

**IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA,  
ALBERTA, MANITOBA, Québec, NOVA SCOTIA, NEW BRUNSWICK AND PRINCE  
EDWARD ISLAND**

**AND**

**IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR  
EXEMPTIVE RELIEF APPLICATIONS**

**AND**

**IN THE MATTER OF ANGLO AMERICAN PLC**

**AND**

**IN THE MATTER OF DE BEERS CONSOLIDATED MINES LIMITED**

**AND**

**DE BEERS CENTENARY AG**

**DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Manitoba, Québec, Nova Scotia, New Brunswick and Prince Edward Island (the "Jurisdictions") has received an application from Anglo American plc ("Anglo American"), De Beers Consolidated Mines Limited ("Consolidated") and De Beers Centenary AG ("Centenary") (Consolidated and Centenary, together "De Beers") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the registration and prospectus requirements contained in the Legislation shall not apply to the trades of Anglo Shares (as defined below) and De Beers Securities (as defined below) in connection with the Scheme of Arrangement (as defined below);

**AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief (the "System"), the British Columbia Securities Commission is the principal regulator for this Application;

**AND WHEREAS** it has been represented by Anglo American and De Beers to the Decision Makers (and such applicant represents in respect of matters relating to itself only) that:

1. Anglo American is a company registered under the laws of England and Wales as a public company limited by shares with authorized capital including 1,631,000,000 ordinary shares of US\$0.50 each (the "Anglo Shares");
2. as of May 9, 2001, a total of 1,630,644,976 Anglo Shares were issued and outstanding; the Anglo Shares are listed on the London Stock Exchange Limited (the "LSE"), the Johannesburg

Stock Exchange (the "JSE") and the Swiss Exchange SWX (the "SWX"); in addition, unsponsored Anglo American Depositary Receipts (the "Anglo ADRs") are quoted for trading on NASDAQ (any reference to Anglo Shares shall include reference to Anglo ADR's);

3. Consolidated is a public company incorporated under the laws of the Republic of South Africa and Centenary is a company incorporated under the laws of Switzerland; interests in De Beers are only tradable in the form of linked units ("Linked Units"), comprising one deferred share of Consolidated (a "Consolidated Share") and one depositary receipt (a "Centenary Depositary Receipt") issued by Centenary Depositary AG ("Centenary Depositary"), a wholly-owned subsidiary of Centenary; in turn, each Centenary Depositary Receipt represents an undivided 100<sup>th</sup> interest in one unit of Centenary (a "Centenary Unit"), which comprises one ordinary share in Centenary and one non-voting participation certificate issued by a wholly-owned subsidiary of Centenary (all securities of De Beers, including the Linked Units, and its constituent parts, the "De Beers Securities");

4. as of May 4, 2001, a total of 399,958,775 Linked Units were outstanding and are listed on the LSE, JSE and SWX and in Botswana, Frankfurt, Paris, Brussels and Namibia; in addition, a substantial number of Linked Units are represented and tradable in bearer form and De Beers is unable to confirm whether such Linked Units are held by Canadians; also, unsponsored De Beers American Depositary Receipts (the "De Beers ADR's") are quoted for trading on NASDAQ (any reference to Linked Units shall include reference to De Beers ADR's);

5. after due inquiry, each of Anglo American and De Beers believes that less than 0.5% of the outstanding Anglo Shares and Linked Units, respectively, are held by residents of Canada;

6. neither Anglo American, Consolidated nor Centenary is, and neither of them has any current intention of becoming, a reporting issuer in any jurisdiction in Canada;

7. on March 29, 2001, De Beers and DB Investments ("DBI"), a company to be owned by Central Holdings Limited, ("CHL"), Anglo American and Debswana Diamond Company (Proprietary) Limited ("Debswana") (together, the "Interested Parties"), issued a press release announcing the making of a recommended offer for De Beers by DBI to be implemented, *inter alia*, by way of scheme of arrangement (the "Scheme of Arrangement") between Consolidated and holders of Linked Units under applicable South African law; the Scheme of Arrangement would generally include the distribution by De Beers of its entire holding of Anglo Shares to holders of its Linked Units and the surrender of all outstanding Linked Units other than those held by DBI;

8. on April 30, 2001, DBI and De Beers issued a press release announcing an increase in the consideration payable under the Scheme of Arrangement to holders of Linked Units other than the Interested Parties;

9. as of May 9, 2001, CHL, Anglo American and Debswana held directly or indirectly approximately 10,548,613 (2.6%), 128,846,923 (32.2%) and 20,000,000 (5%) respectively, of the total issued and outstanding Linked Units;

10. as of May 9, 2001, De Beers held approximately 577,135,620 (representing approximately 35.4%) of the total issued and outstanding Anglo Shares through Consolidated and its other South African nominees; in addition, approximately 117,031,040 (representing approximately 7.18%) of the total issued and outstanding Anglo Shares were held directly by CHL;

11. prior to the implementation of the Scheme of Arrangement, DBI will acquire from the Interested Parties, among other things and conditional upon the Scheme of Arrangement becoming operative, each of the Interested Parties' respective holdings of Linked Units in exchange for DBI issuing certain securities in its capital, such that DBI will be wholly-owned by a subsidiary of CHL as to 45%, Anglo American as to 45% and Debswana as to 10%; the subsidiary of CHL will be owned by CHL as to 88.89% and Debswana as to 11.11%;

12. the Scheme of Arrangement will take effect through a series of transactions involving holders of Linked Units, including:

(a) the depositary agreement constituting the Centenary Depositary Receipts underlying the Linked Units will be amended by holders of Centenary Depositary Receipts (and Linked Units) to allow Centenary Depositary (on behalf of such holders) to sell to DBI the Centenary Units underlying the Centenary Depositary Receipts under the Scheme of Arrangement and to authorize and instruct DBI to pay the Anglo Shares and other consideration payable under the Scheme of Arrangement directly to Consolidated for distribution to holders of Linked Units (and the underlying Centenary Depositary Receipts) rather than through Centenary Depositary;

(b) Consolidated will purchase from all holders of Linked Units (including from DBI's holdings of Linked Units acquired through the previous transfer of Linked Units by the Interested Parties as described in paragraph 11 above) a 1% proportion of their respective holdings of Consolidated Shares underlying the Linked Units in consideration for Consolidated distributing to each holder of Linked Units, on a pro rata basis, all Anglo Shares then held by Consolidated;

(c) the balance of Consolidated Shares underlying the Linked Units (other than DBI's holdings) will be cancelled;

(d) Consolidated will then (i) distribute to holders of Linked Units (other than DBI), on a pro rata basis, all remaining Anglo Shares acquired by Consolidated from DBI and other holders of Anglo Shares through a series of further transactions under the Scheme of Arrangement, and (ii) pay, on behalf of DBI, an amount equivalent to US\$15.35 per Linked Unit to holders of Linked Units (other than DBI) against delivery of the relevant Linked Unit certificates to Consolidated;

13. the effect of the transactions under the Scheme of Arrangement (as described in paragraph 12 above) are such that each holder of Linked Units (other than the Interested Parties) will receive from Consolidated in exchange for the surrender for cancellation of each Linked Unit: (i) 1.784

of an Anglo Share; (ii) US\$15.35 in cash; (iii) a further cash amount in respect of any fractional entitlements; and (iv) certain dividend entitlements;

14. holders of Linked Units (other than DBI) will also be entitled to elect, subject to availability, to vary the proportions in which they receive their share of the Anglo Shares and cash from Consolidated against surrender of their Linked Unit certificates (the "Mix and Match Elections"); the satisfaction of Mix and Match Elections will be dependent upon the extent to which other Linked Unit holders (other than DBI) make offsetting elections and will accordingly be scaled down on a pro rata basis;

15. following completion of the Scheme of Arrangement, De Beers will be wholly-owned by DBI;

16. on or about April 10, 2001, registered holders of Linked Units were mailed documentation (the "Meeting Documentation") in connection with the meetings of securityholders of De Beers (the "Scheme Meetings") convened for May 4, 2001, which were subsequently adjourned to May 18, 2001; further to the adjournment of the Scheme Meetings, the expected date for the implementation of the Scheme of Arrangement is on or about June 8, 2001;

17. the Meeting Documentation was prepared pursuant to the laws of the Republic of South Africa, the Securities Regulation Code (the "Code") on Take-overs and Mergers and the Rules of the Securities Regulation Panel made pursuant to the South African Companies Act, 1973; the Meeting Documentation included circulars that explain the Scheme of Arrangement proposal and appropriate notices of the Scheme Meetings, along with normal proxy material; also included in the Meeting Documentation was certain additional disclosure relevant to Canadian securityholders of De Beers; on or about May 1, 2001, holders of Linked Units were mailed a further package with respect to the increase in the consideration payable under the Scheme of Arrangement which included (i) a cover letter; (ii) a copy of the press release issued on April 30, 2001 (as described in paragraph 8 above); and (iii) updated proxy materials;

18. at the Scheme Meetings held on May 18, 2001, the Scheme of Arrangement was approved by more than three-fourths of the votes exercisable by holders of Linked Units (excluding the Interested Parties);

19. certain transactions, including those transactions under the Scheme of Arrangement, were approved by a majority vote of the shareholders of Anglo American (excluding certain interested parties) at the extraordinary meeting of shareholders of Anglo American held May 4, 2001;

20. on or about May 30, 2001, the listing of the Linked Units on the exchanges on which they are quoted will be terminated and immediately following the implementation of the Scheme of Arrangement, each of Consolidated and Centenary will become wholly-owned subsidiaries of the Interested Parties through DBI;

21. following the Scheme of Arrangement, registered holders of Anglo Shares with addresses in Canada will receive the same disclosure materials that are sent to registered holders of Anglo Shares in the UK;

AND WHEREAS pursuant to the System, this Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that:

(a) the prospectus and registration requirements of the Legislation shall not apply to trades of De Beers Securities and Anglo Shares in connection with the Scheme of Arrangement;

(b) the first trade of Anglo Shares acquired under the Scheme of Arrangement in a Jurisdiction shall be deemed a distribution or a primary distribution to the public under the Legislation of such Jurisdiction unless such first trade is executed on an exchange or market outside of Canada.

**DATED** June 7, 2001.

*"Brenda Leong"*  
Director

Headnote:

Mutual Reliance Review System for Exemptive Relief Applications – Relief from registration and prospectus requirements for trades in connection with a scheme of arrangement involving two foreign non-reporting issuers under South African law where exemptions in the legislation are unavailable for technical reasons – First trade relief for securities acquired under the arrangement on the condition that trades occur on a market outside Canada.

Applicable British Columbia Provisions

*Securities Act, R.S.B.C. 1996, c. 418, ss. 34(1)(a), 45(2)(9), 48, 61, 74(2)(8), 76.*