**Elodie Aba (Legal Researcher)   
and Christopher Avery (Director)**

**Business & Human Rights Resource Centre**

**1-3 Charlotte Street, 3rd floor**

**London W1T 1RD**

**United Kingdom**

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Dear Ms Aba and Mr Avery,

Thank you for giving Glencore Xstrata the opportunity to respond to the issues raised in the report ‘Private Gain – Public Loss: Mailbox Companies, tax avoidance and human rights’ produced by the Centre for Research on Multinational Corporations (SOMO), which you intend to publish in a weekly update to your subscribers.

We have reviewed the allegations made by the report of tax evasion and pollution of air and drinking water by our subsidiary Mopani Copper Mines plc in Zambia. The report makes a number of inaccurate and outdated statements and there are a number of points on which we would like to provide further clarity and details:

**Commitment to Transparency**

Our Code of Conduct states ‘We are committed to full compliance with all our statutory obligations, full disclosure to tax authorities and reporting transparently to the governments of the countries in which we operate’. We report publicly on our activities around the world in our annual financial and SD reports.

Glencore Xstrata is an active supporter of the Extractive Industries Transparency Initiative (EITI), and the report on our implementation of the EITI in the countries where we operate can be found on the EITI website [www.eiti.org](http://www.eiti.org).

In addition to our group reporting obligations, we also annually submit Zambia-specific reports to the EITI in Zambia. These reports are consolidated and cross-referenced with the reports generated by the relevant tax authorities.

**Tax payments at Mopani**

The report makes a number of serious and false allegations regarding the payments of tax by Mopani to the Zambian government. The allegations are based on a draft audit report prepared by advisors to the Zambia Revenue Authority in February 2011, and unofficially circulated in Zambia. We performed a detailed review of the report, and commissioned a further review by Deloitte. Both reviews found ‘fundamental flaws in terms of methodology and approach applied’.

In this regard, we attach our submission to the UK Government Select Committee (April 2012) which focused on the link between taxation and development in Zambia and the reviews of the original draft audit report by ourselves and by Deloitte.

Throughout the duration of the matter, we have worked closely with the Zambia Revenue Authority on the allegations raised by the initial investigation.

A further unverified allegation made in the report is that the European Investment Bank (EIB) has recently cancelled its loan to Mopani on the grounds of alleged tax evasion. While the EIB did in fact launch its own investigation into this matter, its investigation is still ongoing, and the loan received by Mopani has now been fully repaid. We have an ongoing dialogue with the EIB’s investigation team to ensure any concerns are resolved promptly and constructively.

**Violations of human rights**

SOMO’s report refers to violations of human rights by Mopani. Respecting human rights is core to Glencore Xstrata’s approach to business and is enshrined in our Code of Conduct. We are committed to engaging with the communities impacted by our operations on social, environmental and cultural issues. Any allegations of breaches of human rights are treated extremely seriously and are subject to a robust investigation process, with corrective action taken as necessary.

**Environmental pollution**

The report references air pollution with sulphur dioxide emissions from Mufulira, Nkana, Chambishi and Luanshya smelters. It should be noted that Mopani only took over the operations at the Mufulira smelter and the other smelters listed were taken over by other mining companies. As such, we can only comment on the activities undertaken to address emissions by the Mufulira smelter.

The Mufulira smelter was constructed and began operations during the 1930s and has been negatively impacting the local environment and community since then. We took over the operation of the Mufulira smelter in 2000 and from the outset have been taking actions to reduce the sulphur dioxide emissions from the smelter.

The project to upgrade the smelter is one of the largest environmental projects ever undertaken in Zambia. We agreed with the Zambian government that, due to its size and complexity and the potential to adversely impact employment and dependent local businesses, the upgrade project would be undertaken as a three-phase investment plan. Each stage of the upgrade project has been designed to deliver clear, quantifiable environmental benefits.

Today, following the completion of stages one and two, about half of all sulphur dioxide emissions are captured. The final phase of this $450 million project will enable the capture of 97% of emissions, which is consistent with global best practice in this area. The project has been fast-tracked to be completed well ahead of the deadline set by the Zambian government at the time of privatisation.

**Background on in situ leaching at the Mufilara mine**

In copper mining, in situ leaching is a metallurgical process that is used primarily for the leaching of copper oxides. The name ‘in situ’ signifies that the leaching process takes place underground before the ore is removed. Initially, the method was used to recover copper from old mined out areas. The process has subsequently evolved and is now being used globally to recover copper from deep or low grade ore bodies, where traditionally copper could not be recovered economically through using conventional mining methods.

At the Mufulira mine, in situ leaching is being applied in old, mined out areas in the upper levels of the mine and in some areas in the underground mine. It is never, as the report alleges, meant to replace manual labour.

In order to achieve approval for the in situ leaching project and before acquiring a licence to operate, Mopani was required to submit an environmental project brief to the Zambian Environmental Management Agency (ZEMA) outlining specific mitigation measures that would be put in place. In October 2005, ZEMA (then known as the Environmental Council of Zambia – ECZ) approved the in situ leaching project, attaching specific conditions of operations in addition to the mitigation measures outlined in the original project brief. These additional conditions were added to the updated Environmental Management Plan (EMP) of 2009.

The mine has three independent underground water pumping systems:

* Industrial water pumping system: on arrival to the surface water is partly used for operations in the mine’s various plants and processes;
* Raw domestic water pumping system: a cleaner portion of the underground water is pumped to the surface, allowing Mulonga Water Company, the local water company, to take the water for treatment. Once fully treated, this water is supplied to the community; and
* In situ leach solution pumping system: the leach solution collects in its own dams located to the east of the mine and is pumped to the holding ponds on the surface before being fed into the solvent-extracting plants for processing. Underground, there are a number of containment ponds that are able to store the leach solution in emergency situations.

The water content is monitored by Mopani on a daily basis and reported to ZEMA.

**Water pollution**

Protecting the environment is one of our most significant sustainability objectives. We seek to conduct our business in a way that minimises negative impacts on the natural environment through all aspects of our operations. We are committed to identifying, understanding and mitigating the negative environmental impacts of our activities across our global operations. Environmental responsibility is integrated into our strategic planning, management systems and day-to-day business operations.

In 2008, a sweeper pump related incident occurred in the raw domestic water pumping system which supplies water to Mulonga Water Company impacting the water treatment plant. As a result, leach solution from the in situ leaching process flowed into a holding pond meant for raw domestic water. It should be noted that no aquifer was contaminated and the allegation made on this point is incorrect.

Following a full investigation of the incident, Mopani put in place a number of additional control measures. We are unaware of any incidents occurring in 2011. Please provide additional details to enable us to provide a full response.

We remain fully committed to the principles of transparency and responsible citizenship in the areas where we operate. Further information on our operations and our performance can be found on our website: [www.glencorexstrata.com](http://www.glencorexstrata.com).

Yours sincerely,

Charles Watenphul

cc. Michael Fahrbach, Anna Krutikov