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25 January 2021

Dear Sir/Madam

Subject: 2020 Review of Action 14

We welcome the opportunity to respond to the OECD's review of the BEPS Action 14 Minimum Standard. Action 14 was and remains a critical element of the BEPS Package and we endorse its objectives to improve dispute resolution mechanisms that are critical for facilitating and enhancing cross border trade and investment.

Our response

As a responsible miner, we are committed to constructive engagement with our stakeholders to deliver long-term, sustainable value. More details on our approach to tax, our total tax and economic contributions, and how we are creating a sustainable business that is true to our Purpose and positively impacts our stakeholders, see our latest Tax and Economic Contribution Report for 2019[1] and appendix detailing our country-by-country report for the same year[2].

While the mutual agreement procedure ("MAP") framework has been improved by the output and implementation of BEPS Action 14, we believe there are areas that can be further improved, and opportunities remain to enhance it. This is particularly critical given our expectation that cross-border disputes will continue the current trend of increasing in the coming years, as the complexity and the digitalisation of international business continues to grow, major multilateral changes to the tax framework that arise from the OECD's Digitalisation of the Economy project will be implemented and additional public finances are sought to address the economic impact of the CoVid-19 pandemic.

We endorse the response submitted by Business at OECD on 11 January 2011, which we contributed to. We take this opportunity to highlight the areas that we believe to be most critical for attention during the review:

- MAP can take many years to complete – and in some cases may not be resolved. Opportunities to standardise and enhance taxpayer visibility over the process would be welcomed.

[1] https://www.angloamerican.com/~/media/Files/A/Anglo-American-Group/PLC/investors/annual-reporting/2020/tax-and-economic-contribution-report.pdf
[2] https://www.angloamerican.com/~/media/Files/A/Anglo-American-Group/PLC/investors/annual-reporting/2020/anglo-american-country-by-country-report-2019.pdf

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- Regarding APAs, the most significant barrier is the time it takes for them to be agreed. It is frequently the case that it takes several years to agree – and while this is swifter than waiting until assessments are raised and commencing MAP, they may in practice still be retrospective in application due to the time taken to agree them. Where business models swiftly change, the APA process may not be suitable at all in its current form. Additional resource may assist in this regard but will not succeed without changes to the underlying regimes.
- While we support mandatory binding arbitration, all supplementary dispute resolution processes (beyond MAP) should be further explored, even if not mandatory and binding on tax administrations.

In addition – and more broadly – we endorse cooperative compliance and multilateral assurance processes such as ICAP as vital tools to enhance tax certainty through dispute prevention.

We would welcome the opportunity to discuss this response in more detail with you, should it be helpful. Please do not hesitate in contacting us for further information.

Yours faithfully

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