

Via email: dobson@business-humanrights.org

25 January 2021

Dear Christen,

Re: Response to the BHRCC on the Letter from the Articulação dos Povos Indígenas do Brasil and Amazon Watch

Thank you for giving us the opportunity to respond to the letter of 22 December 2020 from the Articulação dos Povos Indígenas do Brasil (APIB) and Amazon Watch. We value the opportunity to engage with all those who have a direct interest in our activities. This document aims to provide greater clarity in respect of Anglo American's approach to recognised Indigenous Lands and, specifically, the status of certain applications for mineral exploration in areas located adjacent to and within Indigenous Lands in Brazil.

Anglo American's approach to Indigenous Lands

At Anglo American, we are very aware of the difficult history that has existed between Indigenous Peoples and the mining sector. In too many cases, legal and illegal mining has caused negative impacts on Indigenous Peoples and the environment. However, we know that mining, when undertaken responsibly, can bring significant economic and social value to host communities and regions through taxes, infrastructure, small business development, livelihood opportunities, improved health and education among many other benefits. It is against this backdrop, and guided by our Purpose, *to reimagine mining to improve people's lives*, that we define the Anglo American approach to Indigenous Lands.

First, we continue to uphold our 2003 commitment to neither explore nor develop new mines in World Heritage sites. We also respect legally designated protected areas, in line with the International Council on Mining and Metals' (ICMM) Position Statement on Mining and Protected Areas.

Second, we will always adhere to local laws and international standards when engaging with Indigenous Peoples and we will seek to obtain Free, Prior and Informed Consent (FPIC) of Indigenous Peoples prior to conducting activities that require access to Indigenous Peoples' lands and/or impact Indigenous Peoples' livelihoods or cultural heritage during all stages of exploration. Anglo American also respects the right of indigenous communities to oppose mining-related activities on their land and will refrain from undertaking any activities if consent is withheld.

Third, our overarching approach seeks to protect the rights of indigenous communities and to ensure that where consent is given, it is maintained through continuous engagement.

Finally, when legislative change is considered that could affect Indigenous Peoples, we advocate that it is done in consultation with the relevant communities and that their consent is secured. We believe that such consultations should appreciate the complexity and diversity of communities, and that their aspirations may differ, with some communities welcoming mining

A member of the Anglo American plc group

and others deciding against it. In all cases Anglo American remains committed to engaging with indigenous communities from the early stages of exploration.

Our approach to Indigenous Peoples is detailed in the industry-leading Anglo American Social Way, which is aligned with international standards and best practice, and ensures that human rights considerations are embedded in our decision making. Anglo American has made Social Way publicly available, reinforcing transparency and with the aim of supporting an overall improvement of standards in the mining sector and beyond.

It is in this context and recognising Anglo American's ongoing commitment to Brazil, that we are unable to commit to ruling out ever undertaking any mining activities on Indigenous Lands in Brazil. We can and do commit to abiding fully by the standards set out in this letter.

Applications for Mineral Exploration in Indigenous Lands

In the letter of 22 December 2020, the APIB and Amazon Watch claim that as of 10 November 2020, 27 permits had been granted by the Agência Nacional de Mineração (Brazil's National Mining Agency – ANM) for Anglo American to prospect copper within Indigenous Lands in the states of Mato Grosso and Pará. We would like to take this opportunity to clarify that neither Anglo American Brazil nor any of its subsidiaries hold any exploration permits on Indigenous Lands in Brazil. In order to address fully the concerns raised, we believe that an explanation on all of the entries on the ANM database is necessary.

The ANM's database is updated on a regular basis and according to our most recent review on 22 January 2021, there remain 25 applications for mineral exploration on Indigenous Lands on record, with links to Anglo American. These 25 applications can be broken down into three categories as follows.

- Withdrawn applications pending ANM update: Five applications for mineral exploration licences on behalf of Anglo American subsidiaries have been withdrawn, but appear as active applications in the ANM database, as follows:
 - 1 application (854.307/1993) for mineral exploration by Mineração Tanagra (a company in which Anglo American Nickel Brazil holds a minority interest), which overlaps with the Kayapó Indigenous Lands. This application was withdrawn in October 2015, but the withdrawal has not yet been actioned by the ANM.
 - 1 application (853.578/1994) for mineral exploration by Anglo American Nickel Brazil subsidiary Mineração Itamaracá (this company was absorbed by Mineração Tariana which was later absorbed by Anglo American Nickel Brazil), which overlaps with the Trincheira Bacajá Indigenous Lands. This application was withdrawn in May 2000, but the withdrawal has not yet been actioned by the ANM.
 - 3 applications (751.779/1996, 751.781/1996 and 850.457/1995) for mineral exploration by Mineração Tanagra (a company in which Anglo American Nickel Brazil holds a minority interest) and Mineração Itamaracá (a subsidiary of Anglo American Nickel Brazil), which overlap with the Rio Paru D'Este Indigenous Lands. These applications were withdrawn in February 2001, but the withdrawals have not yet been actioned by the ANM.

We are currently engaging with the ANM asking them to action these withdrawal requests submitted in October 2015, May 2000 and February 2001, to carry out the regulatory removal process and update their public-facing database.

- Applications ceded to third parties pending ANM update: Eleven applications for mineral exploration licences ceded to other companies, but still appearing in the ANM database as registered to Anglo American or companies where it holds direct or indirect interests, as follows:
 - 4 applications (857.819/1996, 857.821/1996, 857.823/1996 and 857.824/1996) for mineral exploration by companies in which Anglo American Nickel Brazil holds direct or indirect interests which overlap with the Rio Paru D'Este

Indigenous Lands. These applications were ceded to another company with no relationship to Anglo American in 1999, but are still registered on the ANM database as being on behalf of Mineração Tanagra and Mineração Itamaracá. A process is underway by the Brazilian government to cancel or reject all current applications within the National Copper Reserve (RENCA), where the Rio Paru D'Este Indigenous Lands are located. Our approach in this regard is to wait for the regulatory rejection process of the applications to be actioned by the ANM and reflected in its database.

- 7 applications (880.557/1995, 880.565/1995, 880.558/1995, 880.556/1995, 880.562/1995, 880.559/1995 and 880.561/1995) for mineral exploration by Mineração Tanagra (a company in which Anglo American Nickel Brazil holds a minority interest), which overlap with the Yanomami Indigenous Lands. These applications were ceded to another company with no relationship to Anglo American, also in 1999, but are still registered on the ANM database as being held on behalf of Mineração Tanagra. We are currently preparing another request to the ANM asking them to reflect in their database the current situation with regards to these applications.
- Applications made pending ANM review with regard to boundary uncertainty: The final category reflects apparent overlap with Indigenous Lands because of the way the application process functions. Due to the way in which the system requires applications to be made, in some cases there can exist some uncertainty in respect of the exact boundaries of Indigenous Lands. As such, applications are submitted with the understanding that the ANM will verify the relevant boundaries and rectify any overlapping areas, ensuring that Indigenous Lands are protected. In this context there are:
 - 6 applications for mineral exploration licences that have been amended by the ANM due to some overlap with Indigenous Land or the National Copper Reserve (RENCA), but where the changes have not been reflected in the ANM database, as follows:
 - 1 application (751.442/1996) for mineral exploration by Mineração Tanagra (a company in which Anglo American Nickel Brazil holds a minority interest), within the Rio Paru D'Este Indigenous Lands. We received confirmation that this application was rejected in November 2020, but this has not yet been reflected in the ANM's database.
 - 2 applications (751.443/1996 and 853.279/1994) for mineral exploration by Mineração Tanagra and Mineração Itamaracá, respectively, which overlap the National Copper Reserve (RENCA) area. These applications were amended in May 2007 to remove overlapping areas, though this change has not yet been reflected in the ANM database.
 - 3 applications (880.313/1984, 880.314/1984 and 880.315/1984) for mineral exploration by the Mineração Tanagra that overlap the Yanomami Indigenous Lands. These applications were amended to remove any overlapping areas by the ANM in consultation with Brazilian National Indian Foundation (FUNAI), though these changes have not yet been reflected in the ANM database.
 - 3 applications on record (850.239/2019, 850.243/2019 and 850.238/2019) for mineral exploration by Anglo American Nickel Brazil, which overlap with the Munduruku Sawré Muybu Indigenous Lands. These applications were submitted in April 2019, in accordance with the detailed guidance available on the ANM website. We are now waiting for the ANM to rectify any areas of overlap, if any exist.

We would like to reiterate that it was never our intention when making these applications to conduct activities on Indigenous Lands and we will respect in all aspects the boundaries of such areas and the applicable law and international standards.

Going Forward

We would again like to thank you for the opportunity to address the concerns raised in the letter by the APIB and Amazon Watch and we welcome the dialogue. We hope the information and clarification provided helps to begin the process of resolving these issues. We look forward to engaging with APIB, Amazon Watch and any other interested parties directly, to further understand their perspective.

Yours sincerely,

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