

3 February 2025

Richard J.B. Price  
Legal & Corporate Affairs Director  
17 Charterhouse Street,  
London, EC1N 6RA,  
United Kingdom

Dear Mr Price

Please see below our joint response to your letter of 5 November 2024:

*Your letter stated: Thank you for the letter to Mr Duncan Wanblad, Chief Executive of Anglo American, dated 29 October 2024, that was delivered to Anglo American's London office on 31 October 2024. Let me assure you that Anglo American cares deeply about the pollution in Kabwe and we appreciate your organisation's and others' efforts to highlight the issues and encourage its remediation. Of course contamination from industrial activity is not acceptable anywhere and we have every sympathy for the people of Kabwe.*

We cannot see evidence of Anglo American's claim to 'care deeply' about the pollution in Kabwe. The surmounting evidence suggests otherwise. In the 1970s, following the deaths of several children, and evidence of serious widespread lead poisoning found by its mine doctors, Anglo American failed to ensure that recommendations by scientific experts it had commissioned to address the risk, for example by removing and replacing contaminated soil in the area, were implemented.

*Your letter stated: As you will know, an attempt is being made to hold Anglo American South Africa (AASA) liable for a mine we have never owned or operated, and for pollution and harm that others have caused and freely acknowledge as their responsibility.*

This profitable lead mine was within the Anglo American Group for almost 50 years, from 1925 until 1974, and the company failed to facilitate any clean-up process upon leaving, despite hard evidence that it was aware of the lead pollution and the severe health risks this posed for the community.

*Your letter stated: AASA will therefore continue to defend itself against the claims being brought in relation to Kabwe because we simply do not believe that it is responsible for the current situation. Indeed, the High Court of South Africa was very clear and robust in its December 2023 judgement when it dismissed the class action certification application, stating that the case is factually and legally flawed on a number of grounds and that it would not be in the interests of justice for the case to proceed.*

The Kabwe community has received permission to appeal the court decision for a class action, which will test the evidence. In granting the appeal Justice Leonie Wendell found that an appeal against her earlier judgment had 'reasonable prospects of success on at least one ground of appeal' and that there were 'compelling reasons to grant the appeal, as class action law is still being developed in South Africa'. The judge also found that 'there are current matters of law of public importance which directly implicate constitutional rights'.

In addition, the Appeal Court has allowed respected organisations to act as *amici curiae* including Amnesty International, the Centre for Child Law and several UN agencies.

*Your letter stated: By way of background, these claims back to more than 50 years ago between 1925 and 1974 when AASA was involved in the Kabwe mine via an indirect minority shareholding in the company that operated the mine – Zambia Broken Hill Development Company Limited (ZBHDC), today known as ZCCM. AASA provided certain technical services to the mine, but at no stage owned or operated the mine.*

The 140,000 women and children acting as plaintiffs in the case allege that AASA is liable because it played a key role in controlling, managing, supervising and advising on technical, medical and safety aspects of the operations of the lead mine, was aware of the risk of environmental poisoning, and yet failed to take reasonable steps to eliminate the risk.

*Your letter stated: The mine was nationalised in 1971 and operated by ZCCM and its predecessor companies for 20 years to 1994, when it was closed. Subsequent to closure, uncontrolled mining, processing activity and unabated pollution from numerous other mineral processing and smelting operations and artisanal miners in Kabwe has continued to this day.*

The 49-year period of Anglo American's involvement in the Kabwe lead mine was the mine's period of 'peak production' and accordingly peak pollution, when it was one of the most profitable lead mines in the world. Now Kabwe is one of the world's most polluted towns. Experts agree that the vast majority (about two-thirds) of the pollution present in Kabwe today is from mining activity during this period.

*Your letter stated: It is clear that the Kabwe mine site was not remediated upon closure of the mine in 1994, some 20 years post nationalisation, despite ZCCM acknowledging responsibility for all historic liabilities relating to Kabwe mine following nationalisation.*

The first records of child fatalities from lead poisoning were during the period in which Kabwe was an Anglo American mine. These records go back to at least 1969. The report then commissioned by Anglo American offered recommendations to minimise the lead poisoning of children, which Anglo American declined to implement. Since then, generations of children have suffered the irreversible and life-changing impacts of lead poisoning, on a scale that would have initiated immediate action had it happened in the Global North.

UN Special Rapporteurs on toxins and human rights, extreme poverty and human rights, as well as the UN Working Groups on Business and Human Rights and Discrimination against Women and Girls, have argued that by opposing the class action Anglo American is acting contrary to the United Nations Guiding Principles on Business and Human Rights, to which Anglo American is a signatory. Its own Group Human Rights Policy also states: "Where we have caused or contributed to adverse human rights impacts **we will contribute to their remediation** as appropriate." **[Our emphasis]**. We urge Anglo American implement this policy, and remedy the decades of harm caused to Kabwe's environment and people.

*Your letter stated: We understand why it may be tempting for law firms and their commercial funders to pursue major reputable companies in bringing a case such as this, but it is wholly*

*inappropriate and a waste of judicial resources to completely ignore the evidence and clear culpability of the actual responsible parties.*

As a global mining giant Anglo American had significant means at its disposal to remedy the spread of dangerous lead dust and consequent blood contamination at life threatening levels after it received the reports it had commissioned. It chose not to. The Johannesburg High Court judgement acknowledged that the community of Kabwe have no means to access justice except by bringing a class action claim.

In a world of deep inequality, where thousands of women and children are adversely impacted, seeking justice can never be a 'waste of judicial resources'. The fact that an appeal has been granted points to the need to consider further evidence in court.

The Kabwe community has the right to a clean, healthy and sustainable environment. The town of Kabwe serves as a warning of what an international mining giant can leave behind when it has extracted all the profit it can. Insofar as Anglo American has shown no moral responsibility towards the impacts of its historic pollution, the only realistic and feasible means for the Kabwe claimants to obtain access to justice by compensation and the remediation of the environment is through a class action.

Anglo American's founding in 1917 was premised on close ties with British colonialism in Southern Africa and the apartheid regime. The company's highly profitable activities have led to battles for justice around the world – from South Africa to Chile – as a result of the company's historically poor track record on workplace illnesses, human rights, public health, and the environment.

Mark Cutifani, Anglo American's former Chief Executive, stated in 2020: "We are acutely aware of the deep and lasting effects of our history as an industry. I would even go as far as arguing that we are one of the very few industries that has had to reckon with the legacies of our past in a real and progressive way. While our progress is encouraging, we are still not where we need to be".

The UN Guiding Principles on Business and Human Rights provides the framework for all companies to remedy any past misdeeds by accepting responsibility – it is damning for UN agencies themselves to have judged Anglo American, a signatory, to be acting contrary to them.

It's no longer acceptable to point to failings from industrial practices of the past as being the responsibility of post-independent governments to resolve. We urge you to get on the right side of history. Only by addressing the past legacies of colonial-era policies, such as those Anglo American SA supported in Kabwe, will Anglo American be able to begin to claim that it is a socially responsible company.

Yours sincerely,

Tricia Sibbons, Action for Southern Africa (ACTSA)  
Andrew Whitmore, London Mining Network (LMN)  
Zainab Rahim, Rights and Accountability in Development (RAID)