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The UN Special Rapporteur on Indigenous Peoples Rights

24 February 2021

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Sibanye-Stillwater submission to the UN Special Rapporteur on Covid-19 Recovery: Call for inputs from the Mandate of the Special Rapporteur on the rights of indigenous peoples for his report to be presented at the Human Rights Council in September 2021

Dear Francisco,

Sibanye-Stillwater welcomes the opportunity to provide input from business representatives to contribute to the preparation of the Special Rapporteur next thematic report on Covid-19 Recovery and Indigenous Peoples' Rights to be presented to the Human Rights Council at its 48th session in September 2021.

1 Sibanye-Stillwater

1.1 Background

Sibanye-Stillwater is a globally diversified precious metals miner, producing gold and the full suite of PGMs. The company has a diverse portfolio of platinum group metal (PGM) operations in the United States (US), South Africa, and Zimbabwe, gold operations and projects in South Africa, and copper, gold and PGM exploration properties in North and South America.

The company was formed in February 2013 as Sibanye Gold Limited, following the unbundling by Gold Fields Limited of a South African subsidiary company which owned Kloof, Driefontein and Beatrix gold mines. Upon completion of that transaction, our common shares and American depository receipts were listed on the JSE and the New York Stock Exchange, respectively.

Subsequently a strategy of organic and acquisitive growth was pursued, including acquiring the Cooke operations from Gold One International in 2013 and the Burnstone project from Wits Gold in 2014, in order to create a more sustainable gold business.

In 2016, the acquisition of Aquarius Platinum Limited's stakes in the Kroondal mine and the Platinum Mile retreatment facility, both in the Rustenburg area, South Africa and the Mimosa Joint Venture with Impala Platinum in Zimbabwe was completed. Later in the same year, Anglo American Platinum Limited's Rustenburg operations were acquired.

In May 2017, the Stillwater Mining Company in the United States was acquired, and the company began trading as Sibanye-Stillwater. The Stillwater transaction constituted the largest PGM transaction globally in over a decade.

www.sibanyestillwater.com

Directors: Vincent Maphai* (Chairman) Neal Froneman (CEO) Charl Keyter (CFO) Timothy Cumming* Savannah Danson* Elaine Dorward-King * Harry Kenyon-Slaney* Rick Menell* Nkosemntu Nika* Keith Rayner* Sue van der Merwe* Jerry Vilakazi*

Lerato Matlosa (Corporate Secretary) (* Independent Non-Executive)

In 2018, an agreement was reached with DRDGOLD to establish an industry-leading surface mining tailings retreatment partnership.

In June 2019, the entire share capital of Lonmin Plc was acquired. Lonmin's assets include the Marikana PGM mining operations and associated retreatment, smelter, base metal refinery and precious metal refinery assets in South Africa. Completion of this acquisition in 2019 represented the culmination of the "mine to market" South African PGM strategy.

In February 2020, an internal restructuring process was concluded, changing the group holding company from Sibanye Gold Limited to Sibanye-Stillwater Limited.

2 Covid-19 Recovery interventions in Indigenous Communities

2.1 Impact of states' COVID-19 recovery laws and Sibanye-Stillwater policies on indigenous peoples and mining

In South Africa, there is no clear definition of Indigenous People, and therefore Sibanye-Stillwater has for its existing operations in South Africa and the USA (Montana) defined the following as Indigenous People:

- self-identifying as indigenous (such as the Khoi san in South Africa or Native American people);
- link to specific territories;
- using distinct language, culture, beliefs and socio-economic systems;
- from non-dominant sectors of society;
- owners of land in which we operate; and
- maintaining ancestral environments and distinctive identities.

The approach to building positive relationships with our Indigenous Peoples stakeholders is guided by our vision of "Superior value creation for all our stakeholders" through responsible mining and beneficiation of our mineral resources. This is underpinned by our CAREs values (Commitment, Accountability, Respect, Enabling and Safety).

Our stakeholder engagement approach seeks direct engagement with relevant social partners, government and is inclusive of community engagement forums. To be effective and productive, it is important that engagement is based on trust. The social and community upliftment approach is three tiered:

- Stakeholder engagement
- Social and Labour plans
- Strategic Programmes.

In South Africa, regular meetings take place with stakeholders (Indigenous communities) including:

- Annual meetings with traditional leaders in labour-sending areas
- Quarterly meetings with leaders in areas of operation
- Ad hoc meetings when required
- Local traditional leaders participate in the community engagement forums which meet quarterly.

In South Africa, the pandemic tested the level of the States' ability to provide adequate healthcare and to shoulder the social relief that was required when the country went into lockdown in March 2020. It also revealed the challenges of social service delivery and lack of capacity by government on all levels. In addition, the non-governmental organisation and community organisations have turned their attention to the mining industry to take the lead in COVID-19 support and economic recovery.

Sibanye-Stillwater joined many South Africans and plays its part in combating the scourge of Covid-19 by contributing to the national funds, driving its own prevention and disease management programmes through employee education, workplace re-organization and conversion of single accommodation villages into isolation facilities.

As part of its social responsibility; the company contributed to various national funds (the Solidarity Fund and the South African Future Trust Fund) and also ran its own programmes in communities and indigenous communities in:

- Water provision
- Social relief
- PPE support
- Sanitation

- Education support

The positive traction created by the company's response to COVID-19 in communities and indigenous communities, has banked us some goodwill with stakeholders and created fertile ground for the company to commence trust building programmes in the Free State and Marikana operations aimed at rebuilding the relationships with stakeholders and ultimately securing a Social Compact.

3 Indigenous peoples' COVID-19 responses and efforts at recovery

3.1 Examples of Sibanye-Stillwater indigenous-led COVID-19 recovery efforts

The company intensified its communication and engagement with stakeholders around COVID-19. Key focus was around how employees, families and communities could deal with the impact of COVID-19 during the festive season. Management also visited the Eastern Cape (where most of the labour force originates) to engage with some traditional leaders around the impact of COVID-19, with specific focus on socio-economic recovery.

Engagements have also been held with various municipalities around local economic impacts and reviewing alternative economic recovery programmes. Preparations for the second wave and return to work was the focus of company's communication with relevant stakeholders.

3.1.1 Social relief:

Over 9000 food hampers were donated to peri-urban and indigenous communities in Limpopo, North West, Mpumalanga, Free State, Gauteng and selected municipalities in the Eastern Cape province in partnership with private companies such as Rand Mutual Assurance.

3.1.2 Sanitisation:

In partnership with our peers AngloGold Ashanti, Sasol and Imperial Holdings, Sibanye-Stillwater delivered closed to 100 000 litres of sanitisers to schools, health facilities and NGOs in communities around our operations and in the Eastern Cape province.

3.1.3 Personal Protective Equipment (PPE):

Sibanye-Stillwater donated PPE to clinics and hospitals around our operations. In partnership with Rand Mutual Assurance, the company also donated 20 000 clothmasks to our underground employees in peri-urban and Indigenous operations. Faceshields were also contributed to frontline healthworkers in partnership with Digimine at Witswatersrand University.

3.1.4 Water provision:

Water tanks were provided to support the Madibeng Municipality to distribute water to peri-urban and Indigenous communities in water scarce areas . Water tanks were also provided to 30 schools in the Free State province.

3.1.5 Donation to shelters:

The company donated mattresses and blankets to various shelters operating in peri-urban and Indigenous communities in the North West, Gauteng and Free State provinces.

3.1.6 Education support:

In addition to sanitisers and water provision to schools the company donated thermometers and smart equipment to schools to enable lesson catch-up and promote digitisation of education. 300 Tablets and 30 Smart Boards were donated to the North West Department of Education, 30 Schools within the Rustenburg Sub-District schools benefited from this donation. The company also donated 710 masks, 460 litres of sanitisers as well as the thermometers to various Early Childhood Development centres (ECDs) to assist with their safe re-opening. The ECDs are from peri-urban and Indigenous communities; Lapologang, Marikana, Tlhabane, Boitekong, Seraleng, Sondela, Meriting, Kanana and Mosenthal communities.

4 Sibanye-Stillwater strategies developed and implemented in consultation with the participation of the indigenous peoples concerned

The company engages with local NGOs on socio-economic challenges in mining communities with a view to collaborating on sustainable solutions. The relationships with international NGOs and lobby groups that focus on historical issues in South Africa remain robust on social and environmental issues. Engagements continue to find common ground on social development and programmes supporting social cohesion.

The impact of the Group on the economies of South Africa and the state of Montana in the US, as well as on our host and labour-sending communities, means that responsibilities arising from our corporate citizenship become hugely significant. These responsibilities – which include: the workplace, society, the economy and the environment – underpin our corporate strategy as well as our reputation and relationships with all our stakeholders. From a social perspective the focus is on:

- Investment in community development and contributing to alternative economic activities;
- Implementation of social impact management plans as well as having in place a social closure strategy; and
- Local procurement.

The effectiveness of the relationships with our host communities are measured through the Perception Index from a qualitative point of view. Within the stakeholder engagement model, the Company caters for grievance mechanisms. The grievances received through the grievance mechanisms provides detail to concerns and to what level of satisfaction stakeholders receive the Company's endeavours.

Audits are performed by the Department of Mineral Resources and Energy in South Africa on the delivery of commitments within social and labour plans as well as against the targets within the Mining Charter. This provides another layer to determine implementation effectiveness of actual projects. Expenditure on social and labour plan community projects are assured by external auditors.

In South Africa, Sections 10(1)(b), 16(4)(b), 22(4)(b), 27(5)(b) and 39 of the Mineral and Petroleum Resources Development Act (Act 28 of 2002) requires companies to consult and obtain the full and informed consent of the communities, which holds land rights, prior to granting a mining right in terms of the Act.

We keep ourselves available for further discussions should it be required.

Your faithfully,

Themba Nkosi
EVP & Head of Corporate Affairs

5 Annexures

5.1 COMMUNITY AND INDIGENOUS PEOPLES POLICY

In line with Sibanye-Stillwater's purpose of improving lives through mining, we recognise the important role we can play in enabling the transformation of the economy and delivering employment and value to its host communities. Sibanye-Stillwater seeks to develop mutually beneficial relationships with host communities and governments. In part, this will be satisfied through open engagement but more critical, is active involvement in the support and development of the communities in which we operate.

To attain the vision of creating superior value for all its stakeholders, Sibanye-Stillwater is committed to:

- contributing to the local economic development of our communities
- actively engaging our stakeholders through robust systems that provide the platform for open, honest and constructive dialogue
- respecting local customs, traditions and cultures
- pursuing formalised partnerships with governments, non-governmental organisations and donor organisations to ensure that community development programmes are well designed, effectively delivered and capitalise on any synergies that may exist
- ensuring that any resettlement that cannot be avoided is undertaken such that resettled parties are constructively engaged and treated fairly
- embracing sound principles of local procurement and employment that contribute to local economic development
- designing and developing appropriate mine closure processes through constructive engagement with stakeholders, and
- encouraging, where practical, our suppliers and contractors to adopt similar practices.

Employees of Sibanye-Stillwater will play a fundamental role in achieving the above-mentioned objectives by:

- proactively adhering to the company's Community and Indigenous People's policy, and
- undertaking our activities in a manner that is conducive to ensuring that our operations are an integral member of the community.

5.2 Sibanye-Stillwater Position Statement: Indigenous people, host communities and mining

Good relationships are based on mutual respect, trust and meaningful engagement. Mining can have impacts that are good or bad on communities and indigenous people. Creating value for communities through socio-economic development can contribute to improving the livelihoods of local communities and ensure that we partner with them on their development needs through inclusive planning and decision making to ensure that they can reap long-term rewards beyond the life of our operations.

Indigenous People are:

- self-identifying as indigenous (such as the Khoi san in South Africa or Native American people);
- link to specific territories;
- using distinct language, culture, beliefs and socio-economic systems;
- from non-dominant sectors of society;
- owners of land in which we operate; and
- maintaining ancestral environments and distinctive identities.

Governance

- Identify and designed controls to comply with all relevant legislation pertaining to community development and Indigenous People.
- Create a framework for management of history, heritage and legacy issues affecting indigenous and local communities.
- Internal capacity and awareness building on national, regional and international legal frameworks on Indigenous Peoples' Rights and human rights guidelines.
- Respect the individual and collective rights of Indigenous People and traditional authorities by following engagement requirements as identified in consultation with communities, Indigenous People and traditional authorities.

- Ensure that social impact assessments are embedded within local context and due consideration given to the impacted communities and indigenous people.
- Capacity development within the company to understand the impact of the future of mining operations and social and economic impact on communities and Indigenous Peoples.
- Building local social and cultural knowledge and emotional intelligence within the company and learn from experiences of conflict and failure in Indigenous People engagement.
- Maintain a process for identifying social risks for indigenous and local communities.
- Create avenues for grievances raised by indigenous and local communities to be managed effectively.

Performance monitoring and evaluation

- Create a social pact with indigenous and host communities.
- Create a social baseline on the social, economic and environmental characteristics of environments in which indigenous and host communities' habit
- Assess the effectiveness of processes and the value of outcomes by determining the degree to which outputs and outcomes are met, such as Goal Attainment Scaling.
- Utilising management tools such as the UN Business and Human Rights 'Protect, Respect and Remedy' Framework and Principles to monitor processes and outcomes of community programmes and interactions.
- Developing a clear and actionable Sustainable Development Goals Sector Roadmap for the adopted goals to annually assess progress against the targets and indicators.

Collaboration, engagement and reporting

- Obtain Free Prior and Informed Consent from Indigenous People and traditional authorities
- Respect for cultures and customs of communities in areas where land is owned or was traditionally owned by Indigenous People and Traditional Tribal Authorities.
- Adopt and apply engagement and consultation processes that ensure meaningful participation of Indigenous People and traditional tribal authorities in decision making throughout the life cycle of the business that is consistent with Indigenous People traditional decision-making processes and protocols and are based on meaningful negotiations.
- Engagements will follow culturally appropriate ways with special attention to the interests and rights of Indigenous People, in the context of the broader community engagement.

5.3 US PGM Operations Regulatory Requirements and Collaboration Efforts

The National Historic Preservation Act (NHPA) and American Indian Religious Freedom Act (AIRFA) apply to our US operations. The NHPA requires federal agencies to consider effects of federal actions on cultural resources, including traditional cultural properties eligible for or listed in the National Register of Historic Places, and to consult with American Indian tribes to identify and resolve any adverse effects. Whenever a new action is proposed at the US operations, an environmental assessment is completed by federal and state agencies that includes consultation with American Indian tribes regarding cultural resources that would potentially be affected by the proposed action.

This AIRFA protects and preserves for American Indians, Eskimos, Aleuts, and Native Hawaiians their inherent right of freedom to believe, express, and exercise their traditional religions. It allows them access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rights. It further directs various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with Native traditional religious leaders to determine changes necessary to protect and preserve Native American cultural and religious practices.

The Good Neighbor Agreement (GNA) between the now Sibanye-Stillwater mine, the Northern Resource Council, the Stillwater Protective Association (SPA) and the Cottonwood Resource Council has been in effect since 2000, and the GNA is a work in progress as new projects and developments are encountered.

It is a legally binding agreement which not only ensures the responsible development of the mine and protection of the natural resources but is cited around the world as being a gold-standard for organizations to try and recreate.

The GNA protects water, air and other natural resources beyond state and federal requirements, at the agreement of all sides involved.

The GNA provides a legal framework that “gives local people a direct say in mine-related decisions that affect their communities and the watersheds of the Boulder and Stillwater Rivers.” Protecting such things as the water quality have also preserved the “rural quality of life” in the area.

The GNA has endured even as the mine has changed ownership four times in the subsequent decades. Despite the challenges, it remains a working example of how ranchers, rural communities, and mining companies can work together to address local environmental and economic issues without going to court.

In an era of increased political polarization, when the conflict and division between people with different views of the world are rarely resolved, the Good Neighbor Agreement proves that sustained cooperation is possible.

Recent additions to the GNA have expanded testing of groundwater and require the mine to take immediate action if contamination is found. For two decades, the Good Neighbor Agreement has:

- Provided for citizen oversight of mining operations in order to ensure that the area's quality of life and productive agricultural land are protected
- Established clear and enforceable water quality standards above and beyond state and federal requirements
- Created a program of citizen involvement to study the water quality and biological health of the rivers
- Improved public safety by providing bus transportation for mine workers, which reduces traffic on rural roads
- Prevented the development of "man-camps"
- Given local groups access to expert technical advisors.