

Business & Human Rights Resource Centre
Laura Waldman & Marti Flacks
www.business-humanrights.org

16 July 2018

Dear Laura and Marti,

Subject: Your email dated July 2, 2018 titled “Anglo American in our Weekly Update - invitation to respond”

Thank you very much for the invitation to respond on the matter of your publishing a link to the recently published report *"Dirty Profits 6: Mining and Extractive Companies, Promises and Progress"*, *Facing Finance*, May 2018.

We take this opportunity to provide an update on issues raised with regards to Cerrejon, silicosis and deep sea mining as well as a more detailed response to issues raised about the Minas-Rio operation in Brazil. We address the issues in the order of appearance in *Facing Finance's* publication.

Cerrejon:

As stated in the report, Anglo American is co-shareholder with BHP Billiton and Glencore (each holding a one third interest) in Cerrejon. We are aware of the detailed response given by Cerrejon to the authors of the report, in particular noting the inaccurate presentation of the information, which risks leaving the reader with a distorted view of a complex reality.

Silicosis:

Through our active participation in an Occupational Lung Disease Working Group, which was formed in 2014, Anglo American South Africa (AASA) – together with five other mining companies (African Rainbow Minerals, AngloGold Ashanti, Gold Fields, Harmony and Sibanye Stillwater) – concluded a settlement agreement on 3 May 2018 in the silicosis and tuberculosis class-action litigation with the claimants' lawyers.

This is an historic settlement, resulting from three years of extensive negotiations. The Agreement provides meaningful compensation to all eligible workers suffering from silicosis and or tuberculosis who worked in gold mines – which these companies either owned or operated or to which they previously provided technical services (as was the case with AASA) – from 1965 to date.

A member of the Anglo American plc group

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The settlement is subject to certain suspensive conditions, including the agreement being approved by the High Court in terms of the class-certification judgment delivered by the South Gauteng High Court in May 2016.

The parties believe the settlement represents a fair outcome for claimants, and a sustainable outcome for the companies.

Deep sea mining:

We have in the meantime exited our interest in Nautilus and accordingly the Solwara project that is referred to.

Minas-Rio:

Tailings dam:

Based on recent events, we appreciate there is a focus on tailings dam safety in the Brazilian mining sector and we understand the concerns raised in the communication.

The Minas-Rio tailings dam is subject to strict monitoring procedures and inspections by the relevant authorities. These monitoring and inspection procedures were enhanced after the 2015 Samarco incident in Mariana. The Minas-Rio tailings dam has a complete safety monitoring and management program which includes regular periodic inspections which exceed legal requirements. As an example of our tailings dam safety management plan, we routinely follow the procedures of: daily operational routines, weekly operational inspections, weekly monitoring of instrumentation, biweekly geotechnical inspection, monthly safety reports, bimonthly bathymetric survey of the reservoir, quarterly external security review, annual external audit emission of the stability declaration for the National Department of Mining Rights (DNPM) and State Foundation of Environment (FEAM), and a global audit by the Anglo American Group.

To better understand the context of our tailings dam, it is important to highlight the following points:

- On January 25th, 2018, we signed Terms of Commitment with the Public Prosecutor's Office of Minas Gerais (link: <https://www.mpmg.mp.br/comunicacao/noticias/mpmg-assina-acordo-para-garantir-acompanhamento-de-impactos-ambientais-e-seguranca-em-expansao-de-empreendimento-da-anglo-american.htm#.WvOhe4gw2x>) establishing that the company will hire an independent expert company to monitor the safety aspects of the tailings dams during the works, and the Institute of Technological Research of the University of São Paulo was chosen to perform this function. According to the agreement, the scope of the technical audit service will include auditing of geological-geotechnical aspects, concrete structures, superficial and underground water resources and analysis of the risk management and emergency action plan of the tailing dams.
- Frequent visits and workshops with our communities and authorities (Public Administration Office, Civil Defense and Fire Brigade of Minas Gerais) are organized to further promote transparency and understanding of our safety procedures and dam stability.
- Minas-Rio tailing dam was built following the most conservative and safest low-risk method of raising, i.e. downstream.
- The self-rescue zone mentioned in the publication is defined by the travel time of a potential flood-wave within 30 minutes or 10km. The closest communities to the Minas-Rio tailings dam are *Passa Sete* and *Água Quente* and these communities were

included in the Tier 2 of the Relocation Program by the licensing authority due to impacts caused by Anglo American during the construction phase of Minas-Rio (not because they are located downstream of the tailings dam).

- As a matter of principle, all Anglo American operations seek to avoid or reduce resettlement wherever possible. Where this is not achievable, we follow applicable legislation and international best practices, such as the IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement.
- After *Agua Quente* and *Passa Sete*, the next community downstream of the tailing dam is *Jassem*, which is located in a greater distance than mention above (10km). However, *Jassem* was included in the “self-rescue” zone as a conservative measure, which doesn’t mean there is an obligation to relocate them, but we have developed a special procedure for emergency and crisis situations. Therefore – complying with Brazilian legislation - we registered every family located in the area, in particular vulnerable people which require special attention. This register is updated regularly.

Armed police at environmental hearings and demonstration at site:

Environmental hearings are responsibility of and convened by the state environmental agency of Minas Gerais. Given the importance and size of this kind of events, the organiser usually requests the presence of state police. Hence, this is not a request by Anglo American Brazil.

Regarding demonstration at the site: This year, there was a road blockage in March, where 28 people blocked part of the MG 10 access road to the mine to express their dissatisfaction with the hiring of non-local labor. The blockage lasted 4 hours, in a peaceful way. Local police was present to ensure public order – it is worth clarifying that Anglo American Brazil security and private security service providers were not involved, as the demonstration took place in a public area (outside the mine). The protesters stopped when representatives of Anglo American Brazil agreed to hold a meeting with them at the company’s office. As a matter of principle, Anglo American Brazil communicates its adherence to the Voluntary Principles on Security and Human Rights (VPs) with public security forces as well as our expectation towards public security that they adhere to the VPs, even though Brazil is not a signatory at this stage.

Alleged threats:

On April 11, 2017, the Brazilian Judiciary granted an injunction to cancel a public hearing convened by the State Secretariat for the Environment and Sustainable Development (SEMAD) which had been scheduled to take place that day in Conceição do Mato Dentro/MG. The public hearing would have discussed the next steps in the licensing process for the Minas-Rio Project. As the injunction was granted in response to a lawsuit against the State of Minas Gerais, the municipalities of Alvorada de Minas, Conceição do Mato Dentro and Anglo American Brazil, the court published the outcome in compliance with legal requirements (http://www4.tjmg.jus.br/juridico/sf/proc_complemento.jsp?comrCodigo=671&numero=1&listaProcessos=17000555).

Our onsite team in Brazil was informally made aware by certain community members of allegations of alleged harassment towards individuals. Our team reiterated the company’s position of condemning any form of harassment or intimidation and recommended that any incidents be immediately reported to the appropriate authorities and/or to our confidential company complaints and grievance mechanism. We have no record of any complaints of threats or harassment made directly to Anglo American Brazil via our complaint and grievance mechanisms by any of the mentioned individuals.

Anglo American strongly condemns any form of threat or intimidation, as this is in direct violation of our Code of Conduct and our values. Our aim is to operate in a responsible and sustainable way, respecting our host and neighbouring communities.

Pipeline leak:

After the incident on March 12, 2018, public water supply to one community (San Antonio do Grama, which is a small town of approx. 3,000 to 4,00 people) was affected for about 24 hours and water abstraction in Santo Antonio Creek had to be suspended, impacting residents of the municipality. Re-establishing the water supply was the number one priority immediately after the incident, hence all resources were made available so that a new water abstraction point was built by Anglo American from the Salgado stream, a different water source that was not impacted by the leak. Subsequently to the incident, water tanker trucks were made available alongside supplies of bottled mineral water. Simultaneously Anglo American began the construction of a new abstraction point in Salgado stream. On the 15th of March, COPASA (the water supply company in Minas Gerais) announced that 100% of the municipality was provided with water through the new abstraction station. From the 18th, the water treatment plant already operated without the need of any support by tanker trucks.

Water use at the mine:

Efficient and sustainable water resources management is a priority for Anglo American Brazil. Water extraction must be approved by competent authorities and our monitoring network includes more than 100 instruments that measure water quantity and quality at the operation in Brazil. We aim to minimize our water footprint and are actively looking for ways to improve the current recirculation rate of 65% in the production process. The water stress situation in recent years has made us even more mindful of the importance of water management, and we have adopted additional measures to prioritize human and animal consumption over industrial use.

In this context, please find below a number of examples of how we are providing access to water to affected communities:

- **Água Quente and Passa Sete communities:** Unplanned incidents during the construction phase resulted in sediment carriage, which impacted the Pereira and Passa Sete streams. Anglo American Brazil entered into an agreement with the environmental agency to remediate the impact on the streams and the neighboring communities.
In terms of the aforementioned agreement, we implemented temporary mitigation measures, such as building a provisional water supply system consisting of a deep tubular well and reservoirs with 80m³ capacity. We further installed ablution facilities and supporting infrastructure such as septic tanks in all residences.
The long-term solution, however, consists of the installation of a water treatment station (ETA – Estação de Tratamento de Água in Portuguese) and the recovery of the affected streams.
Despite many attempts and our best efforts, we were unable to progress the works, because some land owners continue to deny us access to their land to carry out the necessary studies and provide the required mitigation and restoration measures. This continued refusal to access the stream is preventing planning and implementation of the long-term solution agreed with the authorities for the recovery of the Pereira and Passa Sete streams, and is prolonging and exacerbating the water shortage in this community of 23 households. In order to fulfill its commitments, Anglo American Brazil has filed a legal claim to secure the necessary access to the land. We recognize that these are vulnerable communities and until we can implement a definitive solution, we are assisting these communities through an artesian well supply system, complemented with water trucks and/or mineral water gallons.
- **The Faustinos:** The Faustinos Family used a water spring which was compromised for reasons entirely unrelated to Anglo American's operations in the region. A court ruling on a legal claim filed by the Public Prosecutor's Office of Minas Gerais (MPMG) obliges the municipality of Conceição do Mato Dentro to guarantee water supply for the family.

Anglo American Brazil has voluntarily helped the municipality to fulfill this obligation by extending the supply of drinking water to the Faustinos.

- **Sapo:** This community receives regular water supply from the Conceição do Mato Dentro public administration. However, Anglo American Brazil has been supporting the municipality by operating the Sapo water supply system since 2013, having improved the system's storage capacity in 2017.
- **Cabeceira do Turco:** One of the springs which supplied the community was impacted during construction of the pipeline, affecting the water supply of four families. Anglo American Brazil reestablished an emergency water supply and compensated the impacted residents for losses incurred. The long-term solution includes the construction of an artesian well and connecting the households to the distribution system with the Sapo water treatment station, both of which have been concluded.

Finally, it is worth mentioning that we would encourage the authors of the report to broaden their sources to get a more balanced perspective on what are inherently complex issues and not just quote the limited number that they have been using for quite some time on the respective issues. We appreciate the opportunity to comment and correct factual inaccuracies and present our perspective on the issues and hope that due account will be taken of these.

We trust this should provide you with a sufficient answer and remain at your disposal for further questions.

Yours Sincerely

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