



HUMAN RIGHTS IMPACT ASSESSMENT

OF THE BISHA MINE
IN ERITREA

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INTRODUCTION

The Bisha Mine is a gold-copper-zinc mine located approximately 150 kilometres west of the Eritrean capital city of Asmara. The Bisha Mine is owned and operated by the Bisha Mining Share Company (BMSC), a company incorporated under Eritrean law. BMSC is 60% owned by Nevsun Resources (Eritrea) Ltd. (NREL) and 40% owned by the Eritrean National Mining Corporation (ENAMCO). NREL is owned by Nevsun Resources Ltd. (Nevsun), which has its headquarters in Vancouver, Canada and trades on the Toronto and New York Stock Exchanges (TSX: NSU/NYSE: NSU).

BMSC has developed a number of detailed policies that provide a framework for corporate social responsibility (CSR) at the Bisha Mine and that include the environment; health, safety and security; social responsibility; employment relations; and a code of conduct. These policies flow from the corporate social responsibility commitments that Nevsun has made, as well as the provisions in Eritrea's Mining Proclamation, the Mining Agreement between Eritrea and BMSC, and other relevant Eritrean laws, and have been adapted to address the operational context at the Bisha Mine. Further information about CSR commitments and practices at the Bisha Mine are available in the annual Corporate Social Responsibility reports that have been published since 2011, the year the mine began production.

Nevsun is committed to various international standards relevant to human rights, including: the International Finance Corporation (IFC) Performance Standards; the Voluntary Principles on Security and Human Rights; and the Global Reporting Initiative. These represent three of the international CSR performance guidelines included in the Government of Canada's CSR policy adopted in 2009 for Canadian extractive companies operating abroad.

As part of its ongoing internal review of material risks and its dialogue with external stakeholders, human rights have been identified as a priority for ongoing due diligence at the Bisha Mine. Therefore, Nevsun commissioned a human rights impact assessment (HRIA) to better understand the risks and impacts of the Bisha Mine on affected stakeholders and to investigate where human rights principles and best practices can be further embedded in BMSC's policies and procedures. ENAMCO fully cooperated with the conduct of the HRIA.

In accordance with the emerging guidance for the conduct of HRIAs, the assessment was explicitly based on the international human rights framework and was driven by consultation and engagement with affected stakeholders. The HRIA was based upon the methodologies developed by credible international organizations and adapted their guidance, steps, questions and indicators to the operational context at the Bisha Mine.

The research for the HRIA was conducted by LKL International Consulting Inc. between July 2013 and January 2014, with two visits to Eritrea and the Bisha Mine. While the HRIA is based on a comprehensive approach to human rights issues and to interviewing as many affected stakeholders as possible, the assessment's findings are limited to what was possible to be researched and observed during this time frame. In some instances, it was not possible to gather conclusive information about past practices at the mine. The approach taken to these limitations is not to try and confirm or deny past allegations, but rather to focus on reinforcing the grievance mechanisms and stakeholder engagement processes related to the Bisha Mine—so that individuals who have past, present, or potential human rights concerns may have them addressed in an effective and credible manner.

ASSESSMENT OF HUMAN RIGHTS ISSUES AT THE BISHA MINE

Any discussion of human rights at the Bisha Mine must take into account the national context of Eritrea, which presents human rights challenges in terms of national security, international relations and development.

Modern-day Eritrea emerged out of an armed struggle for independence with Ethiopia in the early 1990s, and some of its border areas are still subject to dispute and occupation. While the local communities and region surrounding the Bisha Mine appear to be quite safe and peaceful, the national security challenges affect the perception and reputation of the mine: "prolonged national service" has raised questions and allegations about the potential for forced labour by BMSC's subcontractors; "unnecessary expenditures for defence" have played into a broader discussion about how the economic contributions from the mining sector are being used; and "undesirable delays in the constitutional process" raise concerns related to governance and the rule of law.

The fact that human rights are a highly sensitive issue in Eritrea's international relations has implications for BMSC. The contested nature of international human rights in Eritrea means that it is often more fruitful and constructive to speak about underlying human rights principles, relevant domestic laws, and BMSC policies than to focus on the prevailing opinions of the international community. Furthermore, since BMSC's majority owner is a Canadian corporation, there are additional international dynamics given Canada's strained diplomatic relations with Eritrea. Indeed, the Bisha Mine has been the subject of hearings by Canada's House of Commons Subcommittee on International Human Rights.

Eritrea faces many important challenges related to poverty and development that constrain its ability to progressively realize economic, social, and cultural rights. Therefore, the creation of jobs, skills and economic opportunities by the Bisha Mine take on added significance in this context. Furthermore, the mine's royalties, taxes and revenues represent a considerable potential contribution to infrastructure and social programmes at the local and national levels. However, the UN Security Council has cited Eritrea's mining sector as a potential source of destabilisation funding in the Horn of Africa region in a 2011 resolution. Although these concerns are contested by the Eritrean Government, they nonetheless reinforce the necessity for BMSC to take proactive measures about disclosing the payments it makes to the Eritrean Government to avoid accusations of indirect responsibility or complicity. Some of these concerns are reinforced by the fact that the Bisha Mine is Eritrea's first modern mine and is a lightning rod for broader debates about the role and impacts of the mining industry in Eritrea. There are currently other mining projects in the exploration and development phases.

1. LABOUR RIGHTS AND WORKING CONDITIONS

Labour rights and working conditions are a fundamental issue of any HRIA given the direct relationship that business enterprises have with their workers. Many of the questions and indicators in HRIA tools and methodologies are focused on the risks and impacts to workers.

a. National Service Programme

Since 2009, BMSC has implemented screening procedures and dialogue with the management of its main suppliers, contractors and subcontractors to implement the prohibition against using national service programme workers at the Bisha Mine. The dialogue and screening procedures were first developed with respect to Segen Construction and have also been implemented with respect to other important contractors such as Transhorn Transportation and Binae Security.

Based on a review of the various suppliers, contractors and subcontractors at the Bisha Mine, ongoing engagement should be maintained with SENET (BMSC's engineering, procurement and construction management (ECPM)

contractor), Segen Construction, Transhorn Transportation and Binae Security, and BMSC's procurement policy and procedures should serve to identify opportunities to engage with new suppliers.

Contractual provisions prohibiting the use of national service employees reinforce the dialogue and screening procedures for suppliers, contractors and subcontractors. These provisions appear in the main contracts governing the relationships between BMSC, SENET, Segen Construction and Binae Security. Ongoing attention should be paid to opportunities to add such provisions when new contracts are signed and existing contracts are renewed or renegotiated.

The engagement with suppliers, contractors and subcontractors about national service workers represents a constructive entry-point for a more comprehensive strategy for human rights due diligence in the Bisha Mine's supply chain.

BMSC's intention to create a Contract Manager position is a positive step and can serve as a focal point with clear responsibility for engagement with suppliers, contractors and subcontractors, including for coordination with SENET. This focal point should take a role in ongoing inspection and maintenance of records related to discharge from national service.

b. Workplace Health and Safety

Workplace health and safety is an area of ongoing risk due to the nature of mining operations. However, workplace health and safety risks are being addressed in a responsible manner through rigorous policies, procedures, training and inspection that have combined into the development of an effective safety culture. Stakeholder concerns about lack of adequate PPE for employees, contractors and subcontractors at the Bisha Mine do not appear to be justified at present.

One area for further attention relates to road safety on the public roads between the mine site, local communities, Asmara and Massawa. In particular, there have been more road accidents since the transition to the copper phase and the ramp-up to around-the-clock hauling of copper concentrate: 9 accidents (none of which have resulted in any injuries) have been reported between October 2013 and March 2014. While BMSC has policies in place with respect to safe vehicle operation, it is more difficult to enforce these policies outside the mine site, and there are many variables beyond the company's control. Greater road safety awareness and enforcement would necessarily involve collaboration with government agencies (i.e. Ministry of Public Works, Transport and Communications, the police and local organisations).

c. Wages, Hours, Leave and Benefits

There is no statutory minimum wage in Eritrea and little comparative information about national wage levels; however, all workers and stakeholders stated that wages at the Bisha Mine are attractive and higher than those paid in other sectors.

The Eritrean Labour Proclamation generally accords with basic international standards for hours, holidays and leave for workers undertaking shift work, and BMSC follows the Eritrean Labour Proclamation quite strictly.

The development of other mines in Eritrea will put pressure on BMSC to ensure that remuneration and benefits remain attractive in order to retain employees who may choose to work at other mines in a less remote location. This will become an issue where actively supporting the right to just and favourable working conditions and related rights should be seen as a competitive advantage.

Although closure is still over a decade away, the lack of retirement benefits creates a risk of potential negative impacts on workers' right to social security. At the national level, this right has only been addressed recently through the Ministry of Labour and Human Welfare's efforts to create a voluntary Provident Fund for workers. This is an issue that should be considered in closure planning and explored through dialogue with the Ministry and workers.

d. Freedom of Association

The right to freedom of association and collective bargaining are protected by the Eritrean Labour Proclamation and these rights can and have been exercised—as is evidenced by the collective agreements in place for a number of BMSC's suppliers, contractors and subcontractors.

Discussions with internal and external stakeholders suggest that there are ongoing informal discussions about the formation of employee associations for the mining industry, including with respect to the Bisha Mine. It is foreseeable that these informal discussions may eventually result in a formal request to BMSC—which will test its support for the rights related to freedom of association and collective bargaining.

e. Non-Discrimination

There is no evidence of discrimination between male and female employees at the Bisha Mine. While women are employed primarily in traditional roles such as housekeeping and the kitchen, there are a growing number of women advancing into operational roles through the training programmes offered at the mine. Even local women who are employed in entry-level positions have challenged traditional roles and cultural values to work outside of the home.

These women represent individual success stories and testify to the respect and support of their rights by BMSC.

The requirements for priority hiring of Eritreans that are being implemented at the Bisha Mine are another facet of non-discrimination and also support the right to work. BMSC is currently exceeding its contractual targets with 91% Eritreans in the workforce.

The successful integration of female and male Eritreans into the workforce, as well as their skills development and promotion (with a view to gradually replacing some of the expatriate workers), is contingent upon training and capacity-building. In this regard, the Bisha Mine's training centre has an important role to play in respecting and supporting the right to non-discrimination, the right to work and the right to education.

f. Harassment

BMSC has strict policies against harassment and procedures to raise complaints confidentially to the human resources department. Interviews with employees—in particular, with female employees—did not raise any issues or previous incidents of concern. Nonetheless, this is an area that deserves ongoing attention through induction training on the harassment policies and procedures, as well as monitoring of the internal employee grievance mechanisms for any incidents.

g. Child Labour

There is no evidence of child labour at the Bisha Mine and BMSC has appropriate human resources screening procedures in place to ensure employees are at least 18 years of age, which meets the standards in Eritrean and international labour law for work at a mine.

2. HUMAN RIGHTS AND LOCAL COMMUNITIES

a. Human Rights Related to the Environment

BMSC has adopted a responsible and progressive approach to environmental management by adopting the IFC Performance Standards and updating them in line with the 2012 revision of these standards. This is one of the areas where BMSC is committed to going beyond compliance with domestic legal standards and implementing international standards and best practices.

Detailed Environmental Management Plans in line with IFC Performance Standards (2012) have been developed, including timelines, indicators and responsibilities for implementation and monitoring. Implementation of these plans has been delayed, in part due to personnel changes in the Environmental Department. However, BMSC's commitment to their implementation as an ongoing priority appears to be genuine and shared across management.

Interviews with community leaders from the nearby villages did not identify environmental issues as a concern—apart from the most visible impacts such as dust and noise related to the transportation route. However, internal and external experts have identified water-related issues as a leading long-term risk from an environmental and business perspective. Any impacts on water availability, accessibility and quality related to the mine’s production needs or potential pollution also amount to human rights impacts. Therefore, human rights provides an additional rationale for BMSC to prioritise water-related impacts for ongoing due diligence.

b. Community Development

BMSC has made policy and contractual commitments to support community development and community leaders have taken note of these commitments. While BMSC has developed a Community Assistance Plan (CAP) as part of its social management plans, the CAP has not yet been implemented. This deprives BMSC of a valuable mechanism to address potential risks to human rights and/or support human rights, as well as to contribute to national, regional and local development goals. The Implementation of the CAP as a matter of priority will help to maintain goodwill with the community leaders and can help the Bisha Mine set another important precedent for responsible mining in Eritrea.

3. CROSS-CUTTING HUMAN RIGHTS ISSUES

a. Security and Human Rights

While external perceptions about the situation in Eritrea raise concerns about security and human rights, the operating environment at the Bisha Mine and in surrounding communities appears to be safe, calm and peaceful.

There are interactions between the Bisha Mine and public and private security forces. Therefore, it is appropriate that BMSC has integrated the Voluntary Principles on Security and Human Rights into its security policy and is implementing further training on these principles. Moreover, the Voluntary Principles are one of the other areas where BMSC has made a commitment to international good practice standards and which can provide a good example and learning opportunity for the Eritrean mining industry.

b. Grievance Mechanisms

Developing effective operational grievance mechanisms are a critical component for providing access to remedies and meeting the corporate responsibility to respect human rights. BMSC has developed a number of grievance mechanisms with the objective of providing access to remedies to different stakeholder groups, including its own workers, local community members, and subcontractors. In addition, Nevsun has clarified that its Whistleblower Policy is open to external stakeholders, including those outside of Eritrea.

Just as the Bisha Mine is relatively young, so are these grievance mechanisms. It is still necessary to promote them to the relevant stakeholders and to explain the procedures for using them. The process of consulting with stakeholders provides an opportunity to make adjustments to the design of the grievance mechanism with a view to ensuring their effectiveness and credibility.

It is important to coordinate the tracking of all the grievance mechanisms to ensure appropriate follow-up actions are taken and that any trends can be ascertained for a more proactive response. The coordinate tracking of the various grievance mechanisms should also facilitate ongoing reporting and dialogue about how issues have been addressed.

ONGOING HUMAN RIGHTS DUE DILIGENCE AT THE BISHA MINE

BMSC and the Bisha Mine have many solid building blocks in place for ongoing human rights due diligence. These elements are identified and assessed in line with the operational requirements of the UN Guiding Principles on Business and Human Rights, as well as emerging guidance on good practices for companies in the extractive sector.

1. POLICY COMMITMENT

Human rights and related issues are included in the Nevsun Code of Ethics and the BMSC operational policies. These policies have been approved by Nevsun and BMSC Board of Directors, and are publicly available on the Nevsun website.

BMSC may consider some of the following approaches for strengthening ongoing due diligence:

- Update the BMSC operational procedures to strengthen explicit references to human rights.
- Explain how human rights are embedded in the operational policy framework in updated employee training and ongoing engagement with stakeholders.

At the corporate level, Nevsun may also consider updating the Nevsun Code of Ethics to make the overarching commitment to human rights more explicit, for instance in a separate section of the Code of Ethics, and include reference to the UN Guiding Principles and other relevant CSR standards that should guide all operations.

2. ONGOING HUMAN RIGHTS DUE DILIGENCE

a. Assessing Actual and Potential Human Rights Impacts

A Social and Environmental Impact Assessment (SEIA) was undertaken for the Bisha Mine as part of the licencing process. The SEIA's environmental and social management plans are being updated to reflect the revised IFC Performance Standards. BMSC has also undertaken this stand-alone HRIA.

BMSC and Nevsun may consider some of the following approaches for strengthening ongoing impact assessment processes:

- Integrate human rights considerations into ongoing environmental and social impact assessment and management plans.
- Develop internal human rights capacity through ongoing training and/or hiring induction processes.
- Undertake targeted assessments of suppliers, contractors or subcontractors.
- Update the HRIA on a periodic basis or when there are significant changes to operations.
- Consider engagement with external and internal stakeholders about the HRIA's findings and recommendations to validate the assessment, identify gaps and build awareness and dialogue about proposed actions.
- Update the stakeholder identification and analysis, including identification of vulnerable and disadvantaged groups, to ensure that stakeholder engagement and impact assessment processes take into account their rights, interests and concerns.
- Ensure that the stakeholder database is capturing relevant information about ongoing consultation with stakeholders in order to facilitate ongoing assessment of potential human rights impacts.
- Monitor grievance mechanisms for issues and trends that can help identify potential and actual human rights impacts.

b. Integrating and Acting

BMSC's environmental and social management plans contain action plans with timelines, responsibilities and indicators. These plans provide a strategic entry-point for integrating and acting upon the findings of the HRIA. Dialogue has also been established with ENAMCO and Eritrean suppliers, contractors and subcontractors in relation to human rights and related issues.

As this is the first HRIA for the Bisha Mine, the integration stage is forthcoming. The HRIA process has built awareness and dialogue on these issues with internal and external stakeholders, including business partners and government representatives that can facilitate collaborative approaches to integrating and acting upon the findings.

BMSC and Nevsun may consider some of the following approaches for integrating and acting upon the findings of the HRIA:

- Develop an action plan that sets out the commitments, timelines and actions planned to integrate and act upon the findings of the HRIA.
- Integrate the HRIA findings insofar as possible into the environmental and social management plans.
- Conduct workshops on the findings of the HRIA with key departments about integration into their responsibilities and work plans.
- In addition to an induction training module on human rights, develop more advanced human rights-related training modules for key departments.
- Continue dialogue, training and capacity-building initiatives with business partners, suppliers, contractors and subcontractors.

c. Tracking Responses

BMSC has developed indicators for the environmental and social management plans, which can be supplemented by human rights indicators that are relevant to tracking and reporting according to the GRI. BMSC has dedicated Community Liaison Officers and a Stakeholder Engagement Plan for ongoing consultation with surrounding communities, as well as various informal and formal mechanisms exist for consultation with employees. BMSC has templates and processes for various forms of internal and external reporting, including weekly, monthly, quarterly and annual reports. BMSC has various external reviews and audits that can help track relevant issues and validate company responses. Nevsun also has ongoing dialogue with external stakeholders related to CSR and human rights issues.

BMSC and Nevsun may consider some of the following approaches for tracking responses on human rights:

- Prepare periodic progress reports on the implementation of the human rights action plan.
- Ensure that human rights issues and indicators are included in relevant internal reports (weekly, monthly, quarterly, etc.).
- Use feedback from external audits to ensure that issues are being tracked and that standards are being met. Consider initiating certification processes where there are policy commitments that commit BMSC to international standards.
- Develop a mechanism to ensure that information from ongoing consultation with stakeholders is being compiled and assessed for potential human rights impacts.
- Monitor grievance mechanisms for trends that can help identify human rights impacts.

d. Communicating Externally

Nevsun provides formal reporting on human rights issues in its annual CSR report, which is prepared in accordance with the GRI Sustainability Reporting Framework. BMSC operational policies commit to external reporting to communities, and the Stakeholder Engagement Plan contains structured stakeholder engagement activities that provide ongoing opportunities for external communication on progress. BMSC has committed to publish a summary of the HRIA report. The HRIA report has been prepared in a manner to protect stakeholder identity and commercial confidentiality.

BMSC and Nevsun may consider some of the following approaches for communicating externally on the actions taken in follow-up to the HRIA:

- Consider translating the summary of the HRIA into national languages for local workers and communities.
- Maintain an ongoing dialogue with external and internal stakeholders about the HRIA and ongoing implementation of the HRIA action plan.
- Continue to report upon human rights in the annual CSR report.

3. REMEDIATION

BMSC has grievance mechanisms for employees and communities to raise concerns. In the Stakeholder Engagement Plan, there are actions planned to develop new standard operating procedures, provide training and develop awareness materials on the grievance mechanism. BMSC has developed a specific grievance procedure to address allegations of forced labour at Segen, and is in the process of consulting with Segen workers and managers on the implementation of the mechanism. Nevsun has clarified that its Whistleblower Policy is available to external stakeholders and was recently amended to include non-financial Code of Ethics matters.

BMSC and Nevsun may consider some of the following approaches for communicating externally on the actions taken in follow-up to the HRIA:

- Review the grievance mechanisms to ensure that they are coordinated and implemented in accordance the UN Guiding Principles on Business and Human Rights.
- Continue to raise awareness about the grievance mechanisms with internal and external stakeholders.
- Consult with stakeholders to ensure that there are no barriers to access.
- Ensure that procedures are clear and followed consistently.
- Make use of independent experts or facilitators to support the resolution of grievances.
- Track and report upon use of grievance mechanisms and their resolution.
- Ensure that use of grievance mechanisms do not preclude use of judicial and non-judicial mechanisms.

CONCLUSIONS AND RECOMMENDATIONS

One of the recurring themes from interviews with stakeholders is how the Bisha Mine is “a precedent”: Being the first modern mine in Eritrea brings challenges, opportunities and responsibilities. Some stakeholders are critical of the Bisha Mine because of the human rights challenges in Eritrea, and other stakeholders praise the Bisha Mine for providing new opportunities for individuals, communities, and the country. One area of agreement is that stakeholders expect that the Bisha Mine is to operate responsibly and to do no harm to workers and communities. In other words, to respect human rights.

Nevsun has taken a very positive step in commissioning a human rights impact assessment. The undertaking to publish the HRIA of the Bisha Mine and engage with stakeholders about its findings, recommendations and follow-up should be commended. This sends an important signal that the commitment to human rights at the Bisha Mine is more than words on a piece of paper, but is something fundamental to its ongoing operations, relationships and values.

Detailed conclusions regarding specific issues are contained within the relevant sections of this HRIA report.

The following are some recommendations to support ongoing due diligence for human rights at the Bisha Mine.

1. ADOPT AND EMBED A MORE EXPLICIT HUMAN RIGHTS POLICY

The recommended option is for Nevsun to integrate a separate and distinct human rights section in its Code of Ethics, and to embed some additional human rights language in the existing BMSC policies. As important as these new words on paper may be, the signal of commitment from the most senior levels of Nevsun management is what counts.

2. CONDUCT FURTHER HUMAN RIGHTS TRAINING AT BISHA

There is a thirst for capacity-building and training within the workforce at the Bisha Mine, and the new training centre provides an excellent venue to educate workers about BMSC's human rights commitments and what they imply in their day-to-day roles and responsibilities. Some of the most promising opportunities for integrating human rights into training at the Bisha Mine include: (1) an introductory module on human rights during the induction training (chalk-board

module for local employees and on-line module for ex-pats); (2) specialized training on security and human rights in relation to the Voluntary Principles; and (3) conducting human rights workshops with key departments about operational implications of human rights.

3. INTEGRATE HUMAN RIGHTS CONSIDERATIONS INTO THE IMPLEMENTATION OF THE 2012 IFC PERFORMANCE STANDARDS AT THE BISHA MINE

This is one of the most strategic entry-points for ongoing human rights due diligence at the Bisha Mine. Furthermore, there is an excellent opportunity for human rights to be integrated into the management plans that have recently been developed for IFC Performance Standards (2012). This exercise can help break down the broad human rights commitments into more detailed and measurable actions and indicators that can be tracked over time. The integration of human rights into social and environmental management plans also helps ensure that these considerations can be managed within existing human and financial resources.

4. ENGAGEMENT ON HUMAN RIGHTS WITH SUPPLIERS, CONTRACTORS AND SUBCONTRACTORS

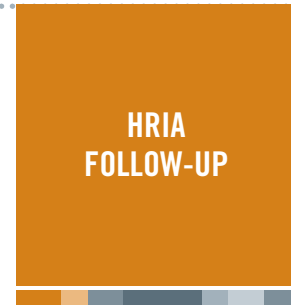
Engaging with suppliers, contractors and subcontractors on human rights is an expectation of stakeholders, and is also a sign of a maturing approach when BMSC can address issues “outside the fence” as confidently as it manages issues “inside the fence.” The dialogue and screening procedures and grievance mechanism developed with Segen Construction should be transposed to deeper engagement with contractors such as Transhorn Transportation and Binae Security. Screening and monitoring efforts should be coordinated with SENET. BMSC contracts and procurement agreements should be tracked and revised to including human rights provisions where appropriate.

5. DEVELOP A FRAMEWORK AND PROTOCOLS TO ENSURE THE EFFECTIVE IMPLEMENTATION AND COORDINATION OF ALL GRIEVANCE MECHANISMS

In essence, this involves appointing a focal point to ensure that the various grievance mechanisms are coordinated. In the short term, it would be useful to promote the grievance mechanisms with the intended stakeholders to ensure that they are credible and meeting their objectives. Further coordination and refinement between the mechanisms should help BMSC identify trends, adopt proactive approaches and facilitate tracking and reporting.

6. CONTINUE DISCUSSIONS ABOUT IMPLEMENTING THE COMMUNITY ASSISTANCE PROGRAMME

This is a strategic mechanism for BMSC to address human rights concerns and support development at the community level, as well as to strengthen stakeholder engagement through dialogue and collaboration about projects.



NEVSUN'S COMMITMENT

In addition to making this Summary publicly accessible, Nevsun has committed to the following activities with respect to the HRIA:

- Providing a public response to the HRIA
- Developing and sharing an action-plan resulting from the HRIA process
- Ongoing stakeholder engagement regarding the contents of the report
- Continuing to report on human rights in its Corporate Social Responsibility (CSR) Report

SECTION ONE

CORPORATE SOCIAL RESPONSIBILITY AND A HUMAN RIGHTS IMPACT ASSESSMENT AT THE BISHA MINE

This report presents the findings, conclusions, and recommendations of a human rights impact assessment (HRIA) of the Bisha Mine in Eritrea, East Africa. The HRIA was commissioned by Nevsun Resources (Nevsun) and the Eritrean National Mining Corporation (ENAMCO); the owners of the Bisha Mining Share Company (BMSC), which owns and operates the Bisha Mine. The HRIA was conducted by LKL International Consulting Inc. between July 2013 and February 2014 and included two visits to Eritrea and the mine site.

In the first section of the report, there is a discussion of the ownership and operations of the Bisha Mine and the national context in Eritrea. This is followed by a description of the corporate social responsibility (CSR) policies and procedures that provide the current framework for operations the Bisha Mine, the rationale for undertaking a HRIA, and the methodology used for the assessment.

The second section of the report presents an analysis of the human rights issues that are relevant to the Bisha Mine. This involves a discussion of how human rights standards are reflected in Eritrean laws and BMSC policies and procedures, as well as feedback from stakeholders about the current operational practices at the Bisha Mine.

In the third section of the report, there is a discussion of the responsibilities of BMSC for ongoing human rights due diligence with respect to the Bisha Mine. This focuses on how human rights can be further embedded in BMSC's management systems, corporate reporting practices, grievance mechanisms, and business relationships.

Finally, the report presents a number of conclusions and recommendations to help ensure that human rights are respected by BMSC and that the Bisha Mine sets a good precedent for the mining sector in Eritrea.

1. THE BISHA MINE

The Bisha Mine is a gold-copper-zinc mine located approximately 150 kilometres west of the Eritrean capital city of Asmara.

The Bisha Mine is owned and operated by BMSC, a company incorporated under Eritrean law. BMSC is 60% owned by Nevsun Resources (Eritrea) Ltd. (NREL) and 40% owned by ENAMCO. NREL is owned by Nevsun Resources Ltd. (Nevsun), has its headquarters in Vancouver, Canada and trades on the Toronto and New York Stock Exchanges (TSX: NSU/NYSE: NSU).



TIMELINE OF THE BISHA MINE

1996	Ophir Ventures (a Canadian exploration company) conducted prospecting work in the region and discovered the Bisha deposit
1998	Nevsun Resources (Eritrea) Ltd. was incorporated and granted a prospecting license
2002	The Bisha Main Zone was discovered through Nevsun exploration
2004-2006	Follow-up drilling further delineated the Bisha deposit
2006	BMSC was incorporated under Eritrean law. As part of the mine licensing process, a Socio-Economic and Environmental Impact Assessment (SEIA) was conducted and submitted to the Eritrean Ministry of Energy and Mines
2007	The SEIA report was reviewed by the Impact Review Committee within the Eritrean Ministry of Land, Water and Environment
2008	The Bisha mining licence was issued to BMSC in May and mine construction began in September. A permit was granted for the use of water from the Mogaraib River, including the construction of water diversion structures
2011	Commercial gold production began and construction of the copper processing plant began
2013	Gold production began to wind down and copper production commenced
2014	Current guidance predicts 180 million pounds of copper will be produced
2014-2015	BMSC will advance its zinc expansion project, with target start-up in Q4 2015
2025+	Predicted closure and reclamation phase; this timeline could be extended if other deposits are found through ongoing exploration

2. CORPORATE SOCIAL RESPONSIBILITY AT THE BISHA MINE

BMSC has developed a number of detailed policies that provide a framework for corporate social responsibility (CSR) at the Bisha Mine and that address the environment; health, safety and security; social responsibility; employment relations; and a code of conduct. These policies flow from the corporate social responsibility commitments that Nevsun has made and have

been adapted to address the operational context at the Bisha Mine. As will be discussed below, many of the specific provisions of these policies are relevant to human rights. Furthermore, the policies incorporate references to international standards and best practices in several places.

The following table provides an overview of the main policies that are currently implemented at the Bisha Mine.¹

TABLE A: BMSC POLICIES RELEVANT TO CSR AND HUMAN RIGHTS

POLICY	KEY PROVISIONS	INTERNATIONAL STANDARDS
Environmental Policy (Policy 1)	<ul style="list-style-type: none"> • Compliance with environmental laws and regulations and industry best practice standards • Commit the necessary resources to implement the environmental policy • Establish and maintain an Environmental Management System in line with ISO 14001:2004 • Continual improvement in environmental performance by developing environmental indicators, monitoring and auditing performance, and by implementing corrective actions • Report externally on environmental performance and encourage dialogue with employees, local communities and other stakeholders to promote environmental awareness • Include environmental performance criteria in decisions on promotions, salary increases and awarding contracts • Apply the principles of BAT (Best Available Technology) • Reduce, re-use and recycle resources and implement proper waste management practices • Train, motivate and ensure that all employees adhere to environmental protection and pollution prevention policies • Incorporate an emergency preparedness and response system • Monitor and report on performance through periodic audits 	<p>ISO 14001:2004</p> <p>The environmental and social management plans have been developed in line with IFC Performance Standards, and have been updated to reflect the 2012 revision of the IFC Performance Standard</p>
Health and Safety Policy (Policy 2)	<ul style="list-style-type: none"> • Recognises that the safety and security of its employees is an integral part of its business • Train and motivate all our people to work in a safe and responsible manner • Ensure that health and safety performance complies with relevant legislation • Establish and maintain a health & safety management system in accordance with the requirements of OHSAS 18001:2007 • Assist the local community in health awareness activities • Adhere to local laws, as well as international standards on law enforcement in securing its operations, particularly those that relate to the use of force • Carry out risk assessments in relation to security issues at each of its project sites • Ensure that security is managed in a way that respects and protects human rights, avoids creating conflict and addresses security threats in as peaceful a way as possible 	<p>OHSAS 18001:2007</p> <p>UN Code of Conduct for Law Enforcement Officials</p> <p>The site-level security policy has been developed that is based on the implementation of the Voluntary Principles for Security and Human Rights</p>

¹ These BMSC policies are available at: www.nevsun.com/pdf/corporate-code-policies.pdf

POLICY	KEY PROVISIONS	INTERNATIONAL STANDARDS
<p>Social Responsibility Policy (Policy 3)</p>	<ul style="list-style-type: none"> • Conduct business within a framework that promotes worker and community health and safety, environmental protection, human rights, community involvement, community benefits and the quality of life for employees and their families • Actively promote understanding by all BMSC employees, of culture, language and history of the communities, regions and countries in which we work • Work to protect cultural heritage resources potentially affected by our activities • Conduct activities in a manner that respects traditional-use rights, cultures, customs and social values • Promote job equity and equal access to employment opportunities for women • Build capacity by sharing environmental and social experiences and solutions with local communities and regional and national governments • Actively consult with local communities to identify and resolve environmental and social issues • Procure materials, goods and services in a manner that enhances local benefits and protects against unethical practices such as child labour and forced labour • Establish social responsibility performance criteria • Monitor and report externally on performance through periodic audits 	<p>The environmental and social management plans have been developed in line with IFC Performance Standards, and have been updated to reflect the 2012 revision of the IFC Performance Standard</p>
<p>Employee Policy (Policy 4)</p>	<ul style="list-style-type: none"> • Establish a sound human resources policy framework which meets all aspects of the Eritrean Labour Law and international labour standards and conventions • Ensure that conditions of employment adhere to the standards of freedom, security, equity and dignity • Ensure that involuntary labour is not used by BMSC or its contractors, specifically the use of Eritrean National Service personnel on extended service • Abide by minimum age laws and conventions and prohibit all forms of child labour • Not discriminate against potential or existing employees on the basis of religion, ethnicity, gender or other factors • Adopt recruitment procedures which facilitate the employment of people from the immediate Project area and local communities in the first place • Ensure fair entitlements, benefits and remuneration, of a level which is in keeping with Eritrean norms and laws and enables BMSC to attract and retain employees • Ensure effective employee administration and records management systems • Implement mechanisms for the fair and consistent measurement of employee performance • Provide avenues for the timely, confidential and appropriate resolution of employee grievances and complaints • Foster a culture of teamwork and cooperation within BMSC and the development of strong relationships between employees across all departments • Actively provide Company information to employees and consult with workers on issues that affect them • Provide appropriate training to ensure that each employee has the required skills and knowledge to perform their allocated duties in a safe and competent manner • Continuously develop and improve human resources management systems, policies and practices 	<p>Reference to international labour standards and conventions</p>

POLICY	KEY PROVISIONS	INTERNATIONAL STANDARDS
<p>Code of Conduct (Policy 5)</p>	<ul style="list-style-type: none"> • Health & Safety of Yourself, other Employees/Contractors and the Community: <ul style="list-style-type: none"> - Zero tolerance to crimes and violence - Disagreements must be resolved through appropriate legal channels - Vehicles must be operated safely and in accordance with established speed limits - No job should be undertaken if it is not safe • Private Property: <ul style="list-style-type: none"> - Respect the private property of others - Private property must not be removed, damaged or altered unless approval of the community and/or owner • Natural Resources: <ul style="list-style-type: none"> - Hunting wildlife is prohibited - The carrying of firearms, explosives is prohibited - Workers are forbidden to collect natural resources - Cutting trees within the mine property is against Ministry of Agriculture regulations - Vegetation that is permitted to be cleared from construction sites is the property of local communities - Workers shall dispose of waste in a responsible manner • Religious and Sacred Structures/Areas: <ul style="list-style-type: none"> - Respect the religious shrines and burial sites and practices of the local population - Do not disturb shrines and other religious monuments - Recognise that shrines and sacred sites may include trees, sheds, piles of pebbles, and piles of offerings - Follow procedures if chance finds are encountered • Alcohol and Illegal Substances: <ul style="list-style-type: none"> - An Alcohol and Substance Abuse Policy is in place - Alcohol consumption is discouraged - No illegal substances may be consumed and the use of medicines must be authorised - Random drug testing will be done • Avoid Micro-economic Distortion: <ul style="list-style-type: none"> - Avoid over-payment for goods and/or services - Goods and services must be paid for “on the spot” not on “credit” • Community Goodwill vs. Opportunity Seekers: <ul style="list-style-type: none"> - Respect the goodwill of the community; however care should be taken to not take advantage of this goodwill - Employees and contractors are encouraged to return the gestures of goodwill, at their own discretion, however this needs to be balanced with the potential to create expectations that goodwill will be met by payment • Religious / Traditional Days of Celebration: <ul style="list-style-type: none"> - Respect the religious and/or traditional days of celebration and their restrictions • Respect Community Members and the Traditional Leadership: <ul style="list-style-type: none"> - Any contact with community members shall be conducted in a manner commensurate with the traditional culture of the area • Respect requests of Community Leaders: <ul style="list-style-type: none"> - Any request / issue raised by community leaders shall be directed to the community relations team - Any complaints shall be treated under the procedure defined by the BMSC Stakeholder Engagement Programme 	<p>A number of topics in the Code of Conduct are covered by the environmental and social management plans, which have been developed in line with IFC Performance Standards, and have been updated to reflect the 2012 revision of the IFC Performance Standard</p>

POLICY	KEY PROVISIONS	INTERNATIONAL STANDARDS
Code of Conduct (Policy 5) <i>Continued</i>	<ul style="list-style-type: none"> • Harassment: <ul style="list-style-type: none"> - Harassment of any kind will not be tolerated from personnel engaged with the Project - Harassment may take many forms including religious and ethnic slurs, jokes, statements, gestures, impeding another's movement, culturally offensive writing or pictures, and sexual advances or conversations • Security: <ul style="list-style-type: none"> - Workers must carry appropriate identification at all times and there will be no access to site by non-authorized personnel - Workers must be willing to produce identification upon request 	

As mentioned above, these detailed BMSC policies flow from the more general CSR commitments that Nevsun has made. Nevsun's CSR framework is currently focused on the following documents:

- **Statement of Vision and Values**, which includes commitments related to Safety, Respect, Integrity, Creation of Shareholder Value, Supporting Communities and the Environment.
- **Code of Ethics**, which includes commitments related to Honest, Lawful and Ethical Conduct; Conflict of Interest and Corporate Opportunity; Compliance and Disclosure; Financial Reporting; Accountability; Bribery and Corruption; Health Safety and Environment; Voluntary Principles on Human Rights and Security; and a Whistleblower Policy.

The Vice-President of Corporate Social Responsibility guides the implementation of Nevsun's CSR commitments under the oversight of the Nevsun Board of Directors Social, Environmental, Health and Safety Committee. This includes the implementation, monitoring and reporting on BMSC policies at the Bisha Mine. Other Nevsun Board of Directors committees that contribute to Nevsun's CSR commitments include the Audit Committee and the Human Resources Committee.

Further information about Nevsun's CSR commitments and practices is available in its annual Corporate Social Responsibility reports. Nevsun has published Corporate Social Responsibility reports since 2011, the year that the Bisha Mine began production. These CSR reports are based on the Global Reporting Initiative (GRI) Sustainability Reporting Guidelines.²

YEAR	FRAMEWORK	LOCATION
2011	Based on Global Reporting Initiative (GRI) no declaration	Corporate Website
2012	GRI 3.1 Self-Declared B Level Report	Corporate Website
2013	GRI G4 –In Accordance with the 'Core' Guidance Option	Release Pending

From a review of the commitments in the above-mentioned CSR policies and reports, Nevsun is committed to various international standards relevant to human rights, including: the International Finance Corporation (IFC) Performance Standards; the Voluntary Principles on Security and Human Rights; and the Global Reporting Initiative. These represent three of the main standards included in the Government of Canada's CSR policy adopted in 2009 for Canadian extractive companies operating abroad: "Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector."³ The other international standard that is highlighted in the Government of Canada's CSR policy is the OECD Guidelines on Multinational Enterprises. The Government of Canada's CSR policy is currently being reviewed and should be updated over the course of 2014. In addition, Nevsun and BMSC are committed to respecting local laws; as discussed throughout the report, there are provisions in Eritrean laws, proclamations, the mining agreement, contracts and collective agreements that are relevant to the protection of human rights.

² The Company's first report in 2011 was based on the Global Reporting Initiative framework, and its second CSR report in 2012 met the guidance for a self-declared B level GRI Report. The 2012 report contained, amongst its material sustainability issues, specific disclosure responding directly to stakeholder concerns regarding forced labour allegations and conditions of work at the Bisha Mine. At the time of writing, the Company is currently working on its 2013 CSR report, which is being guided by, and will include, material aspects and data collected in accordance with the 'Core Option' of the fourth generation (G4) update to the framework. A more comprehensive materiality assessment included expanded stakeholder engagement in preparation for the 2013 report, in which human rights ranks as one of the Company's top material aspects, and will receive report coverage accordingly. There are plans to include case study narrative regarding the HRIA within the CSR report for expanded disclosure on the topic.

³ See: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx>

Given that the Bisha Mine is currently Nevsun's only project, it is appropriate that the most detailed policies have been developed at the operational level for BMSC. As will be discussed below, Nevsun may consider updating its policy framework and provide more explicit details about its CSR commitments—particularly as it considers the possibility of acquiring and developing other projects. An updated policy framework should reflect the evolution of international and Canadian CSR standards, including with respect to human rights.

3. BACKGROUND, OBJECTIVES & METHODOLOGY FOR THE HRIA OF THE BISHA MINE

Human rights are part of the CSR policy commitments at the Bisha Mine and are increasingly recognised as an important operational issue for the mining industry. Indeed, the understanding of the operational implications for business enterprises with respect to human rights has accelerated rapidly since the adoption of the UN Guiding Principles on Business and Human Rights in 2011.

As part of its ongoing internal review of material risks and its dialogue with external stakeholders, human rights has been identified as a priority for ongoing due diligence at the Bisha Mine. Therefore, Nevsun, with full cooperation from ENAMCO, cooperatively commissioned a human rights impact assessment (HRIA) to better understand the risks and impacts of the Bisha Mine on affected stakeholders and to investigate where human rights

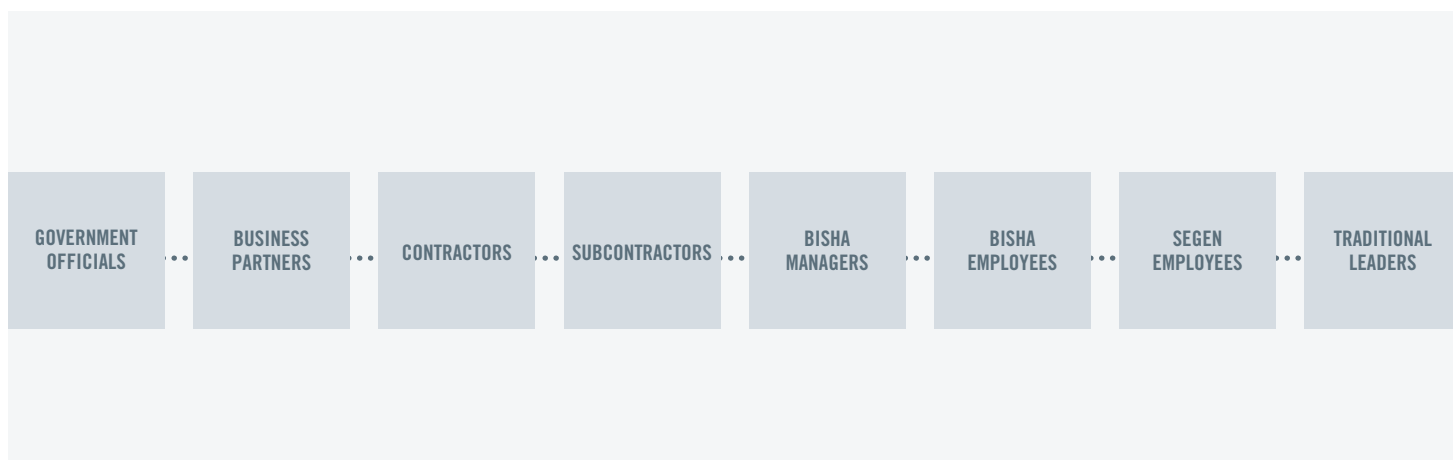
principles and best practices can be further embedded in BMSC's policies and procedures. In July 2013, LKL International Consulting Inc. was given the mandate to conduct a comprehensive HRIA of all relevant human rights issues at the Bisha Mine. The biographies of the assessment team are included in Appendix A.

In accordance with the emerging guidance for the conduct of HRIAs, the assessment was explicitly based on the international human rights framework and was driven by consultation and engagement with affected stakeholders. A table of the international human rights and corporate social responsibility standards referenced in the HRIA is included in Appendix B. Further details about consultation with affected stakeholders during the conduct of the HRIA are provided below; and ongoing engagement with Eritrean and international stakeholders about the findings, recommendations is planned as a follow-up to the publication of the HRIA.

The HRIA was based upon the methodologies developed by credible international organizations and adapted their guidance, steps, questions and indicators to the operational context at the Bisha Mine. In particular, the HRIA methodologies referred to included Rights & Democracy's "Getting it Right" (version 3.0); the Danish Institute for Human Rights' Human Rights Compliance Assessment (Quick Check version); and the International Finance Corporation's Guide to Human Rights Impact Assessment and Management.

INTERNAL & EXTERNAL STAKEHOLDERS

Consulted during the HRIA



The following table provides an overview of the key steps and actions taken to implement the HRIA methodology for the Bisha Mine.

TABLE B: OVERVIEW OF HRIA METHODOLOGY

HRIA STEP	DESCRIPTION OF KEY ACTIONS	COMMENT ON IMPLEMENTATION
1. Preparation of the study	<ul style="list-style-type: none"> Review of technical information related to the project including host country, joint venture and subcontracting agreements Review of BMSC and Nevsun policies and procedures Review of information collected via environmental and social impact assessment processes Stakeholder mapping with attention to identification of the most vulnerable individuals and groups 	<ul style="list-style-type: none"> Discussion of human rights issues and risks self-identified by Nevsun and ENAMCO Special attention to human rights issues mentioned in external reports about the Bisha Mine
2. Identify the legal framework of Eritrea	<ul style="list-style-type: none"> Review Eritrea's legal, regulatory and monitoring framework for human rights and for the mining industry, including with respect to protection of the environment and workers Review of human rights treaty commitments of the Eritrean government, plus ILO conventions and relevant regional agreements Gap analysis including review of Eritrea's Universal Periodic Review exercise in 2009 and 2014 	<ul style="list-style-type: none"> Consultation with BMSC legal counsel to identify relevant Eritrean laws and contracts Translation of Segen Construction's collective agreement Follow-up interviews prioritised with union officials and labour court judges in Eritrea
3. Define scope and select indicators	<ul style="list-style-type: none"> Develop a series of comprehensive worksheets for the main human rights issues to be examined during the in-country research phase For each worksheet, compile the background information from phases 1 and 2, the relevant human rights standards, questions and indicators to frame the assessment and guide interviews and other stakeholder engagement 	<ul style="list-style-type: none"> Maintained a broad scope on the full range of human rights issues at this stage Categories of issues for the worksheets adapted from the DIHR Compliance Assessment Tool Indicators for the State adapted from Rights & Democracy Guide Indicators for BMSC adapted from the DIHR Compliance Assessment Tool
4. Initial in-country research	<ul style="list-style-type: none"> Interview external and internal stakeholders in Eritrea: <ul style="list-style-type: none"> Government officials, business partners, contractors and subcontractors Bisha managers about policies, procedures and practices Bisha employees Segen employees Traditional leaders Develop interview protocols to protect the security and confidentiality of stakeholders who were interviewed Prepare interview guides to ensure that interviews covered the relevant human rights issues and elicit balanced feedback about potential positive and negative human rights impacts Site visits of Bisha mine, Segen and SENET camps Develop understanding of political, economic and social context for mining in Eritrea 	<ul style="list-style-type: none"> In-country visit between October 5 and 13, 2013 Formal interviews conducted with 44 stakeholders Some interviews were conducted in focus groups while the majority were held in private to ensure confidentiality Interviews with Segen employees on site and at camp on 3 separate occasions Interviews with Segen managers on 3 separate occasions at site and at Asmara office Bisha site visit included first-hand observations of the mine's operations, administration and camp over 4 days Site visits to Segen and SENET camps Formal interviews supplemented by observations and informal conversations with employees at the mine site and with people in local villages and Asmara Attended 4th annual Asmara mining conference

HRIA STEP	DESCRIPTION OF KEY ACTIONS	COMMENT ON IMPLEMENTATION
5. Verification and impact analysis	<ul style="list-style-type: none"> • After the initial in-country research, prioritise the key human rights issues for verification and impact analysis • Validate information gathered through further desktop research • Develop a strategy for a second round of in-country interviews to validate information and follow-up on previous interviews • Verification techniques include triangulation of data, targeted second-round interviews, solicitation of expert opinion, and documentation of physical evidence including photos • Develop analysis of impacts and risks based on findings from the research and stakeholder interviews in relation to the human rights questions and indicators 	<ul style="list-style-type: none"> • A second in-country visit was conducted between January 7 and 16, 2014 • Formal interviews conducted with 36 stakeholders • Follow-up interviews with national-level union representatives, Ministry of Labour and Labour Court officials • Follow-up interviews with Segen managers • Follow-up interviews with government representatives and acting mine manager • 2 focus group meetings with female employees • Follow-up interviews on implementation of IFC Performance Standards and CSR reporting • Postponed finalizing the HRIA report to take into account the Interactive Dialogue on Eritrea's UPP at the UN Human Rights Council on February 3, 2014
6. Develop recommendations for ongoing human rights due diligence	<ul style="list-style-type: none"> • Develop recommendations for ongoing human rights due diligence in line with UN Guiding Principles and best practice for mining companies • Prioritise areas where there are ongoing risks of negative impacts • Identify areas where positive human rights outcomes can be supported • Identify opportunities to integrate human rights due diligence in existing social and environmental management plans • Assess existing mechanisms for access to remedies, including site level mechanisms 	<ul style="list-style-type: none"> • Initiate informal dialogue with internal stakeholders about potential recommendations • Focus on IFC Performance Standards and Voluntary Principles as strategic entry-points at Bisha Mine • Focus on training and capacity-building for employees and managers • Focus on coordination between various site-level and corporate grievance mechanisms
7. Draft final report	<ul style="list-style-type: none"> • Prepare final report on various human rights issues, including a summary for publication and communication through website and link to CSR Report. 	<ul style="list-style-type: none"> • Coordination with preparation of 2013 CSR Report to support ongoing reporting on human rights and follow-up to the HRIA
8. Stakeholder engagement	<ul style="list-style-type: none"> • Develop a proposed stakeholder engagement plan for formal dialogue about the HRIA report, recommendations and follow-up • Include international and Canadian stakeholders, Eritrean business partners, communities and workers from key Bisha Mine departments in plan 	<ul style="list-style-type: none"> • Summary of HRIA report can be used as a training tool and basis for dialogue with workers, community members, contractors, and subcontractors

As mentioned above, the research for the HRIA was conducted between July 2013 and January 2014, and the final report was drafted in late-January and early-February 2014. While the HRIA is based on a comprehensive approach to human rights issues and to interviewing as many affected stakeholders as possible, the assessment's findings are nonetheless limited to what was possible to be researched and observed during this time frame. Furthermore, the research and investigation was focused on the practices at the Bisha Mine and did not include the observation of the practices of suppliers, contractors, and subcontractors at other sites. Some of the allegations about past human rights infringements could not be substantiated or verified within the scope of the HRIA. Moreover, it is always difficult to ascertain with certainty what happened, or did not happen, in the past. The approach taken to these

limitations is not to try and confirm or deny past allegations, but rather to focus on reinforcing the grievance mechanisms and stakeholder engagement processes related to the Bisha Mine—so that individuals who have past, present or potential human rights concerns may have them addressed in an effective and credible manner.

The application of human rights to business enterprises and the assessment human rights impacts are relatively new undertakings. Therefore, the authors of this HRIA want to be careful not overstate its aims or achievements. The overall intention is for this HRIA to be a constructive tool to strengthen ongoing dialogue and due diligence about the Bisha Mine and thus contribute to further respect and support for human rights.

SECTION TWO

ASSESSMENT OF HUMAN RIGHTS ISSUES AT THE BISHA MINE

This section presents the assessment of human rights issues at the Bisha Mine. It begins with a brief discussion of the national context and how the current situation related to national security, international relations and development in Eritrea presents unique human rights challenges—and contributes to stakeholder concerns about the Bisha Mine and the mining industry in general.

This discussion of the national human rights context is followed by the assessment of the following human rights issues based on the research, observations and stakeholder interviews conducted during the HRIA. As highlighted above, the assessment is based on international human rights standards and how these are implemented in Eritrean law and BMSC policies.

To facilitate the reporting of the HRIA, a brief narrative summary of the assessment of each human rights issue is provided in the main text of the section below. These narrative summaries are supplemented with detailed worksheets on

each human rights issue that contains further information about: Eritrean law; BMSC policies; Canadian CSR policies for international extractive companies; international good practice standards for the mining industry; international human rights standards; human rights indicators for the State and for companies; information from Nevsun CSR reports; information from Eritrea's Universal Periodic Review (UPR); stakeholder concerns from reports about the Bisha Mine; and, information from the HRIA observations and interviews. These worksheets were provided to Nevsun and ENAMCO along with the HRIA report for internal learning and tracking purposes.

HUMAN RIGHTS ISSUES COVERED IN THE HRIA

LABOUR RIGHTS AND WORKING CONDITIONS

- Forced labour
- Workplace health and safety
- Wages, hours, benefits and leave
- Freedom of association
- Non-discrimination
- Harassment
- Child labour

HUMAN RIGHTS RELATED TO THE LOCAL COMMUNITIES

- Human rights and the environment, with a focus on the human right to water and sanitation
- Community development
- Land management

CROSS-CUTTING HUMAN RIGHTS ISSUES

- Security and human rights
- Grievance mechanism

At the end of the section, the HRIA prioritises a number of issues for ongoing due diligence on the basis of risk of human rights impacts, corporate social responsibility commitments and stakeholder concerns.

1. NATIONAL CONTEXT FOR HUMAN RIGHTS AND MINING IN ERITREA

Any discussion of human rights at the Bisha Mine must take into account the national context of Eritrea, which presents human rights challenges in terms of national security, international relations and development.

Modern-day Eritrea emerged out of an armed struggle for independence with Ethiopia in the early 1990s. The border dispute and subsequent war with Ethiopia has been settled by the Eritrea-Ethiopia Boundary Commission; however, the terms of the settlement have not been implemented, and Eritrea's territory remains under the occupation of Ethiopia. Eritrea is also involved in a border dispute with Djibouti which is still under mediation with a mutually agreed third party (Qatar). The current situation—characterized as “no peace, no war”—means that many of the political hopes and economic potential of Eritrea have not yet been fulfilled. As the Government of Eritrea stated in its recent national report to the UN Human Rights Council for the Universal Periodic Review, “occupation has entailed, among other things, the prolongation of the national service and other onerous burdens on the country and its people. Unnecessary expenditure for defence as well as undesirable delays in the constitutional process are by-products of this reality.”⁴ While the local communities and region surrounding the Bisha Mine appear to be quite safe and peaceful, the national security challenges affect the perception and reputation of the mine: “prolonged national service” translates into allegations of forced labour by BMSC's subcontractors; “unnecessary expenditures for defence” leads to questions about how the economic contributions from the mining sector are being used; and, “undesirable delays in the constitutional process” raise concerns related to governance and the rule of law.

These conditions in Eritrea receive considerable international attention at the United Nations and in reports from the media, non-governmental organizations and diaspora groups. In particular, the UN Security Council has imposed sanctions on Eritrea,⁵ and the UN Human Rights Council has

appointed a Special Rapporteur on the situation of human rights in Eritrea.⁶ Many of the concerns expressed internationally are formulated in terms of human rights, and the Government of Eritrea forcefully opposes these concerns. For instance, the Government of Eritrea considers UN sanctions and “politically motivated resolutions” to be among the most significant challenges for the implementation of human rights apart from the occupation of its territory;⁷ and, it has been reluctant to engage with and provide access to UN human rights mechanisms.⁸

The fact that human rights are a highly sensitive issue in Eritrea's international relations has implications for BMSC. Discussions about international standards can quickly turn into a debate about the legitimacy of the multilateral institutions that created them. Discussions about human rights at the Bisha Mine can quickly become coloured by political concerns and allegations about the human rights record of the government. The contested nature of international human rights in Eritrea means that it is often more fruitful and constructive to speak about underlying human rights principles, relevant domestic laws, and BMSC policies than to appeal to articles of the Universal Declaration of Human Rights or the prevailing opinions of the international community.

Furthermore, since BMSC's majority owner is ultimately a Canadian company, there are additional international dynamics given Canada's limited diplomatic relations with Eritrea.⁹ Indeed, the Bisha Mine has been the subject of hearings by Canada's House of Commons Subcommittee on International Human Rights;¹⁰ and, Nevsun has ongoing communications with the Subcommittee about its approach to CSR and human rights.

Many of the most sensitive human rights issues in Eritrea relate to civil and political rights, and there tends to be more scope for open conversation about economic, social and cultural rights. Nonetheless, Eritrea faces many important challenges related to poverty and development that constrain its ability to progressively realize these rights. Like many developing countries, the priorities of individuals, communities and government relate to the fulfilment of basic human needs and creating the conditions for poverty alleviation. Therefore, the creation of jobs, skills and economic opportunities by the Bisha Mine take on added significance in this context.

⁴ UPR National Report (A/HRC/WG.6/18/ERI/1), Para. 91.

⁵ The UN Security Council has adopted a number of resolutions regarding Eritrea, including resolution 1862 (2009) on the country's border dispute with Djibouti; resolution 1907 (2009) in which the Council imposed a targeted sanctions regime, including an arms embargo on both imports and exports; and resolution 2023 (2011), in which the Council expanded restrictive measures in the area of the diaspora taxes and the State's mining sector and financial services.

⁶ In its resolution 20/20, the Human Rights Council appointed a special rapporteur on the situation of human rights in Eritrea. The Special Rapporteur on the situation of human rights in Eritrea took up her mandate on 1 November 2012 and presented a report (A/HRC/23/53) to the 23rd session of the Human Rights Council in May 2013

⁷ In its recent UPR National Report, the Government of Eritrea reports that it has “extended an invitation to the High Commissioner for Human Rights to send a technical team in order to consolidate Human Rights Issues and seek assistance if necessary. The Government has also been working with the EU and Other partners to explore potential areas of Cooperation.” See: UPR National Report, para. 83.

⁹ For an official description of Canada's relations with Eritrea, see: http://www.canadainternational.gc.ca/sudan_south_sudan-soudan_soudan_du_sud/eritrea-erythree.aspx?lang=eng

¹⁰ Nevsun appeared before the Subcommittee on November 1, 2012 and Human Rights Watch appeared before the Subcommittee on February 14, 2013 to testify about the Bisha Mine.

Furthermore, the mine's royalties, taxes and revenues represent a considerable potential contribution to infrastructure and social programmes at the local and national levels. There is a real opportunity for the Bisha Mine to be a vector for positive human rights impacts for many individual Eritreans and for the country as a whole. At the same time, BMSC has a responsibility to ensure that positive contributions to development are not used to justify or rationalize any negative impacts on human rights.¹¹

Some of these issues are exacerbated by the fact that the Bisha Mine is Eritrea's first modern mine and is a lightning rod for broader debates about the role and impacts of the mining industry in Eritrea. Several other mining projects are currently in the exploration and development phases.¹² There is also an annual mining conference held in Asmara to bring together representatives from the government, the mining industry and investors, and which heralds the "untapped potential" and "conducive environment" for mining in Eritrea.¹³

The mining sector will likely be an important driver of Eritrean economic development in the coming years. Between 2010 and 2011, the first year that the Bisha Mine was in production, it contributed significantly to an 8.7% growth in Eritrea's GDP. The potential for economic growth will be reinforced as other mines enter production and the country's mineral resources continue to be developed. At the same time, it is important not to overstate the importance of the mining sector to the Eritrean economy, as the government targets improved productivity in traditional sectors such as agriculture, forestry, fishing and animal husbandry, and the development of new service sectors.

As discussed above, the contribution of the mining sector to economic growth can be translated into positive human rights and developing outcomes, depending on how responsibly individual mines are operated and on how the mining revenues are spent by the Eritrean government. On the other hand, the UN Security Council has also cited Eritrea's mining sector as a potential source of destabilization funding in the Horn of Africa region in a 2011 resolution.¹⁴ The questions about the mining sector's contribution to Eritrea's economic and social development will in part be answered by the degree of transparency that BMSC, other mining companies, and the Eritrean government will have about their mining industry revenues.

The Eritrean government is an active participant in the development of the mining sector, and has taken a 40% ownership interest in the Bisha Mine through ENAMCO. Other mines that are approaching commercial production

also report similar joint ownership arrangements with ENAMCO.¹⁵ The Eritrean Mining Regulations require that mining companies give preference to Eritrean suppliers and contractors; and, as is discussed below, there are numerous State-owned enterprises that provide services to the mining industry. These include the State-owned construction company, Segen Construction, which is involved in the construction of mining infrastructure, as well as Transhorn Transport Company, which provides transport services for mining operations.

2. LABOUR RIGHTS AND WORKING CONDITIONS

Labour rights and working conditions are a fundamental issue of any HRIA given the direct relationship that business enterprises have with their workers. Many of the questions and indicators in HRIA tools and methodologies are focused on the risks and impacts to workers.

In Eritrea, labour rights and working conditions are protected by Labour Proclamation No. 118/2001. Furthermore, workers in virtually all enterprises and services are unionized. There are employers' associations, employees' associations and additional protections of workers' rights are contained in collective agreements. This is the case for a number of the suppliers and subcontractors of the Bisha Mine, including Segen Construction and Transhorn Transportation Company. As mining is a nascent industry, employee associations have not been formed at the Bisha mine; however, there is interest from the National Confederation of Eritrean Workers and other stakeholders in exploring the potential benefits of negotiating collective agreements with mining companies.

The Ministry of Labour and Human Welfare is responsible for Eritrean labour law and policy, and has a Labour Inspection Service responsible for implementing the provisions of the Labour Proclamation. The Ministry has representatives on the Impact Review Committee that is responsible for monitoring and compliance at the Bisha Mine. Amongst the priority issues for the Ministry is respect for labour rights in accordance with Eritrean laws, employment and training of Eritrean workers, and capacity-building of Ministry officials, with respect to the mining industry.

Grievances related to labour rights and working conditions can be raised through a variety of mechanisms: the Ministry and the Labour Inspection Service; the First Instance Labour Court (in the case of an individual worker); the Labour Relations Board (in the case of a collective agreement); the grievance mechanism included in a collective agreement; and site-level grievance mechanism developed by business enterprises.

¹¹ See Commentary to Principle 11 of the UN Guiding Principles on Business and Human Rights: "Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations."

¹² It is reported that there are over 16 companies operating over 34 projects in Eritrea: <http://www.tesfanews.net/exploration-and-mining-companies-operating-in-eritrea/>

¹³ The 4th annual Asmara mining conference was held on October 1st, 2013. See: <http://www.tesfanews.net/eritrea-hosts-4th-regional-mining-conference/#more-17845>

¹⁴ See UN Security Council resolution 2023 (2011), paras. 12 and 13

¹⁵ See, for example, the press release of Sunridge Gold Corp. about its agreement with ENAMCO dated February 4, 2014: <http://www.sunridgegold.com/s/PressReleases.asp?ReportID=622181>

a. National Service Program

STANDARDS RELATED TO FORCED LABOUR

Human Rights: Freedom from Forced Labour; Freedom from Slavery; Freedom of Movement; Right to Work

Eritrean Constitution:

- Article 16(3) No person shall be held in slavery or servitude nor shall any person be required to perform forced labour not authorised by law.
- Article 25(3) All citizens shall have the duty to complete one's duty in national service

Labour Proclamation No. 118/2001:

- Article 3 (17) Compulsory national service, normal civic obligations, forced labour as provided for in the Penal Code, communal services and services rendered during emergency may not, however, be regarded as forced labour.
- Article 9(6) An employer who engages in forced labour shall be punishable under the Penal Code

Proclamation of National Service (No. 82/1995):

- Persons aged 18-50 have the obligation to perform National Service.
- For persons aged 18-40, the obligation consists of 6 months of military training and 12 months of active duty military service for a total of 18 months
- People over 40 are considered to be on reserve status if they have performed active duty service

BMSC Social Responsibility Policy (Policy 3) states that “BMSC management shall conduct the company's business activities to: procure materials, goods and services in a manner that enhances local benefits and protects against unethical practices such as child labour and forced labour.”

BMSC Employee Policy (Policy 4) states that BMSC will:

- establish a sound human resources policy framework which meets all aspects of the Eritrean Labour Law and international labour standards and conventions
- ensure that conditions of employment adhere to the standards of freedom, security, equity and dignity
- ensure that involuntary labour is not used by BMSC or its contractors, specifically the use of Eritrean National Service personnel on extended service

Eritrea has ratified the **ILO Convention Against Forced Labour (No. 29)** and the **ILO Convention concerning the Abolition of Forced Labour (No. 105)**.

Forced labour at the Bisha Mine—particularly with respect to the use of national service workers by the Segen Construction Company—is one of the main stakeholder concerns raised by international and Canadian stakeholders. It is also one of the main national-level concerns raised by stakeholders at the UN Human Rights Council. The main issue with respect to forced labour relates to the potentially indefinite nature of national service, rather than to the obligation of national service in and of itself. In other words, the main concern is about workers who have not been discharged after 18 months of national service.

In its own hiring processes for direct Bisha employees, BMSC has procedures to ensure that all employees have been discharged from national service. Interviews with human resources managers, verification of discharge documentation contained within employment files and interviews with employees all confirm that they have been discharged from national service and that they are working at Bisha of their own free will.

Moreover, BMSC works with its main ECPM contractor, SENET, and subcontractors such as Segen Construction, to implement human resources screening procedures to ensure that contract or sub-contract workers at the Bisha Mine are also discharged from the national service programme.

Based on document review and interviews with Segen Construction managers at the Bisha camp and at headquarters in Asmara, there is currently strong awareness of BMSC's policy against the use of national service employees at the Bisha Mine and the screening procedures for ensuring workers are discharged from national service. Interviews with Segen Construction workers at camp and mine site confirmed that they had been discharged from national service; and spot-checks of employment files at headquarters confirmed that discharge papers had been obtained for current workers at the Bisha Mine.

The assessment of other suppliers, contractors and subcontractors examined whether national service workers were being used. The scope of the HRIA did not permit for a comprehensive assessment of these other suppliers, contractors and subcontractors, but it did ascertain that contractual provisions against use of national service provisions are inserted in the main contracts that involve using Eritrean contractors and sub-contractors at the mine site (rather than contracts for supplies); and, that there is dialogue and reporting about screening procedures established for the more significant contractors and subcontractors.

CONCLUSIONS:

- Since 2009, BMSC has implemented screening procedures and dialogue with the management of its main suppliers, contractors and subcontractors to implement the prohibition against national service workers at the Bisha Mine. The dialogue and screening procedures were first developed with respect to Segen Construction and have also been implemented with respect to other important contractors such as Transhorn Transportation and Binae Security.
- BMSC's efforts are contributing to an expanding awareness amongst internal and external stakeholders that national service workers are not permitted at the Bisha Mine, and these efforts should be continued. Based on a review of the various suppliers, contractors and subcontractors at the Bisha Mine, ongoing engagement should be maintained with Segen Construction, Transhorn Transportation and Binae Security, and BMSC's procurement policy and procedures should serve to identify opportunities to engage with new suppliers.
- Contractual provisions prohibiting the use of national service employees appear in the main contracts with BMSC's contractors and subcontractors. These provisions reinforce the dialogue and screening procedures for suppliers, contractors and subcontractors. Ongoing attention should be paid to opportunities to add similar provisions as new contracts are negotiated and signed—particularly when supplier, contractor or subcontractor will involve the provision of national and local workers.
- The engagement with suppliers, contractors and subcontractors about national service workers represents a constructive entry-point for a more comprehensive strategy for human rights due diligence in the Bisha mine's supply chain.
- BMSC's intention to create a Contract Manager position is a positive step and can serve as a focal point with clear responsibility for engagement with suppliers, contractors and subcontractors, including for coordination with BMSC's engineering, procurement and construction management (ECPM) contractor, SENET. This focal point should take a role in ongoing inspection and maintenance of records related to discharge from national service.

b. Workplace Health and Safety

STANDARDS RELATED TO WORKPLACE HEALTH AND SAFETY

Human Rights: Right to Just and Favourable Working Conditions; Right to Health

Labour Proclamation No. 118/2001:

Article 20: Obligations of an Employer include:

- (4) to take all the necessary occupational safety and health measures ...
- (9) to take appropriate measures early on to ensure that all work place premises and the processes of work do not become a source or cause of hazards to the health and safety of the employees
- (10) to provide employees with personal protective equipment and other necessary materials and instruct them on use

Article 21: Obligations of an Employee include:

- (5) to implement all health and safety instructions issued by an employer or by a concerned authority
- (6) to utilize appropriately and with care appliances and devices provided for the protection of the safety and health of himself and other employees
- (7) to render assistance when an accident occurs or imminent danger threatens his fellow employees or the employer's property without endangering himself

BMSC Health and Safety Policy (Policy 2):

Our guiding principles are

- all injuries are preventable
- our most important objective is safety and health
- working safely is a condition of employment
- any task that can't be done safely shouldn't be done

To ensure that these principles are adopted, BMSC will:

- train and motivate all our people to work in a safe and responsible manner
- carry out risk assessment for all construction and operational activities;
- ensure that health and safety performances comply with relevant legislation;
- assist the local community in health awareness activities;
- establish and maintain a health & safety management system in accordance with the requirements of OHSAS 18001:2007

BMSC Code of Conduct (Policy 5):

Health & Safety of Yourself, other Employees/Contractors and the Community:

- Vehicles must be operated safely and in accordance with established speed limits in local communities
- No job should be undertaken if it is not safe to do so

Nevsun Code of Ethics

The Company provides an operating environment that is oriented to protect health and safety at its work sites for the benefit of its employees, contractors and community.

Workplace health and safety did not surface as a priority human rights issue in the research, observations, and stakeholder interviews for the HRIA. Nonetheless, there are significant ongoing health and safety risks associated with mining operations that need to be considered.

Workplace health and safety is stated to be the number one priority at the Bisha Mine, and it is reflected in the mine's slogan: "Everyone going home safe and healthy every day." Health and safety policies are prominently displayed and are respected in a conscientious manner.

2013 WORKPLACE HEALTH AND SAFETY DATA

- Total reportable injury frequency rate* was 0.23
- Total lost time injury frequency rate was 0.00 (no lost time injury recorded)
- No occupational diseases recorded
- No work related fatalities recorded

* Reportable Injury Frequency index refers to the frequency of injuries relative to the total time worked by the total workforce multiplied by a factor of 200,000

There is safety training for all employees during induction training, as well as ongoing training through daily safety meetings, “tool-box talks” and specific coaching by the safety officers on site. Risk assessments have been undertaken and standard operating procedures (SOPs) developed for different tasks and machinery. Ongoing inspections are undertaken by safety officers and traffic officers (for speed on site and alcohol testing). The Ministry of Labour and Human Welfare has been undertaking health and safety inspections for the past 3 years, including in relation to SENET and Segen.

According to managers, safety awareness is currently “booming” at the Bisha Mine. Veteran employees speak of a significant change in awareness of Eritrean workers about safety and use of Personal Protective Equipment (PPE). Anecdotal stories were relayed of local employees wearing sandals rather than safety boots and sleeping under trucks and of the efforts undertaken by Bisha and SENET managers who needed to enforce health and safety rules and begin to develop a safety culture on the mine site. During the site visits to different parts of the operations for the HRIA, PPE was always observed for all employees and subcontractors working at site.

No serious accidents, injuries or concerns were raised during interviews with employees however, some examples of minor incidents or accidents were mentioned. From a human rights perspective, the issue is not whether accidents occur, but rather how the company evaluates the incident, implements appropriate corrective measures, and provides an internal educational campaign on the risks associated with the injury causing activity. For this reason, it is as important that minor accidents are reported accurately as it is to generate impressive statistics about the numbers of hours without any injuries.

One area of risk that was observed during the HRIA relates to safety outside of the Bisha gate, in particular with respect to safety on the road between the mine and Asmara (and onwards to the port at Massawa). The road is winding in places, runs through small villages and may be obstructed by animals, children, pedestrians and other vehicles. This presents a safety risk both for Bisha employees and contractors (particularly the Transhorn Transportation Company drivers who are hauling the copper concentrate from Bisha to Massawa around the clock)—as well as for community members. This area of risk appears to be corroborated by incident reports compiled by BMSC that disclose 9 accidents (none of which involved injuries) of Transhorn trucks between October 2013 and March 2014. In addition to potential impacts on human rights (the right to health or even the right to life) of the truck drivers and the public, a serious accident involving a community member could also have significant negative consequences for the reputation and social acceptance of the Bisha Mine.

CONCLUSIONS:

- Workplace health and safety is an area of ongoing risk due to the nature of mining operations. However, workplace health and safety risks are being addressed in a responsible manner through rigorous policies, procedures, training, inspection that combine into the development of an effective safety culture. Stakeholder concerns about lack of adequate PPE for employees, contractors and subcontractors at the Bisha Mine do not appear to be justified at present.
- One area for further attention relates to road safety on the public roads between the mine site, local communities, Asmara and Massawa. The risks in this area have likely increased with the transition to the copper phase and ramp-up to the round-the-clock hauling of copper concentrate. While BMSC has policies in place with respect to safe vehicle operation, it is more difficult to enforce these policies outside the mine site, and there are many variables beyond the company's control. As this is an area that also poses risks to community members, it is an appropriate area for ongoing consultation and engagement with communities, contractors, as well as the traffic police about road safety.

c. Wages, Hours, Leave and Benefits

STANDARDS RELEVANT TO WAGES, HOURS, LEAVE AND BENEFITS

Human rights: Right to Just and Favourable Conditions of Work; Right to An Adequate Standard of Living; Right to Rest, Leisure and Holidays; Right to Social Security

Labour Proclamation No. 118/2001:

Article 41(2) Wages shall be determined by the contracting parties, but may not be less than the minimum wages fixed by a collective agreement in an undertaking.

Article 48 – Regular Hours of Work

- (1) Regular hours of work may not exceed eight hours a day and forty-eight hours a week

Article 50 – Distribution of Hours of Work in Weeks

Where the circumstances in which the work has to be carried on are such that normal hours of work cannot be distributed evenly over a week, working hours calculated on the basis of average hours of work may be distributed over a period longer than one week, provided that the average number of hours worked over a four-week or shorter period may not exceed eight hours per day and forty eight hours per week.

Article 52 – Overtime Work

- (1) An employer may make an employee work over time, provided he may not make the latter work overtime for more than two hours without the latter's consent.

Article 53 – Overtime Work Payment

- (1) An employee who works overtime between six o'clock in the morning and ten o'clock in the evening shall be paid at the rate of one and a quarter multiplied by the regular hourly rate. For overtime work from ten o'clock in the evening up to six in the morning, he shall be paid at the rate of one and one half multiplied by the regular hourly rate
- (2) An employee who works overtime on a weekly rest day shall be paid at the rate of two multiplied by the regular hourly rate
- (3) An employee who works overtime on public holidays shall be paid at the rate of two and one half multiplied by the regular hourly rate

Article 54 – Weekly Rest

- (1) An employee shall, at the minimum, be entitled to a weekly rest of twenty-four consecutive hours in the course of each period of seven days
- (2) The weekly rest period shall be Sunday, provided that undertakings that work on Sundays may replace it by another suitable day
- (3) The Minister may issue regulations concerning the weekly rest of employees engaged in work of a special nature

See also Article 55 – Public Holiday; Article 56 – Annual Leave; Article 57 – Recall from Annual Leave; Article 58 – Leave for Family Events; Article 59 – Association Leave; Article 60 – Leave for Special Purpose; Article 61 – Obligation to Notify; Article 62 – Sick Leave; Article 66 – Pregnancy and Maternity Leave

BMSC Labour Policy (Policy 4)

The Company is committed to the creation of a work environment which helps and encourages employees to reach their personal and professional goals, as well as ensures the timely achievement of Company business objectives. In achieving the above objectives, BMSC will:

- establish a sound human resources policy framework which meets all aspects of the Eritrean Labour Law and international labour standards and conventions
- ensure fair entitlements, benefits and remuneration, of a level which is in keeping with Eritrean norms and laws and enables BMSC to attract and retain employees;

This sub-section examines wages, hours, holidays and leave as a focus for the broad constellation of issues related to workers' remuneration and other benefits that have potential impacts on human rights. Like many mines in remote areas, the Bisha Mine pays relatively high wages in exchange for shift work that involves long hours while on duty, followed by significant periods of leave for rest. For local workers, the mine presents the opportunity to engage in wage labour rather than in traditional activities such as agriculture and animal husbandry. The nature of work in a remote mine is distinctly different from many other jobs in offices, government or the service sector; and the way working hours are organized often represents an exception to the general rules. Nonetheless, these types of exceptional working arrangements are foreseen and regulated in Eritrean and international labour law—and are meant to respect human rights requirements when viewed on average over a longer cycle than the standard work week.

Wages for Bisha employees are set by BMSC Board and validated by the Ministry of Labour. There is no standard minimum wage in Eritrea, there are no collective agreements in the mining sector, and there is no national labour survey against which to benchmark the wages. Nonetheless, all interviews with employees and representatives of the national union and Ministry of Labour confirmed that the wages at the Bisha Mine are high compared to other public and private sector jobs in Eritrea. These high wages make working at the Bisha Mine an attractive proposition and many employees spoke about how their wages allow them to support themselves and provide opportunities for their families.

Based on anecdotal evidence from these stakeholders, a teacher is said to earn 1,500 Nakfa per month (\$100 USD), while an unskilled, entry-level position at the Bisha Mine earns 2,600 Nakfa per month. Furthermore, given the opportunities to earn paid overtime at the mine means that these employees' take-home pay is often higher. There is a significant range in salaries at the Bisha Mine between unskilled, entry-level positions, management positions filled by Eritreans, and expert or senior management positions filled by expatriates. This is discussed further in the section on non-discrimination.

Some concerns were raised by employees that wage increases were frozen since 2012 and that this could have an impact on adequate standard of living, especially as there is reported to be high inflation in Asmara and elsewhere in the country (e.g. cost of rent and food). It was reported that wages were raised 5% across the board in 2013. In the absence of a national minimum wage that is indexed to inflation, it is difficult to assess this issue; however, it should be monitored because rising inflation creates risks related to the right to an adequate standard of living for workers and their families.

Managers and employees raised interesting questions about the effect of future mines on wage competition: Will wages at new mines (that will soon commence production in 2015-2016) be set at the same level as Bisha? Will remote mines such as Bisha be able to provide some form of isolation compensation or other benefits to attract and retain employees that might otherwise choose to work at the mine being developed closer to Asmara? As wage levels are set by the BMSC Board and validated by the Ministry of Labour, BMSC's desire to be an employer of choice with respect to wages needs to be balanced with ENAMCO and Ministry of Labour's desire to have coherent wage standards for the overall economic sector. These questions have important business implications for the Bisha Mine, but also have human rights implications as increased options in the mining sector provide strong incentives to employers to offer attractive packages of remuneration and benefits that support the right to just and favourable conditions of work and related rights.

Turning to working hours, holidays and leave, interviews with human resources managers and review of time and pay reports confirm BMSC follows Eritrean law—which accord with international standards:

- The regular shift at the mine site is 12 hours from 6 a.m. to 6 p.m., with periodic breaks and a relatively long lunch break
- Workers in operations (e.g. in the mine pit or processing plant) with night work are on a 2 week on / 1 week off rotation
- Workers on shifts (e.g. in the office or environmental department) are on a 4 week on / 1 week off rotation. These workers have Sunday afternoons for rest while at site
- Local workers work 6 days a week, with Sundays off; however, some seek to work on Sundays in order to earn additional overtime
- All workers who work on public holidays are paid overtime
- All workers are entitled to 14 days of annual leave
- Pregnant women receive a total of 70 days of maternity leave

In terms of other benefits, free medical treatment is provided at site and workers receive up to 7,500 Nakfa per year for additional medical treatment through an insurance plan funded by BMSC.

BMSC does not provide retirement fund contributions either through a public or private insurance scheme. Currently, the Ministry of Labour is establishing a Provident Fund for workers in furtherance of Article 85 of the Labour Proclamation on Social Security. Given the time-limited nature of mining operations, the issue of social security will increase in importance as the Bisha Mine approaches closure. This is an area where there are future risks to human rights and it is advisable for BMSC to consider the impacts on workers while closure is over a decade away and closure planning is in its early stages. The Minister of Labour stated that this is an area where she is looking for support from employers in her efforts to promote the Provident Fund as a viable safety net for Eritrean workers.

A final issue related to wages, hours and holidays relates to suppliers, contractors and subcontractors. The HRIA concentrated on the assessment of the screening procedures related to national service employees and did not fully examine the remuneration and hours of work. A limited review of Segen Construction employment files and wage records reveal that entry-level workers are paid 60 or 75 Nakfa per day, which is less than entry-level workers at the Bisha Mine, but accords roughly with the anecdotal evidence of a teacher's salary. The wages and benefits at Segen Construction are set by a collective agreement, which are applicable to all its workers across the country, and therefore BMSC has limited ability to influence this issue. Interviews with Segen Construction workers confirm that they have the right to annual leave and take holidays on a regular basis—often to coincide with religious and family celebrations. Observations at the Bisha Mine site confirm that Segen Construction workers are on duty for the same length of shift as the Bisha employees. As is suggested in the section on suppliers, contractors and subcontractors, future dialogue and due diligence can be expanded beyond the issue of the national service programme to cover other issues related to working conditions.

CONCLUSIONS:

- There is no statutory minimum wage in Eritrea and little comparative information about national wage levels; however, all workers and stakeholders stated that wages at the Bisha Mine are attractive and higher than those paid in other sectors.
- The development of other mines in Eritrea will put pressure on BMSC to ensure that remuneration and benefits remain attractive in order to retain employees who may choose to work at other mines in a less remote location. This will become an issue where actively supporting the right to just and favourable working conditions and related rights should be seen as a competitive advantage.
- The Eritrean Labour Proclamation generally accords with basic international standards for hours, holidays and leave for workers undertaking shift work, and BMSC follows the Eritrean Labour Proclamation quite strictly.
- Although closure is still over a decade away, the lack of retirement benefits creates a risk of potential negative impacts on workers' right to social security. At the national level, this right has only been addressed recently through the Ministry of Labour and Human Welfare's efforts to create a voluntary Provident Fund for workers. This is an issue that should be considered in closure planning and explored through dialogue with the Ministry and workers.

d. Freedom of Association

STANDARDS RELATED TO FREEDOM OF ASSOCIATION

Human Rights: Right to Freedom of Association and Protection of the Right to Organize; Right to Collective Bargaining

Labour Proclamation No. 118/2001:

Title VIII – Formation of Associations and Collective Bargaining

Article 89 – Formation of Associations

Article 90 – Functions of Associations

Article 99 – Collective Bargaining

Eritrea has ratified the relevant **ILO Conventions on Freedom of Association and Protection of the Right to Organize (No. 87)** and on the **Right to Organize and Collective Bargaining (No. 98)** in 1999.

The right to freedom of association, the right to organize and the right to collective bargaining are core labour rights and are important because they influence the ability of workers to secure other labour rights related to health, safety and working conditions through collective action.

Although there are international concerns about the ability to associate and organize for political purposes in Eritrea, the rights to associate and organize for labour purposes are entrenched in the Labour Proclamation. There are associations for both employers and employees, which are grouped into confederations at the national level. Employees can form an association in workplaces with 20 or more employees, provided that 15 employees join the association. Employees have the right to not join the association, even if there is an association in the workplace.

Interviews with the Ministry of Labour and Human Welfare indicate that there are over 100 collective agreements in effect in Eritrea, including for some of the suppliers, contractors and subcontractors for the Bisha Mine. This was confirmed in interviews with managers from Segen Construction and Transhorn Transportation; and a copy of the Segen Construction Collective Agreement was provided, translated and reviewed.

There is no employees association at BMSC and none of the other mining companies developing mines in Eritrea have employees association. Interviews with national union officials state that there is interest in creating employee associations in the mining sector and that there have been previous discussions with BMSC managers and employees, visits to the Bisha site, and exchanges with union counterparts in other African countries. Similarly, interviews with the Ministry of Labour and Human Welfare indicate a general support for creation of employee and employer associations for new sectors of the economy, including mining, as these associations are considered to bring mutual benefit for employees and employers.

Eritrean stakeholders highlighted that Eritrea has a strong tradition of tripartite cooperation between government, employers and employees with the goal of economic development of the country; and, there is no history of disruptive labour action, strikes or violence such as have been seen in other parts of the world. Furthermore, employee associations can play a valuable function of teaching employees about their rights and obligations in the workplace, as well as providing an additional mechanism for resolving grievances at site level—that could avoid cases that otherwise may be brought to the Labour Court.

CONCLUSIONS:

- The right to freedom of association and collective bargaining are protected by the Eritrean Labour Proclamation and these rights can and have been exercised—as is evidenced by the collective agreements in place for a number of BMSC’s suppliers, contractors and subcontractors.
- Discussions with internal and external stakeholders suggest that there are ongoing informal discussions about the formation of employee associations for the mining industry, including with respect to the Bisha Mine. It is foreseeable that these informal discussions may eventually result in a formal request to BMSC—which will test its support for the rights related to freedom of association and collective bargaining.

e. Non-Discrimination

STANDARDS RELATED TO NON-DISCRIMINATION

Human Rights: Right to Non-Discrimination (which applies to all labour and human rights); Women’s Rights; Right to Work; and Right to Education.

Eritrean Constitution:

- Article 7(2) Any act that violates the human rights of women or limits or otherwise thwarts their role and participation is prohibited
- Article 14(1) All persons are equal under the law. (2) No person may be discriminated against on account of race, ethnic origin, language, colour, gender, religion, disability, age, political view, or social or economic status or any other improper factors

Labour Proclamation No. 118/2001:

- Article 23(4) The following may not constitute legitimate grounds for the termination by an employer of a contract of employment: an employee’s race, colour, nationality, sex, religion, status, political orientation or social status
- Article 41(1) An employer shall play equal starting wages for the same type of work
- Article 65(1) Women may not be discriminated against as regards opportunity or treatment in employment and remuneration, on the basis of their sex

BMSC Social Responsibility Policy (Policy 3) states that BMSC will “promote job equity and equal access to employment opportunities for women.”

BMSC Employee Policy

 (Policy 4) states that the company:

- will not discriminate against potential or existing employees on the basis of religion, ethnicity, gender or other factors
- adopt recruitment procedures which facilitate the employment of people from the immediate Project area and local communities in the first place;
- ensure fair entitlements, benefits and remuneration, of a level which is in keeping with Eritrean norms and laws and enables BMSC to attract and retain employees
- implement mechanisms for the fair and consistent measurement of employee performance;

The **Mining Contract** between the Government of Eritrea and BMSC provides for local hiring preference:

- 16.2. Preference for local hiring: The Company shall give preference to the employment of Eritrean nationals provided that such persons have the required skills and/or qualifications
- 16.3. Right to hire expatriate experts: Subject to Applicable Law and Article 16.2, the Company has the right to hire and employ a reasonable number of expatriate workers who have specialized skills, knowledge and experience. A “reasonable number” shall mean with regard to:
 - 16.3.I. Development work: no more than 20% of the Company’s workforce
 - 16.3.2. Mineral Exploitation: no more than 20% of the related workforce initially and no more than 10% of the Company’s workforce after five (5) years from the commencement of Commercial Production

This discussion of non-discrimination is focused on two main issues that are relevant for the Bisha Mine: first, the equality of men and women; and, second, the preference for local hiring of Eritrean employees. For both of these issues, respecting the right to non-discrimination may imply an obligation or commitment to provide training, support or “affirmative action” to women and local employees to help them join, advance and succeed in the workforce. Therefore, the right to non-discrimination has implications for women’s rights, the right to work and the right to education.

Eritrean labour law is clear about the requirement to provide equal opportunity and equal wages for equal work to women. Furthermore, Eritrean stakeholders often refer to the empowerment and equality of women that came from fighting alongside men during the struggle for independence.

The requirements for equal opportunities and wages for women are reflected in BMSC’s policies, and human resource managers confirm that women and men receive equal pay in all work categories. Individual and focus group interviews with female workers did not raise any issues about wage discrimination vis-à-vis their male colleagues; and rather expressed appreciation of the favourable wages they were earning at the mine vis-à-vis their male and female friends and relatives who were working elsewhere.

As is typical at many mines, the majority of women are in housekeeping and kitchen jobs, with notable exceptions for women in administration and finance roles, as well as in operations. Women in operational jobs (truck drivers) stated that they had begun in entry-level jobs in housekeeping or the kitchen, but were able to advance through training programmes offered at Bisha. Human resources managers stated that 9 women had been trained and promoted into operational roles, and noted that additional women truck drivers are going to be trained this year. Female employees noted that they were aware of other women (already working at Bisha or working elsewhere) who would be interested in pursuing these opportunities for training and promotion when they become available.

The Minister of Labour and Human Welfare (who is herself a woman) confirmed that promotion of women in the workforce was a priority for the government and that Ministry officials were attentive to employment and promotion of women at Bisha—and will be supportive of all BMSC’s efforts to set a good example for women’s role in the mining sector. Moreover, the employment opportunities given to women may have a broader impact in communities and in society. In a focus group with female workers from local communities, some spoke about how their employment at the mine was challenging and changing traditional roles and attitude and creating new roles for women outside of the home. In the focus group with female workers in operational jobs, there was a definite sense of pride of being amongst the first women in Eritrea to prove that women can be successful in a “man’s job.”

The priority for hiring Eritrean workers is clear in Eritrean laws, the mining agreement for the Bisha Mine, and in BMSC’s policies. Eritrean workers are in

the clear majority at the mine, with expatriate workers in expert and capacity-building roles. In 2013, Eritrean employees represented 91% of the workforce at BMSC. The ongoing priority given to Eritrean workers was observed not only for entry-level jobs, but also in the hiring process for managers. For instance, the assessment followed the search process to hire a new environmental manager and observed that meaningful steps were taken to ensure that there were no Eritreans who met the qualifications prior to giving permission to hire an expatriate.

The Minister of Labour and Human Welfare also confirmed the priority given to Eritrean workers is a matter of national policy. At the same time, there is recognition that mining expertise is currently lacking in Eritrea. Therefore, the presence of expatriate workers is not seen as an issue of discrimination or inequality, but rather an opportunity for capacity-building and skill transfer.

The priority given to Eritrean employees clearly has a positive impact on the right to work of these employees. Given that the vast majority of them have no specific experience in the mining industry, their ability to work at a mine and progress into roles with greater responsibility depends to a great extent on training. At the Bisha training centre, programmes have been put in place that extend far beyond basic induction and safety training, and provide options for specialized training for different technical functions and for leadership.

CONCLUSIONS:

- There is no evidence of discrimination between male and female employees at the Bisha mine. While women are employed primarily in traditional roles such as housekeeping and the kitchen, there are a growing number of women advancing into operational roles through the training programmes offered at the mine. Even local women who are employed in entry-level positions have challenged traditional roles and cultural values to work outside of the home. These women represent individual success stories and testify to the respect and support of their rights by BMSC.
- The requirements for priority hiring of Eritreans that are being implemented at the Bisha Mine are another facet of non-discrimination and also support the right to work. BMSC is currently exceeding its contractual targets with 91% Eritreans in the workforce.
- The successful integration of female and male Eritreans into the workforce, as well as their skills development and promotion (with a view to gradually replacing some of the expatriate workers), is contingent upon training and capacity-building. In this regard, the Bisha Mine’s training centre has an important role to play in respecting and supporting the right to non-discrimination, the right to work and the right to education.

f. Harassment

STANDARDS RELEVANT TO HARASSMENT

Human Rights: Right to Non-Discrimination; Women's Rights; Right to Freedom from Degrading and Inhuman Treatment

Labour Proclamation No. 118/2001

Article 65(1): Women may not be discriminated against as regards opportunity or treatment in employment and remuneration, on the basis of their sex.

The **Transitional Criminal Code** prohibits sexual violence.

BMSC Social Responsibility Policy (Policy 3) states that “BMSC management will conduct the company’s business activities to promote job equity and equal access to employment opportunities for women.”

BMSC Code of Conduct (Policy 5) states:

“Harassment of any kind will not be tolerated from personnel engaged with the Project. Harassment may take many forms including religious and ethnic slurs, jokes, statements, gestures, impeding another’s movement, culturally offensive writing or pictures, and sexual advances or conversations.”

Nevsun’s Code of Ethics:

“The Company will not tolerate ... sexual harassment, abusive behaviour.”

The issue of harassment is closely related to non-discrimination. Harassment can create a hostile working environment where women and members of different religious and ethnic groups are made to feel unwelcome and do not have the same opportunities for hiring and advancement in a workplace. As mines tend to be male-dominated work environments, there are particular concerns about sexual harassment of women.

The observations of interactions between employees at camp and at the mine site reveal a cordial working environment with respectful and friendly interactions between men and women, between Eritreans and expatriates, and between managers and entry-level employees. Interviews with Eritrean employees did not raise issues about racial harassment; and individual and focus group interviews with women did not raise issues about sexual harassment.

Specific questions to women employees did reveal that they sometimes receive advances from male colleagues, but nothing that they considered went beyond the line of inappropriate behaviour. Moreover, the women interviewed were confident that they could and would raise and resolve the issue with their supervisors or human resources if the advances were **unwelcomed** or persistent. Human resource managers confirmed that the process for raising concerns about harassment, including sexual harassment, would be treated with confidentiality, discretion and a zero tolerance attitude for proven allegations.

CONCLUSION:

- BMSC has strict policies against harassment and procedures to raise complaints confidentially to the human resources department. However, interviews with employees—in particular, with female employees—did not raise any issues or previous incidents of concern. Nonetheless, this is an area that deserves ongoing attention through induction training on the harassment policies and procedures, as well as monitoring of the internal employee grievance mechanisms for any incidents.

g. Child Labour

STANDARDS RELATED TO CHILD LABOUR

Human Rights: Freedom from Child Labour; and the Rights of the Child

The Labour Proclamation No. 118/2001:

Article 68(1) It is prohibited to employ a person under the age of fourteen years

Article 69(1) The Minister may, by regulation, issue a list of activities prohibited to young employees, including apprentices, which shall, in particular, include:

- (a) work in the transport of passengers and goods by road, railway, air and sea and in docksides and warehouses...
- (b) work connected with toxic chemicals, dangerous machines...
- (c) underground work, such as mines...

BMSC Employee Policy (Policy 4) states that BMSC will: “abide by minimum age laws and conventions and prohibit all forms of child labour.”

BMSC Social Responsibility Policy (Policy 3), it is stated that BMSC management will conduct the company's business activities to “procure materials, goods and services in a manner that ... protects against unethical practices such as child labour.”

Nevsun Code of Ethics states that: “the Company will not tolerate ... exploitation of child labour.”

Child labour may be a national-level preoccupation in Eritrea, particularly with respect to children who are engaged in traditional economic activities of their families, however work in the mining sector is a different matter: Eritrean law prohibits children under 18 from working in this sector.

The procedures in place at the Bisha Mine ensure that all employees are at least of 18 years of age: Advertisements for employment specify that candidates must be 18, and prospective employees must produce an identification card that demonstrates that they are 18 years of age. Verification of random employment files confirm that copies of these identity documents have been obtained—and that employees are above 18.

No children or young workers were observed on site, camp or contractors' camps. Furthermore, none of the interviews conducted with employees and managers raised issue about the employment of children or young workers. Interviews with Ministry of Labour and Human Welfare officials said that they have conducted inspections at Bisha and found no evidence of child labour.

CONCLUSION:

- There is no evidence of child labour at the Bisha Mine. BMSC has appropriate human resources screening procedures in place to ensure that employees are at least 18 years of age, which meets the standards in Eritrean and international labour law for work at a mine.

3. HUMAN RIGHTS AND LOCAL COMMUNITIES

a. Human Rights Related to the Environment

STANDARDS RELATED TO HUMAN RIGHTS AND THE ENVIRONMENT

Human Rights: Right to Water and Sanitation; Right to Health; Right to Food

Eritrean Constitution:

Article 8 (3) In the interest of present and future generations, the State shall be responsible for managing all land, water, air and natural resources and for ensuring their management in a balanced and sustainable manner; and for creating the right conditions to secure the participation of the people in safeguarding the environment

Eritrean Mining Regulation No. 19/1995, Article 29 provides for Health, Safety and Environment Protection, including provisions for reporting and mitigation of environmental damage, and for progressive reclamation

Eritrea has adopted **National Environmental Assessment Procedures and Guidelines** in March 1999

Eritrea has adopted a relatively new law on water and sanitation:

Water Proclamation 162/2010

Eritrea has ratified a number of **UN Conventions related to climate change, biodiversity and biosafety**. In cooperation with the UN Environmental Programme (UNEP), the Eritrean government conducted a national capacity needs self-assessment for global environmental management, and developed a national Action Plan

The **Mining Agreement** between the Government of Eritrea and BMSC:

Article 22 – Environment, Rehabilitation and Protection Against Loss and Waste

Article 22.1 – Company to minimize environmental impact and pollution

Article 22.2 – Company to obtain environmental approvals

Article 22.3 – Environmental procedures and guidelines

Article 22.3.1 – Environmental impact assessment study

Article 22.3.2 – Environmental management and rehabilitation programme plan

Article 22.3.3 – Company may submit amended proposed studies and plans

Article 22.3.4 – Company shall update plan

Article 22.3.5. – Minister to approve plan

Article 22.4 – Annual reporting obligation

Article 22.5 – Company to implement and comply with environmental management and rehabilitation programme plan

BMSC's Environmental Policy (Policy 1):

- comply with all host country environmental laws and regulations together with industry best practice standards or whichever is the more stringent of the two
- commit the necessary resources to support and implement the company's environmental policy
- establish and maintain an Environmental Management System (EMS) in line with ISO 14001:2004
- be committed to continual improvement in environmental performance by developing environmental indicators, monitoring and auditing performance, and by implementing corrective actions where needed
- report externally on environmental performance and encourage dialogue with employees, local communities and other stakeholders to promote environmental awareness
- include environmental performance criteria in decisions on promotions, salary increases and awarding contracts
- apply the principles of BAT (Best Available Technology) to environment management
- reduce, re-use and recycle resources and implement proper waste management practices
- train, motivate and ensure that all employees adhere to environmental protection and pollution prevention policies
- incorporate an emergency preparedness and response system into standard operating practices
- monitor and report on performance through periodic audits

BMSC's Social Responsibility Policy (Policy 3):

- conduct business within a framework that promotes ... environmental protection...
- actively consult with local communities to identify and resolve environmental and social issues

Nevsun Code of Ethics:

The Company also utilizes the best environmental practices in the jurisdictions in which it operates to minimize impact to the local ecosystems and the human communities. It is the Company's policy that the Company will return all utilized sites back to a high environmental standard at the end of the project cycle. The Board has appointed a Social, Environmental, Health and Safety Committee (SEHS) to oversee these concerns.

This section assesses the nexus between human rights and the environment in order to highlight the potential impacts of the Bisha Mine on the human rights of local communities. Given the vast range of environmental issues (air/emissions, water, soil, dust, waste, wildlife, biodiversity, land remediation, mine closure planning, etc.), the HRIA has prioritised water as a leading indicator and example of how environmental issues interact with human rights. In this regard, the human right to water and sanitation was recently recognized by the United Nations and currently additional guidance is being developed for States and business enterprises for its implementation.

Moreover, the risk of water-related issues and impacts are significant in the Horn of Africa region, where there have been relatively frequent and catastrophic droughts—and which may be exacerbated in coming years by climate change. The prioritization of water as a leading human rights issue was confirmed through interviews with national-level stakeholders, employees and consultants with knowledge of BMSC's environmental plans. Indeed, the Government of Eritrea is also concerned about water-related issues and has recently enacted new law on water in Water Proclamation 162/2010.

BMSC has a strong policy framework for its management of environmental issues, including a detailed Environmental Policy. Other policies cover environmental matters in relation to consultation with communities and responsibilities of employees. Furthermore, the intersection of environmental and social issues is the area where BMSC has some of its strongest procedures that have been developed through the environmental and social impact assessment process (which was part of the permitting of the mine). Induction training of all employees includes environmental awareness, and environmental awareness activities are also conducted in the communities.

The management of environmental impacts is an ongoing responsibility and priority for the Environmental Department. It is currently implementing detailed Environmental Management Plans, developed and revised in accordance with IFC Performance Standards (2012), and that cover the following areas:

- Air Quality Management Plan
- Noise Management Plan
- Terrain and Erosion Control
- Topsoil Management Plan
- Wildlife Management Plan
- Water Resources Management
- Waste Water Management
- Tailings Management Plan
- Non-Hazardous Industrial and Domestic Waste
- Cyanide Management Plan
- Hazardous Substances Management
- Transport Management Plan

N.B. There are also social management plans that are discussed in other sections of the report.

Focusing specifically on water-related issues, the Environmental Department's main activities relate to:

- Ensuring water supply for the mine and camp
- Drilling and maintaining source wells and monitoring wells
- Monitoring water quality and levels
- Water recycling
- Tailings Management Facility (TMF) construction, management and monitoring
- Monitoring water upstream and downstream from the TMF
- Chemical management (esp. cyanide during gold phase)

In terms of the potential impacts of the environment on the human rights of community members, it is important to note that the Bisha Mine is located at a fair distance from the local villages, so there is a buffer zone that minimizes certain types of interactions and risks. For instance, the most significant project interactions with communities relates to the transportation route (resulting in one grievance related to dust and raising health and safety risks for community members that are discussed in the section on workplace health and safety).

However, the mine's consumption of water and the risk of water pollution of rivers or aquifers can have serious impacts on distant communities, as well as on members of those communities who come closer to the mine for their animals to graze and drink water. Environmental staff stated that water consumption has not been an issue to date: the mine's water system has two sources (one near the Mogaraib river and one near the Harena site) and can alternate between the two to allow the other to naturally recharge through rainwater. Nonetheless, it is acknowledged that there could be strain on these sources that are completely dependent upon precipitation for recharge as the mine expands and there is simultaneous draw down on both water sources.

In this regard, water was identified by environmental staff and consultancy experts as the mine's biggest environmental and business risk: if there was a drought, the mine could run out of water to meet its production demands, and TMF failure could have major impacts on downstream water quality. Both of these scenarios would likely have serious impacts on human rights. Fortunately, neither of these scenarios has occurred; however, this is an area where rigorous implementation of the environmental management and monitoring plans needs to be assured on an ongoing basis. For instance, the annual auditing of the TMF provides an extra degree of assurance that a serious risk is being properly addressed.

According to environmental managers and Community Liaison Officers, communities have not raised grievances related to water; however, they have expressed desire for assistance from BMSC with water infrastructure projects. Despite the delays in implementing the Community Assistance Plan, as discussed below, BMSC employees have provided some non-financial community support related to water by: allowing livestock grazing into the concession area access to water; and, by repairing a collapsed well in a nearby village.

CONCLUSIONS:

- BMSC has adopted a responsible and progressive approach to environmental management by supplementing its compliance with Eritrean environmental regulations with the adoption of the IFC Performance Standards and updating them in line with the 2012 revision of these standards. This is one of the areas where BMSC is committed to going beyond compliance with domestic legal standards and implementing international standards and best practices.
- Detailed Environmental Management Plans in line with IFC Performance Standards (2012) have been developed, including timelines, indicators and responsibilities for implementation and monitoring. Implementation of these plans has been delayed, in part due to personnel changes in the Environmental Department; however, BMSC's commitment to their implementation as an ongoing priority appears to be genuine and shared across management. As will be discussed below, the integration of human rights considerations into the Environmental and Social

Management Plans represents one of the most strategic entry-points for ongoing human rights due diligence at the Bisha Mine.

- Interviews with community leaders from the nearby villages did not identify environmental issues as a concern—apart from the most visible impacts such as dust and noise related to the transportation route. However, internal and external experts have identified water-related issues as a leading long-term risk from an environmental and business perspective. Any impacts on water availability, accessibility and quality related to the mine's production needs or potential pollution also amount to human rights impacts. Therefore, human rights provides an additional rationale for BMSC to prioritise water-related impacts for ongoing due diligence. Furthermore, human rights principles suggest that BMSC's approach to environmental management should not only strive for technical and scientific good practice at the mine site, but also should incorporate ongoing consultation with and consideration of the concerns and rights of end-users.

b. Community Development

STANDARDS RELATED TO COMMUNITY DEVELOPMENT

Human Rights: Community development activities can potentially support the full range of human rights

The Eritrean Constitution:

Article 8, Economic and Social Development

- (1) The State shall strive to create opportunities to ensure the fulfilment of citizens' rights to social justice and economic development and to fulfil their material and spiritual needs
- (2) The State shall work to bring about a balanced and sustainable development throughout the country, and shall use all available means to enable all citizens to improve their livelihood in a sustainable manner, through their participation

Eritrea has developed a national development plan with various objectives related to eradicating poverty and providing citizens with better access to education, health care, job opportunity and social security. Through a process of devolution to the regional (Zoba) level, Eritrea is putting in place **Integrated Rural Development Schemes (IRDS)** to guide local development.

The **Mining Agreement** between the Government of Eritrea and BMSC:

Article 17 – Community Development

17.1. General Obligation to Promote Development

The Company shall assist in the development of the community to promote the general welfare and enhance the quality of life of the inhabitants living in the host and neighbouring communities.

17.2. Company to Respect Traditions

The Company shall recognize and respect the rights, customs, cultures, beliefs and traditions of local communities.

17.3 Community Development Expenditures to be Deductive

Only MEM pre-approved community development expenditures shall be deductible for tax purposes.

BMSC's Social Responsibility Policy (Policy 3) states that BMSC management will conduct the company's business activities to:

- conduct business within a framework that promotes worker and community health and safety, environmental protection, human rights, community involvement, community benefits and the quality of life for employees and their families
- build capacity by sharing environmental and social experiences and solutions with local communities and regional and national governments

BMSC's Code of Conduct (Policy 5) also includes related commitments about: community goodwill vs. opportunity seekers; and, to respect requests of community leaders

BMSC's Social and Environmental Management Plans include a Community Assistance Plan (CAP). This plan “sets out steps for BMSC to contribute to the sustainable development of the communities near to the Bisha site. The plan sets out a strategy of working with the Government to ensure that any community assistance projects are consistent with the Government's regional development plans. All community assistance projects proposed by BMSC are subject to approval of the relevant government administrations.”

The Nevsun Code of Ethics states that: “the Company provides an operating environment that is oriented to protect the health and safety at its work sites for the benefit of its employees, contractors and community.”

The general responsibility for companies with respect to human rights is to “do no harm” and not necessarily to promote or support human rights through community development and social investment activities. However, some community development activities may be viewed as an obligation to the extent that they address the negative impacts of a company’s operations. Other community development activities may be viewed as an obligation because they are part of a formal commitment that a company made with a community, government or financial institution in order to obtain consent and approval to the project.

BMSC has numerous policy and legal commitments to promote and support community development, and has developed a Community Assistance Plan (CAP) as part of its environmental and social management plans. However, the CAP has not been implemented to date. Some of the BMSC managers and community leaders interviewed are frustrated about the delays in implementing this plan, given their belief that relatively small investments can meet the needs of nearby villages and demonstrate the tangible benefits that the Bisha Mine can make to the overall development of Eritrea. Without a mechanism to provide some responsive assistance, there is concern that ongoing stakeholder engagement efforts may be viewed as insincere.

There is speculation about various reasons that the CAP has not been implemented in the past, but there is also hope that the plan will be implemented in the future. In this regard, the government’s implementation of Integrated Rural Development Schemes may provide an appropriate framework for BMSC to contribute to development projects at the local rather than national level.

Recognizing that the activities and projects that could be supported by the CAP must be agreed upon between government officials, the BMSC Board and community leaders, it is beyond the scope of the HRIA to recommend specific projects or activities that could be undertaken. However, some criteria for developing effective community development projects can be suggested from a human rights perspective:

- They should be based on consultation with community leaders and the proposed beneficiaries of the projects, including vulnerable groups or individuals.
- They should take into account national, regional and local development priorities.
- They should reflect BMSC’s policy commitments and prioritise avoiding potential negative human rights impacts.

As illustrations, the following are examples of projects that stakeholders provided and that would meet these criteria: a project related to supporting access to water and drought risk management in local communities, and a project related to adult literacy that would support the right to education and enhance the ability of community members to take advantage of work opportunities at the mine.

CONCLUSION:

- BMSC has made policy and contractual commitments to support community development and community leaders have taken note of those commitments. While BMSC has developed a Community Assistance Plan (CAP) as part of its social management plans, the CAP has not yet been implemented. This deprives BMSC of a valuable mechanism to address potential risks to human rights and/or support human rights, as well as to contribute to national, regional and local development goals. Implementing the CAP as a matter of priority will help to maintain goodwill with the community leaders and can help the Bisha Mine set another important precedent for responsible mining in Eritrea.

4. CROSS-CUTTING HUMAN RIGHTS ISSUES

a. Security and Human Rights

STANDARDS RELATED TO SECURITY AND HUMAN RIGHTS

Human Rights: Right to Life; Right to Liberty and Security; Freedom from Torture, Cruel, Inhuman and/or Degrading Treatment or Punishment; Right to Just and Favourable Working Conditions

Eritrean Constitution:

Article 12 - National Defence and Security

- (1) The defence and security forces of Eritrea shall owe allegiance to and obey the Constitution and the government established thereunder
- (2) The defence and security forces are an integral part of society, and shall be productive and respectful of the people
- (3) The defence and security forces shall be competent and be subject to and accountable under the law
- (4) The defence and security of Eritrea depend on the people and on their active participation

Article 15 - Right to Life and Liberty

- (1) No person shall be deprived of life without due process of law
- (2) No person shall be deprived of liberty without due process of law

Article 16 - Right to Human Dignity

- (1) The dignity of all persons shall be inviolable
- (2) No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

BMSC Health and Safety Policy (Policy 2):

- adhere to local laws as well as international standards on law enforcement in securing its operations, particularly those that relate to the use of force
- carry out risk assessments in relation to security issues at each of its project sites
- ensure that security is managed in a way that respects and protects human rights, avoids creating conflict and addresses security threats in as peaceful a way as possible

BMSC Security Policy

- To treat all people with respect and dignity, and to be guided in our approaches and actions by the Voluntary Principles on Security and Human Rights
- To provide the security expertise and resources required to develop a safe and secure working environment
- To provide the security expertise and resources required to develop a safe and secure working environment

- To establish security strategies, plans, standards, policies and procedures to support achievement of Bisha's business objectives
- To identify and manage risks effectively, with a focus on preventing security incidents
- To be prepared to respond to incidents with appropriate and tested response plans
- To establish programs that protect employees, company assets and shareholders from loss from theft, fraud, and other inappropriate activity
- To investigate and analyse security incidents, to take appropriate action and continuously improve
- To operate in accordance with the laws of Eritrea
- To maintain a high degree of professionalism, knowledge and integrity among security staff with appropriate recruiting, training, resources and contracting procedures
- To use proven technology to increase the reliability and efficiency of our operations

The above-noted commitment to international standards on law enforcement refers expressly to the **UN Code of Conduct for Law Enforcement Officials**.

BMSC Code of Conduct (Policy 5):

- The Project has a zero tolerance to crimes and violence
- Use of force will not be tolerated and all disagreements must be resolved through appropriate legal channels
- The carrying of firearms, explosives etc. is prohibited
- Workers must carry appropriate identification at all times and there will be no access to site by non-authorized personnel. Workers must be willing to produce identification upon request

Nevsun Code of Ethics:

Voluntary Principles on Human Rights & Security. The Company has implemented numerous policies to ensure all employees, contractors and subcontractors are treated with dignity and respect at all times. The security standard in our operations is designed to help the Company protect its people and assets in a way that minimizes conflicts and respects the human rights of its stakeholders.

Security and human rights are considered to be a cross-cutting issue because they relate to both workers and community members. On the one hand, security personnel protect the workers and assets of a business enterprise from external threats and risks, thereby contributing to their rights to safe and healthy working conditions. On the other hand, security personnel can be involved in conflicts with community members and jeopardize their human rights—including the right to life, liberty and security of the person.

General concerns about security or military conflict that exist in the border regions of Eritrea were not observed at or near the Bisha Mine. In fact, the region and local communities appear to be very peaceful, tranquil and free from crime or violence.

Regardless, there is interaction between BMSC with public security forces: There are check-points on the highway between Asmara and the mine site, as well as a check-point on the entrance road to the mine; there are military patrols / camps in the periphery of the mine; and, there are interactions and exchange of information between head of security and regional military commander.

Moreover, there is interaction between BMSC and private security firms. In particular, Binae Security has been contracted to provide approximately 70 private security guards at the Bisha Mine whose tasks include supervising the gate, processing plant, gas farm and operating a Closed Circuit Television (CCTV) system. Observations of the private security guards indicate that they do not carry weapons and operate in a discrete, professional manner. As mentioned above in the section on forced labour, a review of the contract with Binae Security stipulates that all security guards must be discharged from national service.

To date, there have been no reports of violent incidents at the mine site, at the mine perimeter, or in the local communities. From interviews with workers, managers, Community Liaison Officers, community leaders and security personnel, the relationship between the mine and local communities is peaceful and respectful. The camp is also observed to be safe, calm and professional. Only one anecdote was recounted about a fight between two workers a number of years ago—which led to their dismissal.

Interviews with security managers about risk assessments indicate that the greatest risks are considered to be weather, fire and chemicals, rather than any threats related to communities or workers. Moreover, given the recent change from gold production to copper processing, the risk profile related to theft has diminished considerably.

The Voluntary Principles on Security and Human Rights (VPs) are part of the security policy at BMSC. The implementation of the VPs has been initiated through risk assessments; and training for security guards on respect for workers and communities. Moreover, a new training module on the VPs has been developed that emphasizes human rights aspects and is ready to be rolled-out in 2014.

CONCLUSIONS:

- While external perceptions about the situation in Eritrea raise concerns about security and human rights, the operating environment at the Bisha Mine and in surrounding communities appears to be safe, calm and peaceful.
- There are interactions between the Bisha Mine and public and private security forces. Therefore, it is appropriate that BMSC has integrated the Voluntary Principles on Security and Human Rights into its security policy and is implementing further training on these principles. Moreover, the Voluntary Principles are one of the other areas where BMSC has made a commitment to international good practice standards and which can provide a good example and learning opportunity for the Eritrean mining industry.

b. Grievance Mechanisms

STANDARDS RELATED TO GRIEVANCE MECHANISMS

Human Rights: Access to Remedy

The Eritrean Constitution:

Article 24 - Administrative Redress

- (1) Any person with an administrative question shall have the right to be heard respectfully by the administrative officials concerned and to receive quick and equitable answers from them
- (2) Any persons with an administrative question, whose rights or interests are interfered with or threatened, shall have the right to seek due administrative redress

Proclamations No. 166/2012, 167/2012, 168/2012 and Legal Notice No. 120/2012. These laws were promulgated by the government in 2012 with the aim of enhancing access to and better delivery of justice. The amendments encompass changes in the jurisdiction of courts; refinement of the procedural laws as well as the introduction of new laws for enforcement.

Labour Proclamation 118/2001 provides for a system of Labour Courts and the Labour Relations Board for the adjudication of individual employment cases as well as issues involving Collective Agreements

Article 126 – First Instance Labour Courts

Article 127 – The Labour Relations Board

The BMSC Social Responsibility Policy (Policy 3) states that BMSC will “actively consult with local communities to identify and resolve environmental and social issues.”

The BMSC Employee Policy (Policy 4) states that BMSC will “provide avenues for the timely, confidential and appropriate resolution of employee grievances and complaints.”

The BMSC Code of Conduct (Policy 5) states the following: “Respect requests of Community Leaders: Any request / issue raised by community leaders shall be directed to the Community Liaison Officers or other member of the community relations team. Any complaints shall be treated under the procedure defined by the BMSC Stakeholder Engagement Programme.”

The Stakeholder Engagement Plan contains a grievance mechanism for local communities, which was updated as part of the revision of the environmental and social management plans in line with IFC Performance Standards (2012).

A specific **Segen Construction Ltd. Grievance Procedure** at the Bisha Mine has been developed and is being rolled out for Segen employees.

Nevsun recently expanded the scope of its **Whistleblower Policy** in 2013 beyond financial accounting matters to include violations or suspected violations of the Code of Ethics.

Access to remedy is a fundamental principle for the corporate respect to human rights. Simply put, if there are no mechanisms that provide access to remedies, human rights are at risk of becoming meaningless. These mechanisms can be provided by courts, national human rights institutions and/or through grievance mechanisms established by business enterprises for their operations.

Good practice suggests that operational-level grievance mechanisms perform two key functions regarding the responsibility of business enterprises to respect human rights:

- First, they support the identification of adverse human rights impacts as a part of an enterprise’s ongoing human rights due diligence. They do so by providing a channel for those directly impacted by the enterprise’s operations to raise concerns when they believe they are being or will be adversely impacted. By analysing trends and patterns in complaints, business enterprises can also identify systemic problems and adapt their practices accordingly.

- Second, these mechanisms make it possible for grievances, once identified, to be addressed and for adverse impacts to be remediated early and directly by the business enterprise, thereby preventing harms from compounding and grievances from escalating.¹⁶

Such mechanisms need not require that a complaint or grievance amount to an alleged human rights abuse before it can be raised, but specifically aim to identify any legitimate concerns of those who may be adversely impacted. If those concerns are not identified and addressed, they may over time escalate into more major disputes and human rights abuses. Thus, operational-level mechanisms should also be based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.¹⁷

¹⁶ See UN Guiding Principles on Business and Human Rights, Commentary to Principle 29

¹⁷ Ibid, paras. 29 and 31.

Further to its various policy commitments, BMSC and Nevsun have established a number of grievance mechanisms for internal and external stakeholders. These include:

- An internal grievance procedure for BMSC workers that is overseen by the Human Resources Department.
- A grievance procedure for local communities that is part of the Stakeholder Engagement Plan and that is channelled through BMSC Community Liaison Officers.
- A grievance procedure for Segen Construction workers that is channelled through the BMSC Environmental and Social Manager.
- A Nevsun Whistleblower Policy for external stakeholders that is channelled through the Board of Directors’ Social, Environmental, Health and Safety Committee.

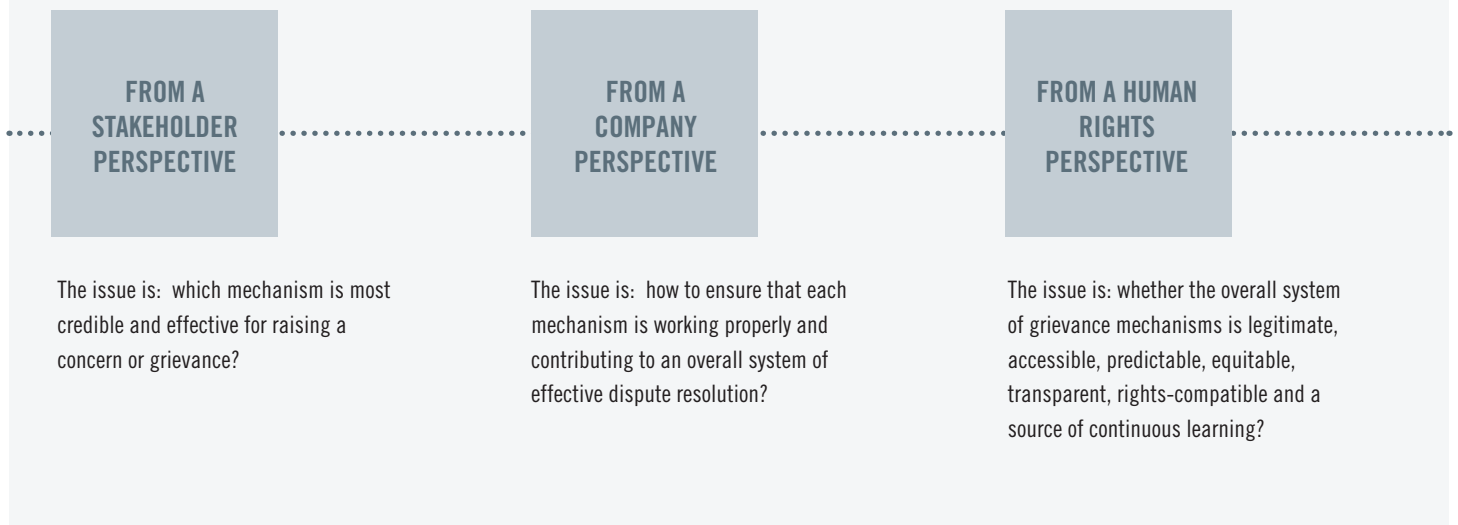
In addition, the following mechanisms are also available for workers to raise grievances:

- Individual cases brought to the First Instance Labour Court.
- Informal and formal inquiries or complaints brought to the Ministry of Labour and Human Welfare.
- The grievance procedure under the Collective Agreement of subcontractors such as Segen Construction and Transhorn Transportation.

From interviews with a wide range of stakeholders, there appears to be awareness of the different grievance mechanisms, and examples were provided about their use. For instance:

- Interviews with managers in environmental department, including Community Liaison Officers, described the ongoing discussions with community leaders about issues and how they are generally resolved through dialogue.
- Community grievances enumerated for the 2013 CSR report were corroborated in interviews, e.g. building a bypass road for a town that was concerned about dust from the copper concentrate trucks.
- Interviews with human resource staff described the informal and formal processes for raising issues to direct supervisors or to the human resource department.
- Interviews with employees consistently demonstrated an understanding that concerns can be discussed with their supervisors or the human resource department.
- Interview with Eritrean Ministry of Labour and Human Welfare confirmed that issues can be raised with Ministry officials and are followed-up through Bisha inspections and recommendations to management for operational changes.
- Interviews with BMSC’s legal counsel described a number of labour law cases that had been brought to the First Instance Labour Court—particularly with respect to dismissal situations. Interviews with Labour Court judges provided an evaluation that cases with BMSC had been resolved fairly and efficiently.

Given this wide array of grievance mechanisms, there are a number of issues to consider:



To bring these perspectives together, it is necessary to continue tracking the use of the different mechanisms, and to ensure that there is a focal point at BMSC that has an overall perspective on how the various mechanisms are working—as well as trends in issues that are being raised. In this regard, it is important to have a critical eye: the fact that no cases have been brought to one of the mechanisms does not necessarily mean that there are no grievances.

Secondly, it is important to continue promoting the grievance mechanisms, so that internal and external stakeholders understand the procedures and purposes of different mechanisms. For instance, there are some useful ideas in the Stakeholder Engagement Plan for promoting the grievance mechanism for communities. Similar approaches can be used for other mechanisms.

Finally, it is important to maintain a dialogue with affected stakeholders about the design and operation of the grievance mechanisms. For instance, the approach of consulting with Segen Construction workers about the grievance mechanism is useful to ensure that it works effectively vis-à-vis the mechanisms available under the Segen Collective Agreement. Furthermore, such consultation will serve to enhance the credibility of the mechanism and the likelihood that it will be used when necessary.

The importance of having effective grievance mechanisms is discussed further in the following section about ongoing human rights due diligence.

CONCLUSIONS:

- Developing effective operational grievance mechanisms are a critical component for providing access to remedies and meeting the corporate responsibility to respect human rights. BMSC has developed a number of grievance mechanisms with the objective of providing access to remedies to different stakeholder groups: its own workers, local community members, and subcontractors. In addition, Nevsun has clarified that its Whistleblower Policy is open to external stakeholders including those inside and outside of Eritrea.
- Just as the Bisha Mine is relatively young, so are these grievance mechanisms. It is still necessary to promote them to the relevant stakeholders and to explain the procedures for using them. The process of consulting with stakeholders provides an opportunity to make adjustments to the design of the grievance mechanism with a view to ensuring their effectiveness and credibility.
- It is important to coordinate the tracking of all the grievance mechanisms to ensure appropriate follow-up actions are taken and that any trends can be ascertained for a more proactive response. The coordinate tracking of the various grievance mechanisms should also facilitate ongoing reporting and dialogue about how issues have been addressed.

SECTION THREE

ONGOING HUMAN RIGHTS DUE DILIGENCE AT THE BISHA MINE

The previous section of the report presented an assessment of the human rights impact and risks related to the Bisha mine based on the research, observations and stakeholder interviews conducted between July 2013 and January 2014. In essence, this provides a snapshot of the human rights situation at a specific point of time. However, the potential for human rights impacts at the Bisha Mine does not end with the publication of the HRIA. Indeed, the corporate responsibility to respect human rights involves ongoing due diligence over the lifespan of the mine.

Therefore, this section provides a discussion of the possible approaches that BMSC can take to ongoing human rights due diligence. In part, this involves taking the findings from the HRIA and embedding any relevant insights into the governance structures, management systems and operational processes that will underpin the Bisha Mine's activities through continued operations, commodity transitions, closure and reclamation.

The analysis and observations in this section are primarily focused on BMSC's responsibilities at the Bisha Mine. However, they also contain implications for Nevsun's overall approaches to managing human rights risks and impacts—particularly if Nevsun is to acquire or develop other mines. Where the approaches and actions by BMSC at the Bisha Mine can be strengthened through Nevsun's actions at the corporate level, this will be highlighted.

THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS

In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- (a) A policy commitment to meet their responsibility to respect human rights
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute

Commentary: Business enterprises need to know and show that they respect human rights. They cannot do so unless they have certain policies and processes in place.

From the assessment of the human rights issues in the previous section, it is important to underline that BMSC and the Bisha Mine have many solid building-blocks in place for ongoing human rights due diligence. These elements are identified and assessed in line with the operational requirements of the UN Guiding Principles on Business and Human Rights, as well as emerging guidance on good practices for companies in the extractive sector.

1. POLICY COMMITMENT

OPERATIONAL PRINCIPLE: POLICY COMMITMENT

As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:

- (a) Is approved at the most senior level of the business enterprise;
- (b) Is informed by relevant internal and/or external expertise;
- (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
- (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
- (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

In relation to policy commitments at the Bisha Mine, Nevsun and BMSC have the following strengths:

- Human rights and related issues are included in the Nevsun Code of Ethics and the BMSC operational policies.
- The Nevsun Code of Ethics and BMSC operational policies have been approved by their respective Boards of Directors.
- The Nevsun Code of Ethics applies to all employees, officers and directors of the Company and its subsidiaries.
- The BMSC operational policies apply to BMSC management, and the BMSC Code of Conduct applies to all employees, contractors and subcontractors.
- The Nevsun Code of Ethics and BMSC operational policies are publicly available and are communicated internally and to business partners.
- Specific human rights issues are reflected explicitly and implicitly in the detailed operational policies and procedures for the Bisha Mine.

Based on emerging human rights guidance for the extractive industry, BMSC may consider some of the following approaches for strengthening ongoing due diligence:

- Update the BMSC operational procedures to strengthen the explicit references to human rights. Furthermore, as suggested by a senior manager at Bisha, the current statement of “core values” at Bisha could be updated to include an explicit statement about “respect.”
- Explain how human rights are embedded in the operational policy framework in updated employee training and ongoing engagement with stakeholders.

In addition, Nevsun may also consider updating the Nevsun Code of Ethics to make the overarching commitment to human rights more explicit, for instance in a separate section of the Code of Ethics. Such a revision could include reference to the UN Guiding Principles on Business and Human Rights and other relevant CSR standards applicable to Canadian extractive industry companies, and briefly articulate how human rights strengthen the company's approaches to environmental, social, labour and other areas of risk and impact assessment and management.

2. ONGOING HUMAN RIGHTS DUE DILIGENCE

OPERATIONAL PRINCIPLE: ONGOING HUMAN RIGHTS DUE DILIGENCE

In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.

This overarching operational principle about ongoing human rights due diligence has four main components: assessing impacts; integrating and acting on the findings; tracking responses; and communicating on progress. These are addressed in turn below.

a. Assessing Actual and Potential Human Rights Impacts

OPERATIONAL PRINCIPLE: ASSESSING IMPACTS

In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- (a) Draw on internal and/or independent external human rights expertise;
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

In relation to impact assessment at the Bisha Mine, Nevsun and BMSC have the following strengths:

- A Social and Environmental Impact Assessment (SEIA) was undertaken for the Bisha Mine as part of the licencing process. The SEIA was conducted in accordance with the IFC Performance Standards, and consultation with potentially affected stakeholders was undertaken in accordance with the Eritrean guidelines for impact assessment.
- The SEIA's environmental and social management plans are being updated to reflect the revised IFC Performance Standards. This includes an updated Stakeholder Engagement Plan.
- BMSC has undertaken a stand-alone HRIA that was conducted by an independent external team with human rights expertise, and that involved meaningful consultation with potentially affected stakeholders, including workers, community leaders and the workers of subcontractors.

Based on emerging human rights guidance for the extractive industry, BMSC may consider some of the following approaches for strengthening ongoing impact assessment processes at the Bisha Mine:

- Integrate human rights considerations into ongoing environmental and social impact assessment and management plans. Include human rights in the terms of reference for environmental and social impact assessments for future operations.
- While continuing to engage with external human rights experts as necessary, develop internal human rights capacity through ongoing training and/or hiring induction processes.
- Consider undertaking targeted assessments of suppliers, contractors or subcontractors identified as having potential human rights risks in the HRIA.
- Review and update the HRIA on a periodic basis and/or when there are significant changes to operations.

- As part of the planned activities in the Stakeholder Engagement Plan, consider engagement with external and internal stakeholders about the HRIA's findings and recommendations to validate the assessment, identify gaps and build awareness and dialogue about proposed actions. Key stakeholder groups to be engaged with are BMSC and sub-contractors' workers, local community leaders and members, and regional and national level government officials that have a role in oversight of the Bisha mine.
- Update the stakeholder identification and analysis, including identification of vulnerable and disadvantaged groups, to ensure that stakeholder engagement and impact assessment processes take into account their rights, interests and concerns.
- Ensure that the stakeholder database is capturing relevant information about ongoing consultation with stakeholders in order to facilitate ongoing assessment of potential human rights impacts.
- Monitor grievance mechanisms for issues and trends that can help identify potential and actual human rights impacts.

The above-noted approaches for integrating human rights impact assessment into ongoing environmental and social impact assessments can be useful for Nevsun to consider if it acquires or develops another mine. In high-risk situations, a stand-alone HRIA may also be appropriate to supplement environmental and social impact assessment.

b. Integrating and Acting

OPERATIONAL PRINCIPLE: INTEGRATING AND ACTING

In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

(a) Effective integration requires that:

- (i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;
- (ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.

(b) Appropriate action will vary according to:

- (i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;
- (ii) The extent of its leverage in addressing the adverse impact.

In relation to integrating and acting upon the findings of the HRIA at the Bisha Mine, BMSC and Nevsun have the following strengths:

- The update to the SEIA and environmental and social management plans contain actions plans with timescale, responsibility and indicators. These provide a strategic entry-point for integrating and acting upon the findings of the HRIA.
- Dialogue has been established with business partners, contractors and subcontractors in relation to human rights and related issues, e.g. forced labour with Segen Construction and safety with Transhorn Transport.
- As this is the first HRIA for the Bisha Mine, the integration stage is forthcoming. The HRIA process has built awareness and dialogue on these issues with internal and external stakeholders, including business partners and government representatives that can facilitate collaborate approaches to integrating and acting upon the findings.

Based on emerging human rights guidance for the extractive industry, BMSC and Nevsun may consider some of the following approaches for integrating and acting upon the findings of the HRIA:

- Develop an action plan that sets out the commitments, timelines and actions planned to integrate and act upon the findings of the HRIA.
- Integrate the HRIA findings insofar as possible into the environmental and social management plans in order to avoid dispersion of efforts and multiplication of priorities. Use the HRIA findings to help prioritise actions and budgets for the implementation of the environmental and social plans.
- Conduct workshops on the findings of the HRIA with key departments to discuss risks, challenges, opportunities and brainstorm about integration into their responsibilities and workplans.
- In addition to an induction training module on human rights, develop more advanced human rights-related training modules for key departments, e.g. training on Voluntary Principles on Security and Human Rights for security department.
- Continue dialogue, training and capacity-building initiatives with business partners, suppliers, contractors and subcontractors on human rights issues to complement screening processes and contractual provisions.

While many of these actions are focused on implementation and training at the mine site by BMSC, Nevsun can play a supportive role through its ongoing dialogue with business partners and its implementation and oversight of corporate-level CSR commitments.

c. Tracking Responses

OPERATIONAL PRINCIPLE: TRACKING RESPONSES

In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should:

- (a) Be based on appropriate qualitative and quantitative indicators;
- (b) Draw on feedback from both internal and external sources, including affected stakeholders.

In relation to tracking responses from the findings of the HRIA at the Bisha Mine, BMSC and Nevsun have the following strengths:

- Indicators have been developed for the environmental and social management plans, which can be supplemented by human rights indicators that are relevant to tracking and reporting according to the GRI.
- BMSC has dedicated Community Liaison Officers and has a Stakeholder Engagement Plan for ongoing consultation with surrounding communities, as well as various informal and formal mechanisms exist for consultation with employees.
- BMSC has templates and processes for various forms of internal and external reporting, including weekly, monthly, quarterly and annual reports.
- BMSC has various external review and audits that can help track relevant issues and validate company responses. These include the ongoing monitoring and dialogue with the Eritrean Impact Review Committee and external social and environmental performance experts.
- Nevsun has ongoing dialogue with external stakeholders related to CSR and human rights issues.

Based on emerging human rights guidance for the extractive industry, BMSC and Nevsun may consider some of the following approaches for tracking responses to the issues raised in the HRIA:

- Prepare periodic progress reports on the implementation of the human rights action plan.
- Ensure that human rights issues and indicators are included in relevant internal reports (weekly, monthly, quarterly, etc.). These ongoing reporting processes can provide the necessary information for the periodic progress reports on the human rights action plan.
- Use feedback from external audits to ensure that issues are being tracked and that standards are being met. This should include the feedback from the government's Impact Review Committee about conformity with

national-level laws, regulations and policies. In addition, BMSC can consider initiating supplementary certification processes where there are policy commitments that incorporate international standards—to help demonstrate how the Eritrean laws and the practices at Bisha are aligned with these standards.

- Develop a mechanism to ensure that information from ongoing consultation with stakeholders is being compiled and assessed for potential human rights impacts.
- Monitor grievance mechanisms for issues and trends that can help identify human rights impacts.

Nevsun has an important supportive role in ensuring that effective tracking occurs and that it is receiving the necessary information and feedback from site level to evaluate the progress being made and alignment with corporate-level CSR commitments.

d. Communicating Externally

OPERATIONAL PRINCIPLE: COMMUNICATING EXTERNALLY

In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

- (a) Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences;
- (b) Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;
- (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality

In relation to communicating externally about the findings and follow-up actions of the HRIA at the Bisha Mine, BMSC and Nevsun have the following strengths:

- Nevsun provides formal reporting on human rights issues in its annual CSR report, which is prepared in accordance with the GRI Sustainability Reporting Framework.
- BMSC operational policies commit to external reporting to communities, and the Stakeholder Engagement Plan plans structured stakeholder engagement activities that provide a good opportunity for ongoing external communication on progress.
- BMSC has committed to publish a summary of the HRIA report. The HRIA report will be prepared in a manner to protect stakeholder identity and commercial confidentiality.

Based on emerging human rights guidance for the extractive industry, BMSC and Nevsun may consider some of the following approaches for communicating externally on the actions taken in follow-up to the HRIA:

- Engage with external and internal stakeholders on the HRIA findings, recommendations and proposed follow-up actions.
- Consider translating the summary of the HRIA into national languages for communication with local workers and communities.
- Maintain an ongoing dialogue with external and internal stakeholders about the implementation of the HRIA action plan.
- Continue to report upon human rights in the annual CSR report.

The focus on communicating on human rights has two dimensions. The first is with the affected stakeholders at the site and community level. The second is with other stakeholders such as the Canadian Parliament, NGOs and investors. With regards to the second group, Nevsun has an important role in maintaining its ongoing dialogue with Canadian or international stakeholders.

4. REMEDIATION

OPERATIONAL PRINCIPLE: REMEDIATION

Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

In relation to remediation of human rights impacts at the Bisha Mine, BMSC and Nevsun have the following strengths:

- BMSC has grievance mechanisms for employees and communities to raise concerns. In the Stakeholder Engagement Plan, there are actions planned to develop new standard operating procedures, provide training and develop awareness materials on the grievance mechanism.
- BMSC has developed a specific grievance mechanism procedure to address allegations of force labour or concerns about working conditions, and is in the process of consulting with Segen workers and managers on the implementation of the mechanism.
- Nevsun has clarified that its Whistleblower Policy is available to external stakeholders and was recently amended to include non-financial Code of Ethics matters.

Based on emerging human rights guidance for the extractive industry, BMSC and Nevsun may consider some of the following approaches to strengthen its grievance mechanisms:

- Review the grievance mechanisms to ensure that they are coordinated and implemented in a manner that reflects the criteria in the UN Guiding Principles on Business and Human Rights.
- Continue to raise awareness about the grievance mechanisms with internal and external stakeholders—and clarify how the different mechanisms interact and which mechanism different stakeholders should use in the first instance.
- Consult with stakeholders to ensure that there are no perceived or real barriers to access.
- Ensure that procedures are clear and followed consistently.
- Make use of independent experts, facilitators or neutral third parties to support the analysis and resolution of grievances as appropriate.
- Track and report upon use of grievance mechanisms and the responses and resolution of grievances.
- Ensure that use of company-based grievance mechanisms do not preclude the use of other judicial and non-judicial mechanisms.

Many of the grievance mechanisms operate at the site level and therefore need to be implemented to and overseen by BMSC. However, Nevsun also has the Whistleblower procedure that may be used for grievances related to the Bisha Mine. Therefore, Nevsun should play a supportive role in ensuring coordination between the various mechanisms, as well as ensuring that there is effective follow-up on specific cases and general issues that may arise.

CONCLUSIONS AND RECOMMENDATIONS

One of the recurring themes from interviews with stakeholders is how the Bisha Mine is “a precedent”: Being the first modern mine in Eritrea brings challenges, opportunities and responsibilities. Some stakeholders are critical of the Bisha Mine because of the human rights challenges in Eritrea, and other stakeholder praise the Bisha Mine for providing new opportunities for individuals, communities, and the country. One area of agreement is that stakeholders expect that the Bisha Mine is to operate responsibly and to do no harm to workers and communities. In other words, to respect human rights.

Nevsun has taken a very positive step in commissioning a human rights impact assessment. The undertaking to publish the HRIA of the Bisha Mine and engage with stakeholders about its findings, recommendations and follow-up should be commended. This sends an important signal that the commitment to human rights at the Bisha Mine is more than words on a piece of paper, but is something fundamental to its ongoing operations, relationships and values.

Detailed conclusions regarding specific issues are contained within the relevant sections of this HRIA report.

The following are some recommendations to support ongoing due diligence for human rights at the Bisha Mine.

1. ADOPT AND EMBED A MORE EXPLICIT HUMAN RIGHTS POLICY

The recommended option is for Nevsun to integrate a separate and distinct human rights section in its Code of Ethics, and to embed some additional human rights language in the existing BMSC policies. As important as these new words on paper may be, the signal of commitment from the most senior levels of Nevsun management is what counts.

2. CONDUCT FURTHER HUMAN RIGHTS TRAINING AT BISHA

There is a thirst for capacity-building and training within the workforce at the Bisha Mine, and the new training centre provides an excellent venue to educate workers about BMSC’s human rights commitments and what they imply in their day-to-day roles and responsibilities. Some of the most promising opportunities for integrating human rights into training at the Bisha Mine include: (1) an introductory module on human rights during the induction training (chalk-board module for local employees and on-line module for ex-pats); (2) specialized

training on security and human rights in relation to the Voluntary Principles; and (3) conducting human rights workshops with key departments about operational implications of human rights.

3. INTEGRATE HUMAN RIGHTS CONSIDERATIONS INTO THE IMPLEMENTATION OF THE 2012 IFC PERFORMANCE STANDARDS AT THE BISHA MINE

This is one of the most strategic entry-points for ongoing human rights due diligence at the Bisha Mine. Furthermore, there is an excellent opportunity for human rights to be integrated into the management plans that have recently been developed for IFC Performance Standards (2012). This exercise can help break down the broad human rights commitments into more detailed and measurable actions and indicators that can be tracked over time. The integration of human rights into social and environmental management plans also helps ensure that these considerations can be managed within existing human and financial resources.

4. ENGAGEMENT ON HUMAN RIGHTS WITH SUPPLIERS, CONTRACTORS AND SUBCONTRACTORS

Engaging with suppliers, contractors and subcontractors on human rights is an expectation of stakeholders, and is also a sign of a maturing approach when BMSC can address issues “outside the fence” as confidently as it manages issues “inside the fence.” The dialogue and screening procedures and grievance mechanism developed with Segen Construction should be transposed to deeper engagement with contractors such as Transhorn Transportation and Binae Security. Screening and monitoring efforts should be coordinated with SENET. BMSC contracts and procurement agreements should be tracked and revised to including human rights provisions where appropriate.

5. DEVELOP A FRAMEWORK AND PROTOCOLS TO ENSURE THE EFFECTIVE IMPLEMENTATION AND COORDINATION OF ALL GRIEVANCE MECHANISMS

In essence, this involves appointing a focal point to ensure that the various grievance mechanisms are coordinated. In the short term, it would be useful to promote the grievance mechanisms with the intended stakeholders to ensure that they are credible and meeting their objectives. Further coordination and refinement between the mechanisms should help BMSC identify trends, adopt proactive approaches and facilitate tracking and reporting.

6. CONTINUE DISCUSSIONS ABOUT IMPLEMENTING THE COMMUNITY ASSISTANCE PROGRAMME

This is a strategic mechanism for BMSC to address human rights concerns and support development at the community level, as well as to strengthen stakeholder engagement through dialogue and collaboration about projects.

APPENDIX A ASSESSMENT TEAM

LLOYD LIPSETT

Lloyd is the founder and principal of LKL International Consulting Inc. He is an international human rights lawyer with over 15 years of experience working with leading companies, governments, national human rights institutions, civil society organizations and indigenous peoples. He has developed a niche in the field of human rights impact assessment with a focus on extractive industry projects and free trade agreements. He has special expertise on indigenous peoples rights, economic, social and cultural rights and stakeholder engagement. He regularly publishes and makes presentations on a wide range of human rights issues relevant to companies, industry associations and governments.

Lloyd previously served as the senior assistant to three Presidents of Rights & Democracy from 2003 to 2008, and participated in all aspects of the organization's management and programming, including the development of a community-based human rights impact assessment methodology.

He began his career as a corporate litigator at McMillan Binch in Toronto. His education is from Queen's University in philosophy and politics, and then from McGill University in law. He is a member of the Law Society of Upper Canada.

MICHELLE HOHN

Michelle Hohn is the Principal of Akashic Communications, a consultancy specialising in sustainability and social performance communications for the extractive sector. Michelle develops and integrates socially responsible and sustainable strategies; assists in the design and development of social performance policies, procedures and initiatives in relation to CSR and sustainability; and provides guidance as to the presentation and communication methods that best reflect these multi-stakeholder, continuous improvement efforts.

Michelle is a recognized communications, CSR and sustainability specialist, is Global Reporting Initiative (GRI) G4 Certified, and is a corporate responsibility and sustainability writer to junior, mid-tier and senior mining companies. Her clientele over the past 17 years have been almost exclusively in mining and metals, where the majority of her expertise has been creating communications, CSR, stakeholder engagement, and sustainable development strategies for Canadian exploration and mining companies operating in developing countries.

Michelle completed both her undergraduate and graduate degrees in Canada; she has a BA from Simon Fraser University and received a Masters degree in Professional Communications from Royal Roads University.

APPENDIX B TABLE OF INTERNATIONAL STANDARDS

INTERNATIONAL STANDARD	STATUS	RELEVANCE TO BISHA MINE
UN Guiding Principles on Business and Human Rights	Non-binding soft law principles unanimously endorsed by the UN Human Rights Council; the work and mandate leading towards the UN Guiding Principles was actively supported by Canada, as noted in its CSR Strategy for the Canadian International Extractive Sector	The UN Guiding Principles mark an emerging international consensus about business and human rights, and is the fundamental reference for understanding how human rights are relevant to mining operations. The UN Guiding Principles must frame any serious discussion about human rights for the Bisha Mine
International human rights covenants and treaties	The majority of the relevant UN human rights covenants and treaties, including labour rights conventions, have been signed and ratified by Eritrea and are binding international law	The main UN human rights treaties provide the normative content for the corporate responsibility to respect human rights and are referenced in the relevant CSR standards. Where applicable, the provisions of the African Charter on Human and Peoples Rights are referenced
UN Global Compact	Voluntary corporate commitment to 10 principles related to human rights, labour rights, environment and anti-corruption. UN Global Compact commitments may go beyond the UN Guiding Principles insofar as they encourage companies to have positive human rights outcomes through their sustainable development practices	Prominent international source of operational guidance and peer learning on implementation of human rights standards in complex country situations
OECD Guidelines on Multinational Enterprises	Voluntary performance standard for corporate social responsibility that apply to multinational enterprises based or operating in OECD member countries. The OECD Guidelines were recently revised to include a specific chapter on human rights. It also provides guidance for compliance with other OECD conventions, such as on anti-corruption and taxation	One of the main international corporate social responsibility standards promoted by the Canadian Government in its CSR Strategy for the Canadian International Extractive Industry. Like all members of the OECD, Canada has established a National Contact Point that can receive complaints about the actions of Canadian business enterprises operating abroad
IFC Performance Standards	Performance standards for companies receiving financing from the International Finance Corporation or Equator Principles banks	The IFC Performance Standards are influential for the mining industry and will drive good practices. Canada supports the IFC Performance Standards in its CSR Strategy for the Canadian International Extractive Industry. The IFC Performance Standards are currently being implemented at the Bisha Mine through BMSC's environmental and social management plans
ICMM's Sustainable Development Framework	Guiding principles, frameworks and protocols for mining companies relevant to a number of sustainability and human rights issues	Source of operational guidance and good practice examples on human rights and associated issues that is explicitly developed for mining companies

