was only received on 14 May. This letter is hereinafter referred to as Barrick's second letter to the Council.

and whether it has a considerable negative impact on human life and health. Moreover, an assessment must be made as to what extent the company's acts or omissions have caused the environmental damage, including whether the damage is in breach of national legislation or international standards. It is also significant whether the company has failed to act in order to prevent the damage or has neglected to take measures aimed at significantly reducing the scope of the damage. Last but not least, it must be probable that the company's unacceptable practice will continue in the future. Based on an overall assessment, the Council finds that these conditions have been met in the case at hand.

In accordance with the Ethical Guidelines, point 4.4, the Council has reached the conclusion that there are grounds for recommending that Barrick Gold be excluded from the Government Pension Fund – Global's investment possibilities, due to an unacceptable risk of contribution to ongoing and future environmental damage.

2 Sources

The Council has drawn on a large number of sources to assess the accusations levelled against Barrick's operation of the Porgera mine, including reports from domestic and international NGOs (in Australia, Canada, and Papua New Guinea), surveys and scientific papers related to environmental impacts from the mining operation, as well as other publicly accessible data.

Members of the Council's Secretariat have visited Papua New Guinea and had meetings with representatives from local NGOs, people who are directly affected by the mining operation, and experts with knowledge of the mine.

Barrick does not publish any figures relating to the discharges from the Porgera mine and provides little information in general on the environmental aspects of the operation. The Council has therefore, through Norges Bank, contacted Barrick requesting the environmental reports and discharge data for 2005 and 2006, which, according to Barrick's website, are publicly available. The company declined the Council's request in a letter dated 30 November 2007. At the same time, the company informed the Council about certain aspects of the riverine tailings disposal. Barrick has also commented on the Council's draft recommendation in a letter dated 25 April 2008, but did not present new reports or surveys. The company's viewpoints are cited later in this recommendation.

An important part of the background material has been the report "*Porgera Gold Mine. Review of Riverine Impacts*" from 1996. This study was carried out by *The Commonwealth Scientific & Industrial Research Organization (CSIRO)* at the request of the *Porgera Joint Venture*,³ after the mine had been operative for 5 years. This is still the most comprehensive environmental assessment that has been made of the mining operation to date.⁴ As a matter of fact, Barrick refers the Council to this report. The Council, however, has also had access to more recent material.

³ Barrick has a 95 per cent stake in the Porgera Joint Venture (PJV), which runs the mine; see chapter 5.

⁴ CSIRO 1996: *Review of riverine impacts. Porgera Joint Venture*. In 1995 PJV commissioned the Australian research institute CSIRO to make an environmental impact assessment of the mining operation on the river system downstream of the mine. The survey was comprehensive, covering the health and environmental effects of the discharge, assessing the risk of long-term impact and providing recommendations regarding measures, control and monitoring, as well as further surveys. In this recommendation the report is also referred to as the CSIRO report from 1996. It is on file with the Council.

To assess whether the mine generates ongoing and future environmental damage, the Council has commissioned independent experts in Australia and Norway to analyse the material at hand and the probability that the mining operation may cause severe and long-term environmental harm.

All sources are referred to in the footnotes of this recommendation.

3 The Council's considerations

The Council has assessed whether there is an unacceptable risk that the Government Pension Fund – Global contributes to unethical acts through its ownership in the Canadian mining company Barrick Gold. In particular, the Council has looked into whether Barrick Gold's operation of the Porgera mine in Papua New Guinea causes severe environmental damage.

In previous recommendations, the Council has elaborated on and specified the concept of severe environmental damage.⁵ The Council must make a concrete assessment of what is to be considered *severe environmental damage* in each case, basing itself on an overall evaluation with particular emphasis on whether:

- the damage is significant;
- the damage causes irreversible or long-term effects;
- the damage has considerable negative impact on human life and health;
- the damage is a result of violations of national laws or international norms;
- the company has neglected to act in order to prevent the damage;
- the company has not implemented adequate measures to rectify the damage;
- it is probable that the company's unacceptable practice will continue.

The Council would like to stress that *existing* and *future* violations are the ones covered by the Guidelines. This implies that one must assess whether there is a risk that the company's unacceptable practice will continue in the future. The company's previous actions may give an indication as to how it will behave in the future, and thus form a basis for the assessment of whether there is an *unacceptable risk* that unethical actions will occur henceforth. This also means that proof of future unethical actions is not required – it is sufficient to establish the existence of an unacceptable risk.

The concrete acts and omissions that Barrick Gold is accused of will be assessed with reference to the elements above.

⁵ See the recommendations regarding Freeport McMoRan Inc., DRD Gold Ltd. and Vedanta Resources plc.; available at www.etikkradet.no