



**February 8th, 2021**

**C/O: Jonathan Dunn - Head of International Policy and Planning**

Dear Mr. Dunn,

On behalf of the Association of the Indigenous Peoples of Brazil (APIB) and Amazon Watch, we thank you for [the response sent to the Business and Human Rights Resource Center](#), and for the clarifications provided about Anglo American's approach to Indigenous territories. In view of the information offered in your letter, which complements the [document sent to BHRRC on November 20, 2020](#), we would like to offer additional clarification on our part, and raise some questions about the information submitted by Anglo American.

### **Impact of legislative changes on the protection of Indigenous lands in Brazil**

In its response, Anglo American states that all legislative changes that affect Indigenous rights must be made in consultation with potentially affected peoples and communities, and that such consultations must take into account the "complexity and diversity of communities, and that their aspirations may differ."

However, the company needs to recognize that the main legislative change on this topic, the Law Bill (PL) 191/2020, fallaciously removes the veto power of Indigenous peoples in relation to the exploitation of their territories, submitting it to the approval of the President of Brazil himself, after a non-binding consultation with peoples and communities. In addition, under the terms of the PL 191, if the Indigenous territory that is the object of exploration has not had its demarcation process finalized by presidential decree, the occupying communities do not even need to be consulted.

The measure, if approved, violates the [Brazilian constitutional principles](#) that guarantee the permanent possession of lands traditionally occupied by Indigenous people, their exclusive enjoyment of the riches of the soil and the consultation of these peoples in the case of research and the exploitation of minerals; and the international obligations assumed by Brazil, especially [ILO Convention 169](#). Additionally, PL 191 is in total dissonance with the principles that Anglo American claims to follow, detailed in its different policies.

Anglo American, as a company operating in Brazil and one of the largest mining companies in the world, which has assumed a vast set of principles for socio-environmental protection and respect for human rights defenders, must recognize and act against a threat of this magnitude to Indigenous peoples of Brazil or risk becoming complicit in these violations and destruction. For this reason, for us, the claim that Anglo American is **"unable to commit to ruling out ever undertaking any mining activities on Indigenous Lands in Brazil"** is



unacceptable. As an associate of the Brazilian Mining Institute (Ibram), Anglo could have a leading role in opening the discussion with other companies in the sector about the risks presented by PL 191 by coordinating a joint stance against its approval, especially considering that the Brazilian government has decided to push the Congress to vote on the measure.

### **On the right to free, prior, and informed consent of Indigenous peoples and communities affected by Anglo American's activities**

We recognize that Anglo American is guided by the right to free, prior, and informed consent of communities in activities that may impact their lands, which includes respecting the right of these communities to veto mining activities on their lands. Yet, we would like to point out situations where guaranteed rights are not properly respected, whether with Indigenous peoples or other communities affected by the company's activities. For example, Anglo American's stance towards the communities affected by the Minas-Rio venture, where it failed to comply with the conditioning measure for the approval of the Operational License for the expansion of the Sapó mine [and tried to prevent the right of demonstration of these communities through legal intimidation](#), demonstrates that Anglo American's gap between discourse and practice regarding the free, prior, and informed consent process may be much larger than suggested by the company.

That is why we are concerned that Anglo American and its subsidiaries still have active applications for mineral research that impact Indigenous lands, contrary to what Anglo stated in the note to the BHRRC in November 2020. Specifically related to Sawré Muybu Indigenous Land, Anglo American claims it is awaiting a response from the National Mining Agency to rectify the prospecting areas in three processes still open (850.239/2019, 850.243/2019 and 850.238/2019).

If the company is already aware that such applications are in areas that overlap an Indigenous land, and in the spirit of respect for the right of consultation to affected peoples already in the mineral research phase, what measures have Anglo American's taken to consult and secure the consent of the Munduruku who live in this region?

The Munduruku people have made their position against mining on their lands clear on several occasions. These positions can be read in the [Charter of the Munduruku People of the Cururu, Anipiri, Tapajós, and Kajerid regions to demand the closing of the mines in the Munduruku Territory](#) from September 2020, and more recently restated in the declaration of the [Assembly of the Resistance of the Munduruku People](#), held in December 2020. In a recent act, on the 16th of January, organized in the village Sai Cinza, in Itaituba (Pará), the Munduruku once again took a stand against Anglo American entering the Sawré Muybu Indigenous territory. The Munduruku regard mining and the presence of large mining companies like Anglo American on their land as threats of great



impact to their territories and communities. And areas whose demarcation has not yet been finalized are under much greater threat, such as Sawré Muybu.

The applications for mineral research increase the pressure on these territories by generating expectations from other companies and local actors, leading to speculation, even when they do not result in the exploration itself. In this context, just waiting for the ANM to "rectify" the requirements is not enough. We believe that the responsibility rests with Anglo American to recognize the serious threats faced by the Munduruku and to publicly withdraw requests for mineral research that overlap or that directly impact TI Sawré Muybu. In the words of Munduruku leader, Alessandra Korap Munduruku: **"We are here and we will continue here. Anglo American Out! Demarcation Now! The people will continue to resist."**

### **Regarding applications for mineral research in Indigenous lands**

In addition to the information on the requirements for TI Sawré Muybu, we would like to thank you for sending additional clarifications on Anglo American's 25 mineral research applications still on the record in the National Mining Agency (ANM) database, and their respective status. We recognize the challenge with ANM so that its database reflects the current intentions of the company, thus we are in contact with the Agency to obtain more information and to press for these updates.

Anglo American recognizes that ANM has not been able to change information dating from the early 2000s. The uncertainty caused by the Agency has already been the target of actions by the Federal Public Ministry, which has even [blocked requests from Mineração Tanagra \(a subsidiary of Anglo American\) that overlapped Indigenous reserves in Rondônia in 2018](#). In other words, Anglo American is acutely aware of the limitations of the application process, and precisely for this reason, it is up to Anglo to ensure that no new research requests overlapping with Indigenous lands are filed and that withdrawal requests sent to ANM are not resumed in the future. This is also true for Anglo American's subsidiaries, regardless of the size of the companies' participation in them.

Regarding the three requests from Mineração Tanagra that overlap with Yanomami Indigenous lands (880.313/1984, 880.314/1984 and 880.315/1984), and which were recently rectified by the ANM, we would welcome information of Anglo American's actions for the consultation of the peoples affected by the new boundaries proposed by the Agency, and by the establishment of mining activities in the region as a whole.

Mr. Dunn, while we believe that clarifying the issues above is important for the dialogue that APIB and Amazon Watch intend to engage with Anglo American, we want to reiterate that our position remains the same. We look forward to



Anglo American's adoption of a new position, one which follows the direction and decisions of Indigenous peoples: Anglo American must **publicly pledge not to mine in Indigenous territories in Brazil**, and withdraw **all** applications to research minerals in Indigenous territories, to be in line with its human rights and biodiversity commitments.

Finally, we would like to express our desire to meet with your team at Anglo American to clarify the demands of the Indigenous movement in Brazil and of Indigenous communities potentially impacted by your mining company; and to build concrete solutions to some of the issues that we presented above. Our suggestion of a closer date for this meeting would be for the first week of March. On the occasion, we will also deliver the results of the action we have undertaken with our civil society partners and allies, a petition that urges Anglo American to withdraw its requests for mining research in Indigenous territories. We await confirmation of your availability to proceed with scheduling the meeting.

Yours sincerely,

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