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Geoff Lancaster
Head of External Affairs
Associated British Foods PLC
Weston Centre
10 Grosvenor Street
London W1K 4QY

cc. G D Knox, Corporate Affairs Director, Illovo Sugar

28 October 2012

Dear Mr Lancaster,

I am writing from ActionAid, an international development charity. Our work with poor and excluded people in 45 countries worldwide looks at the systemic causes of poverty. As you may know, amongst our activities has been work over several years to seek increased accountability and transparency with regard to tax payments made by multinational companies in developing countries, with a view to increasing the revenues available in those countries to combat poverty.

We have recently undertaken some research regarding the tax position of several multinational groups, including Associated British Foods. Our research relating to Associated British Foods has focussed particularly on the activities of the Illovo group of companies in southern and eastern Africa.

Information and analysis in this area is of course complex, and we would be extremely grateful if you were able to clarify a number of queries, arising from our research, relating to the management and implementation of the tax function, CSR and labour policies of some group companies. These are detailed below. We apologise for the length of this list of queries, but we wanted to ensure that we were adequately reflecting the full facts and your company's views.

In order for us to provide the fullest possible information, and to reflect Associated British Foods' views properly, we would be grateful if you were able to provide responses to these queries by Friday 9th November.

If you would like to discuss any of these queries, or our work more widely, please do not hesitate to contact me.

Many thanks in advance for your assistance.

With best wishes,

Michael Lewis

Mike Lewis
Policy Adviser, ActionAid UK

Questions from ActionAid

Associated British Foods tax policy and management

1) What control and oversight does Associated British Foods maintain over the tax function of the Illovo group and its constituent companies?

2) Does Associated British Foods have a detailed tax policy covering the corporate group? If so, could a copy of it be made publicly available to us?

3) Does the Illovo group have a separate tax policy? If so, could a copy of it be made publicly available to us?

Illovo group

4) We have been able to review the accounts of those Illovo group companies which are published online or otherwise available from national company registries, but have been unable to access accounts for other Illovo group companies, particularly Kilombero Sugar Company Limited (Tanzania), Ubombo Sugar Ltd (Swaziland), Maragra Açúcar SA (Mozambique), Illovo Group Holdings Ltd (Mauritius), Illovo Group Marketing Services Ltd (Mauritius) and Illovo Project Services Ltd (Jersey).

   We would be grateful if you could indicate whether the most recent accounts of these companies are available, and whether they could be supplied to us?

Illovo Group Marketing Services Ltd (Mauritius)

5) How many employees does this company have, where are they based, and what functions do they carry out?

6) How many of these employees provide the procurement and management services detailed in Zambia Sugar's annual accounts, and what do these services consist of?

7) What goods are purchased from Illovo Group Marketing Services Ltd by Zambia Sugar PLC? Are these goods procured in Mauritius or elsewhere?

8) What tax rate does this company pay in Mauritius?

9) Is this company liable for tax in countries other than Mauritius?

Illovo Sugar Ireland

10) How many employees does this company have, where are they based, and what functions do they carry out?

11) How many of these employees provide the procurement and management services detailed in Zambia Sugar's annual accounts, and what do these services consist of?

12) How many staff are seconded from Illovo Sugar Ireland, and to which Illovo group companies?

13) Do these secondment fees attract tax in Ireland, or are they immediately paid onto another company?

14) Are the management fees received from Zambia Sugar PLC charged at a fixed percentage of Zambia Sugar PLC's turnover, production, profit or similar formula?

15) In addition to management services, are goods also being purchased by Zambia Sugar PLC from Illovo Sugar Ireland?

16) What are the main components of the administrative expenses incurred by Illovo Sugar Ireland, as given in its annual accounts?

17) We have been unable to fully reconcile the fees paid in recent years to Illovo Sugar Ireland by Zambia Sugar PLC (and appearing in their accounts) with the corresponding fees given in Illovo Sugar Ireland's accounts (see table below). We recognise, of course, that some apparent differences are explained by exchange rate or timing differences. Nonetheless we would be grateful if you were able to let us know the reasons for

(i) the income from management fees declared in Illovo Sugar Ireland's accounts from 2008 to 2011 being significantly higher than those declared as management fees payments in these years in Zambia Sugar's accounts;

(ii) Interest being declared as being received in Illovo Sugar Ireland's accounts in 2008 to 2009 when there appears to have been a 2-year interest payment moratorium on this loan from 2008-9, according to Zambia Sugar's accounts?

Euros (millions)	2007-11	2011	2010	2009	2008	2007	2006	2005
PAYMENTS TO ILLOVO SUGAR IRELAND LTD FROM ZAMBIA SUGAR PLC ACCOUNTS								
Purchasing/management services	28.3	2.04	7.07	12.5	6.78	3.22	2.64	
Of which: management fees	*6.00*	*1.09*	*0.83*	*1.09*	*1.24*	*1.76*	*1.49*	*1.45*
Interest	82.4	5.36	6.82	0	0	0.02	0	
Total (interest + fees)	**42.6**	**7.40**	**13.9**	**12.5**	**6.78**	**0**	**2.64**	**0**
RECEIPTS FROM ZAMBIA SUGAR PLC IN ILLOVO SUGAR IRELAND LTD ACCOUNTS								
Net income (=management fees from Zambia Sugar)	9.50	2.06	1.66	1.18	2.80	1.80	1.51	1.47
Interest	21.37	5.42	6.91	7.11	1.94			
Management fees	9.50	2.06	1.66	1.18	2.80	1.80	1.51	1.47
Secondment fees	4.98	1.89	1.67	1.41				
Total (interest + fees)	**30.9**	**9.37**	**1.02**	**9.70**	**4.74**	**1.80**	**1.51**	**1.47**
RATIOS (ZAMBIA DECLARED:IRELAND DECLARED)								
Management fees		27%	25%	42%	44%	97%	98%	99%
Interest payments		99%	106%	0%	0%	0%		
Total payments	**119%**	**79%**	**835%**	**1056%**	**242%**	**179%**	**175%**	**0%**

Source: Zambia Sugar PLC Annual Accounts and Illovo Sugar Ireland Ltd Annual Accounts, 2005-11. Figures in ZKW and USD have been converted to Euros at mean annual interbank rates.

18) We note in Zambia Sugar's 2012 accounts that the entirety of the payments made to Illovo Sugar Ireland in both 2011 and 2012 are characterised as management fees, while in previous years' accounts, only part of these payments are characterised as management fees. What is the reason for the recharacterisation of these payments in 2012?

19) Illovo Sugar Ireland's accounts note amounts due to three related companies in South Africa, Mauritius and Jersey. For what kinds of goods, services or fees are these amounts due to each company?

Illovo Sugar (Malawi) Ltd

20) This company's accounts note that Illovo Sugar (Malawi) Ltd pays management fees to a related party. Which related party are the management fees paid to?

Illovo Project Services Ltd (Jersey)

21) What is the purpose of this company within the group – what services, goods or functions does it provide to the rest of the group?

22) We understand that this company's shares are owned by two further Jersey companies, Barclays Wealth Corporate Services (Jersey) Ltd and Barclays Wealth Nominees (Jersey) Ltd. Which individual(s) or company/ies are the beneficial owners of Illovo Project Services Ltd via these companies?

Zambia Sugar PLC

23) Is Zambian tax withheld on Zambia Sugar's dividend distributions to (i) Illovo Sugar Ireland (ii) Illovo Sugar Coöperatief U.A. (Netherlands), and at what rates?

24) Is Zambian tax withheld on Zambia Sugar's interest and fee payments to Illovo Group Holdings Ltd (Mauritius), and at what rates? Is this tax paid on accrual or when actually paid to the related party?

25) Are Zambia Sugar's full payments to related parties for interest, purchases and management fees deducted from profits for tax purposes when accrued even if not yet paid?

26) What was the purpose of switching the holding company of Zambia Sugar from Ireland to the Netherlands in 2007?

27) We understand that the 2007-11 expansion of Zambia Sugar's Nakambala estate and plant was financed in part by a syndicated loan from Citibank N.A. (London branch) and Standard Bank PLC. What was the reason for routing this loan via Illovo Sugar Ireland?

28) Were any Zambian banks or other lenders involved in financing this expansion?

29) We understand from Zambia Sugar PLC's accounts that an additional tax holiday or incentive tax rate was agreed in accordance with the Zambia Development Authority Act in 2009-10. What was this additional holiday or rate? Are there any terms and conditions attached to this tax rate or holiday?

30) We understand that from 2008 onwards all of Zambia Sugar PLC's profits have been taxed at the 15% corporate income tax rate applicable to farming activities, whereas previously only those profits deriving from farming or sugar exports were taxed at 15%, other profit streams being charged at the usual 35% rate. In other instances in Zambian tax law, the income streams for joint farming/agro-processing companies were not all classified at 15%? (e.g. Nanga Farms Ltd v. ZRA, Revenue Appeals Tribunal,1999/RAT/38).

    What argumentation did Zambia Sugar/Illovo/ABF provide to the Zambian Revenue Authority for classifying the entire of Zambia Sugar's profits as farming profits at 15%?

31) We understand that Zambia Sugar's procurement operations have been centralised in Lusaka. Via which other procurement hubs within the group does Zambia Sugar procure goods and services, and how is the division of labour organised between the Zambian procurement operation and procurement hubs in other group companies?

32) During 2009, the net debt:equity ratio of Zambia Sugar PLC was 2.39:1. Was the tax deductibility of Zambia Sugar PLC's interest payments to related parties limited due to this ratio being over 2:1 during 2009, or in other years since 2007?

33) What entitlement do each category of Zambia Sugar workers (permanent, temporary, seasonal) have for themselves and their families to access (i) the schools provided by Zambia Sugar (ii) the clinics or other health facilities provided by Zambia Sugar?

34) What costs or fees are charged to the workers for these facilities?

35) We have been informed that some workers employed by Nanga Farms PLC, the subsidiary company of Zambia Sugar PLC, have during 2012 been paid around K330,720 per month, increasing in September 2012 to around K772,200 per month. Are you able to confirm whether this information is correct, and whether Nanga Farms PLC intends to meet the Zambian minimum wage for general workers (K419,000 in 2011-12, rising in July 2012 to K1,132,400)?

36) What is the reason for the differential in pay between Nanga Farms PLC employees and Zambia Sugar PLC employees doing similar jobs?

37) Is sugar sourced from Zambia Sugar PLC currently sold by Silverspoon or other ABF companies in the UK?

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28.11.2012

Dear Mr Lewis,

I thank you for your letter of the 28th October 2012 and for your understanding in extending the time frame given to us to respond.

At the outset I want to ensure you are aware that the payment of tax is only one way in which Illovo supports the Government and local community in the countries in which it invests. In many countries, Illovo's most important contribution is the direct provision of services to the local community and its workers, for example, providing healthcare and educational facilities, feeding schemes and improvements to public facilities. As your focus is on Zambia, I thought it would be useful to provide you with some examples of Illovo's work in Zambia:

- Invested R1.6 billion, developing one of the largest sugar factories in Africa.
- Our operations employ 1,848 permanent and 3,530 seasonal employees. This employment provides direct and indirect support to approximately 40,000 family and dependent members. This level of support is typical of the rural locations in which Illovo operates across Africa, in areas often challenged by inadequate infrastructure and social support. As part of our objective to uplift the communities in which we operate, we are involved in active social investment programmes to address the specific needs of the wider community such as:
    - Construction of a modern three classroom block at the Mazabuka Girls Secondary School
    - Construction of a pedestrian road and bridge, excavating and rehabilitating the main drains in two high-density townships adjacent to the estate
    - Sponsorship of a phased upgrade of the Mazabuka Community Radio Station, a non-profit service to the local community
    - Continues to sponsor schools athletics, traditional and cultural ceremonies, football clubs and a number of community projects

- Participates in ongoing major clean-up campaigns in housing townships, both on company property and in surrounding areas, aimed at reducing the risk of malaria and other waterborne diseases during the rainy season
- In addition to supplying potable water and sanitation to its own employees and dependents, the company facilitates access to potable water by supplying bulk raw water to the local water utility for treatment and subsequent reticulation in the neighbouring Mazabuka town
- Administers a large estate (over 2,900 housing units in six townships, accommodating 16,000 people), providing and supporting municipal-type services such as water supply, sewerage treatment, road maintenance, recreation facilities, refuse removal, security, schooling and medical services for employees and family members.
- Completion of a phased housing electrification programme in the 2011/12 season

You have raised a number of detailed questions in relation to Illovo Sugar Limited (ISL) operations, focusing on specific areas, mainly with regard to the corporate tax matters of Zambia Sugar plc (ZSP) in which Illovo has an 82% shareholding, with the Zambian Government holding a 15% minority interest in one of ZSP's subsidiaries.

ABF, ISL and ZSP are each publicly listed companies with their shares listed on the London, Johannesburg and Lusaka Stock Exchanges respectively and as such the disclosures we make and can make to you are regulated by the relevant listing rules.

For the latest Illovo year end to 31 March 2012, the Illovo group's effective tax rate was 30.3%. Over the past 5-years Illovo has paid some R1.3 billion (c.£100m) in taxes and collected a further R1.9 billion (c.£145m) for central and local governments in the African countries in which it operates.

Illovo seeks to maintain a professional and transparent relationship with all tax authorities that it deals with, ensuring full disclosure of all transactions and related tax matters have been made to the appropriate authorities and these are regularly reviewed and audited by the local tax authorities.

When investing in a country, we recognise our obligations towards all of our stakeholders, including employees, their dependants, customers, suppliers, shareholders, Regulators, Governments and local communities. We are acutely aware that our businesses operate in a number of countries where infrastructure and development needs are significant. We focus on providing much needed employment, social benefits and local supply opportunities in these countries.

I hope this provides you with some context to Illovo's operations in Africa.

Yours sincerely

Rosalyn Schofield
Director of Company Secretariat and Solicitor

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cc. Jenny Kunst, Corporate Affairs Director, Illovo Sugar
Lovemore Sievu, Corporate Affairs Manager/Company Secretary, Zambia Sugar

09 January 2013

Dear Ms Schofield,

We write further to our letter of 29 November 2012, our phone conversation on 11 December, and my emails of 18 and 21 December, seeking to arrange a meeting with relevant ABF staff. We remain grateful for your willingness to engage with us, and thank you for your letter of 28 November 2012.

As we set out in our most recent letter of 29 November, we are intending shortly to publish detailed findings about the tax affairs and social contributions of companies operating in developing countries, including those companies which constitute ABF's African sugar operations, and particularly the Zambian subsidiary, Zambia Sugar Plc. This letter sets out details of our findings, in order to provide you with a final right of reply to these findings, prior to publication.

We have integrated into the text of our report the general response included in your letter of 28 November 2012. We note that you did not choose to respond to the detailed questions we included in our letter of 28 October, and have noted this in our report, including your explanation that your stock market listings place regulations on your permissible disclosures. We would nonetheless be happy to publish your response to the detailed findings set out below, in full, alongside our research report on ActionAid's website, should you wish us to do so. We are therefore requesting that you provide any response by **5pm on Wednesday 16th January**.

Our findings relating to Zambia Sugar, the Illovo group and ABF are summarised below. We would welcome your response both to these findings, and to the specific questions included in square boxes below.

We have done our best to reach fair conclusions based on the evidence we have been able to obtain. Some of the most important information regarding the financial position and tax affairs of various ABF group companies, and other information requested in our letter of 28 October 2012, has not been available to us. We regret also that Mr Sievu declined a request in October 2012 from ActionAid staff to meet with relevant Zambia Sugar officials in Lusaka or Mazabuka.

It is important to note at the outset that we are not alleging any unlawful activity or tax evasion on the part of ABF, its subsidiary companies, or employees of those companies. Our forthcoming report clearly states that the activities it describes are lawful.

We remain keen to reflect ABF's views and responses to these findings as fully as possible. Please do not hesitate to contact me if you require any further clarification relating to this letter or our findings.

Yours sincerely,

Beverley Duckworth
Director of Policy, Advocacy and Campaigns
ActionAid UK (beverley.duckworth@actionaid.org)

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Country Director
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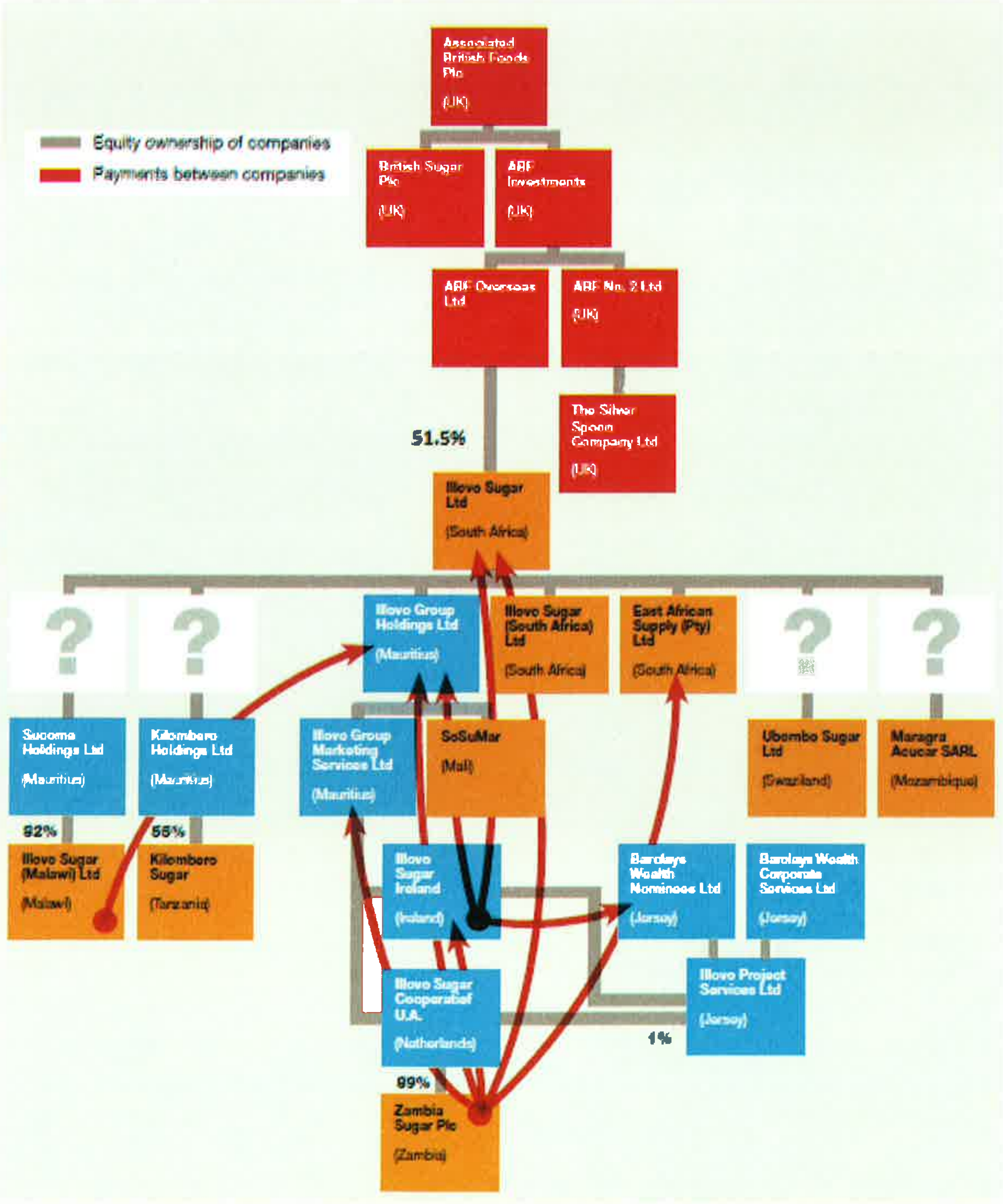
Summary of ActionAid UK findings relating to the tax and CSR practices of ABF's African sugar operations

Subsidiary companies involved

Below is a chart showing the ownership structure and some of the payments between various Illovo group companies, which we have assembled from information in various subsidiary accounts. Where available, we analysed these companies' accounts for the last 6 years (back to FY 2006/7), and in some cases went back further.



1) Tax paid by Zambia Sugar

We found that from FY2006/7 to FY 20011/12, corporate income tax payments by Zambia Sugar Plc to the Zambia Revenue Authority have averaged under ZK450 million (US$90,000) a year, less than 0.5% of its US$70 million pre-tax profits over this period. (We considered it justified to use 'cash tax' to analyse the company's tax payments, since this represents tax actually paid in a given year, and the company's 'cash tax' has been consistently divergent from its 'book tax' since 2007).

Between 2008 and 2010 Zambia Sugar made no net corporate income tax payments at all, and during this time booked a tax rebate of ZK118 billion (US$26 million). Zambia Sugar's cash flow statements indicate that US$6.2 million (ZK24.6 billion) of this rebate was refunded by the Zambian Revenue Authority.

2) Tax incentives and tax rate changes for Zambia Sugar

We understand that this divergence between 'cash tax' and 'book tax' is substantially due to a retrospective tax rate change received under a Zambia Revenue Tribunal ruling in 2007 that the entirety of the company's income should be considered for tax purposes as farming income, thus qualifying for a special 15% tax rate, reduced in future years to 10% since 2012.

Our report notes that previously only a minority of the company's profits were attributed to cane-growing (i.e. farming) rather than sugar production; that Zambia Sugar's accounts have consistently continued up to the present to attribute the majority of its profits to sugar production, not cane-growing; and that even the small proportion of profits attributed to cane growing were described by Zambia Sugar to the Revenue Tribunal as 'notional', "premised on the notion of a company selling to itself" through Zambia Sugar buying its own sugar cane. Nonetheless Zambia Sugar told the Revenue Tribunal that the higher-tax "processing of sugar cane into sugar" was "incidental to the main activity [of the company]", and the Revenue Tribunal accepted the company's argument that all of the company's profits in fact derived from farming activity.

We understand that the Zambia Development Agency has since 2011 also granted Zambia Sugar a further concessionary tax rate on income deriving from its expanded Nakambala mill and estate, as noted in note 7 to Zambia Sugar's 2011 accounts, which states that "The deferred tax rate change adjustment relates to the application of concessionary income tax rates to income derived from the expansion project investment under the Zambia Development Agency Act." Since Zambia Sugar had by 2012 still not used up the effects of the 2007 rate change cut, this second tax incentive will likely reduce the company's tax bill for several years to come.

In order to determine the details of this second tax incentive, ActionAid requested permission from the Zambia Development Agency to view Zambia Sugar's investment certificate and supporting documents, which Section 76 of the Zambian Development Agency Act states should be publicly available. We were not granted permission to view these documents.

Our report includes a discussion of the fiscal impact of such tax incentive regimes. It is important to note that these tax incentives and rate changes are not, of course, described as tax avoidance.

3) Management and secondment fees paid by Zambia Sugar to Illovo Sugar Ireland

As well as these reductions to the *rate* at which Zambia Sugar's income has been taxed, Zambia Sugar's taxable *profits* have themselves been reduced through payments made to, or routed through, other Illovo group subsidiaries in low tax jurisdictions. We examined the substance of these payments where possible, and calculated their Zambian tax impact.

Since 2007 Zambia Sugar has paid Illovo Sugar Ireland over ZK209 billion (US$47.6 million) for 'purchases and management services'. The effect of these intra-group payments is to reduce Zambia Sugar's operating profit by some 20%, while booking profits in Ireland and possibly elsewhere.

It is unclear in practice what proportion of these payments have been for management services, since Zambia Sugar's accounts appear inconsistent on this point: up to 2011, they have stated that only around a fifth of the amounts paid to Illovo Sugar Ireland are for 'management fees', while the 2012 accounts re-label the entirety of Zambia Sugar's payments to Illovo Sugar Ireland in both 2011 and 2012 as 'management fees'.

We would be grateful for your clarification regarding the reason for this re-characterisation of Zambia Sugar's management fees?

Illovo Sugar Ireland's accounts indicate that €1.9m of these payments annually since 2007 have been for management services, on which profits have been booked in Ireland. We have been unable to determine what these services consist of, or where they are provided from. When ActionAid staff telephoned Illovo Sugar Ireland's registered address, the telephone operator had never heard of the company; nor had the receptionist when ActionAid staff visited the building in person. A staff member from the company services provider responsible for handling Illovo Sugar Ireland's paperwork in Ireland told us that the "management side of it [Illovo Sugar Ireland] would be based in South Africa"; confirmed that Illovo Sugar Ireland had no staff physically based in Ireland; and said that "there would be some staff that Illovo Sugar Ireland have seconded to the plant in Zambia", although the company's accounts state that it has no employees at all.

Overall we calculate that Illovo Sugar Ireland declares approximately 30% of the payments from Zambia Sugar as taxable income in Ireland itself, and note that the remainder may be paid on to Illovo Sugar Ltd in South Africa and Illovo Project Services Ltd in Jersey. Illovo Sugar Ireland's accounts also indicate that since 2009 Zambia Sugar has also paid Illovo Sugar Ireland, an employee-less company, an additional €5m as a secondment fee, which does not appear to have attracted Irish tax and may have been paid on to Illovo Sugar Ltd in South Africa or Illovo Project Services Ltd in Jersey. We understand that routing such payments through Illovo Sugar Ireland may be for the purposes of avoiding Zambian withholding tax, which is set at 0% under the terms of the Zambia-Ireland double tax treaty.

We have also been unable to determine what goods or services are provided by Illovo Project Services Ltd. We understand that this Jersey company is likely to be taxed under Jersey's 0% corporate tax rate. We were also unable to confirm the beneficial ownership of Illovo Project Services Ltd, since its registered shareholders are two Jersey nominee companies operated by the UK banking group Barclays. Barclays informed us that "Illovo Project Services Ltd is not beneficially owned by Barclays and as such does not form part of the Barclays group", but said that, "with regard to the further questions posed surrounding the management, beneficial ownership and functions of this company please be advised that we cannot disclose our client affairs without their prior consent." Barclays also told us that "this company ceased to be active some time ago and is in the process of being dissolved", although Illovo Sugar Ireland's accounts indicate that Illovo Project Services Ltd received payments from Illovo Sugar Ireland in 2009/10 and 2010/11, the latest two financial years for which information is available.

We have calculated the tax lost to the Zambian exchequer as a result of the payments made by Zambia Sugar to Illovo Sugar Ireland as the prevailing corporation tax rate (15% since 2007) less the withholding tax rate applied on the payments (0% in the case of payments from Zambia to Ireland). In this way we have estimated that payments made by Zambia Sugar to Illovo Sugar Ireland have reduced Zambia Sugar's tax liabilities by ZK32.6 billion (US$7.4 million) since 2007.

4) Fees paid by Zambia Sugar to Illovo Group Marketing Services Ltd

We also examined ZK 30.2bn (US$3m) fees paid by Zambia Sugar annually since 2011 as an export agency commission to Illovo Group Marketing Services Ltd, registered in Mauritius. While we did not identify a clear tax advantage from these fees at present, due to likely withholding tax rates on such fees of 15%, we believe that there may be a significant tax advantage after the Zambian ratification of the Zambia-Mauritius tax treaty, signed in 2011.

We were also unable to clearly identify the services or functions provided to Zambia Sugar by Illovo Group Marketing Services Ltd. The director of Illovo Group Holdings Ltd informed us that he was the only Illovo staff member in Mauritius, that Illovo Group Marketing Services Ltd had no personnel in Mauritius, and that management, procurement and other functions take place in South Africa. He informed us that "[t]he instructions [for these functions] go from Mauritius but then the physical part of it can go direct to the countries concerned."

5) Loans to Zambia Sugar routed through Illovo Sugar Ireland

We examined tax advantages arising from the routing via Illovo Sugar Ireland of a November 2007 US$70 million (ZK280.5 billion) loan facility from Citibank and Standard Bank, used to finance the expansion of Zambia Sugar's Nakambala estate and factory. The loan was subject to a two-year interest holiday, and has since generated some US$16.7 million (ZK82.4 billion) in interest payments.
Loan documents filed by Illovo Sugar Ireland indicate that the loan was made from Standard Bank and Citibanks' London branches to Illovo Sugar Ireland – although denominated in Zambian kwacha, secured on Zambia Sugar's estate and assets in Mazabuka, and repaid via Illovo Sugar Ireland's bank account (No. 100164045) at Citibank Zambia, Lusaka Branch.

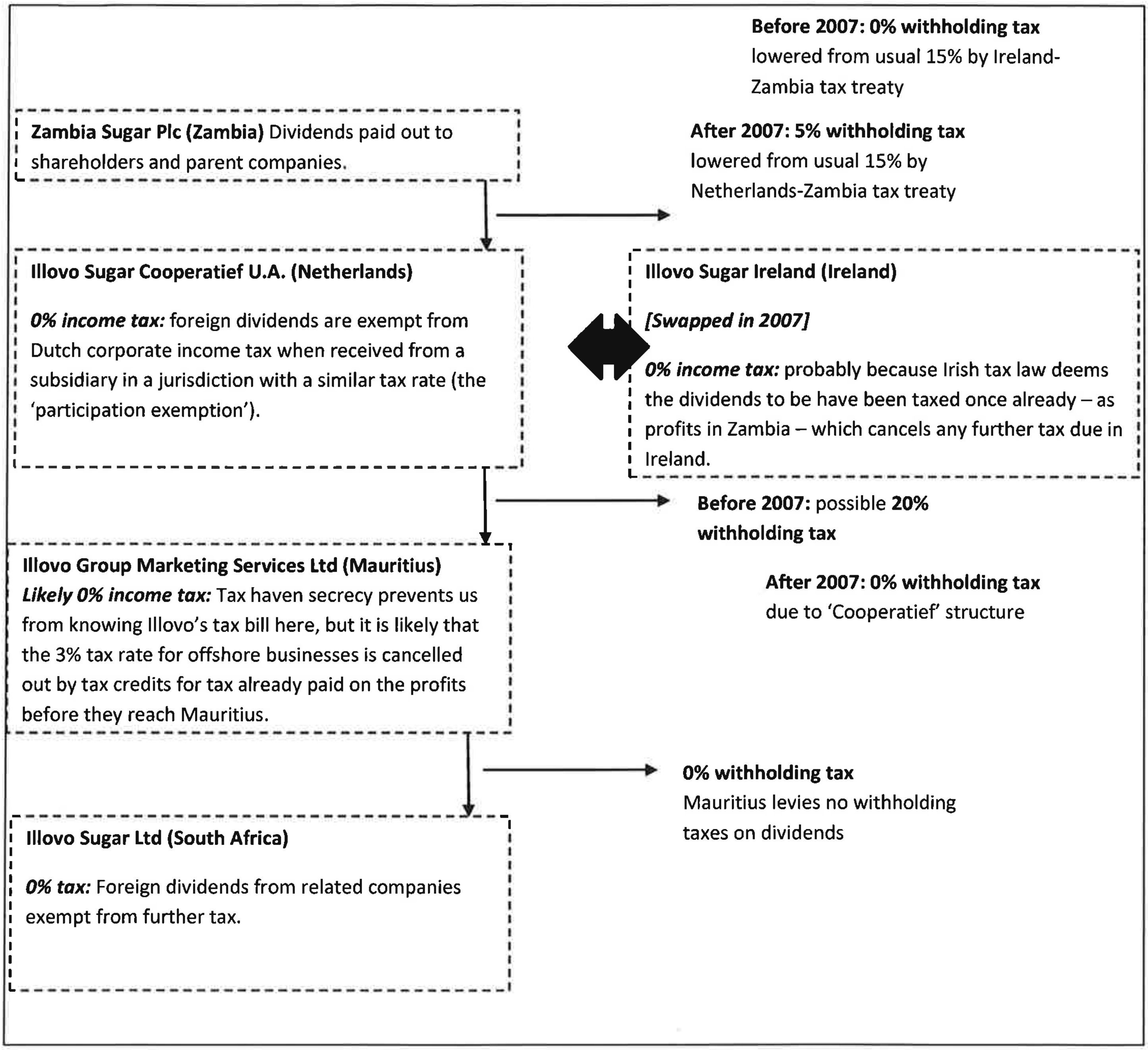
This appears to be an instance of 'treaty-shopping': using Illovo Sugar Ireland as a conduit, and routing the loan through this Irish company to take advantage of the 0% withholding tax on interest payments under the Zambia-Ireland double tax treaty. This arrangement does not appear to introduce foreign tax liabilities for the Illovo group, since Illovo Sugar Ireland appears to pay no corporation tax on the interest income in Ireland (which is immediately paid on to cover near-identical interest payments to the commercial banks, leading to little or no net financing income); and the 'domestic exemption' in Irish tax law will exempt the interest payments from Ireland to the commercial banks in the UK from withholding tax, in line with the EU Interest and Royalties Directive.

We estimate that this strategy of 'dog-legging' the loan via Ireland has avoided US$1.7 million (ZK8.2 billion) in Zambian withholding taxes on the interest payments since 2007. We have calculated this by applying to Zambia Sugar's interest payments the 10% Zambian withholding tax rate that would otherwise be applicable to interest payments from Zambia to the UK.

6) Avoidance of Zambian withholding taxes on Zambia Sugar dividends

The holding structure of Zambia Sugar – via Illovo Sugar Ireland prior to 2007, and via Illovo Sugar Cooperatief U.A. since 2007 – appears to avoid withholding taxes on dividends paid to its South African parent company, Illovo Sugar Ltd.

The diagram below summarises our understanding of the tax effect of this arrangement, based upon our examination of the accounts of the Zambian, Dutch, Irish and South African companies. We have not been able to access the accounts of Illovo Group Marketing Services Ltd (Mauritius) or Illovo Project Services Ltd (Jersey).



- Holding Zambia Sugar via Illovo Sugar Ireland appears to avoid Zambian withholding tax on dividends thanks to the Zambia-Ireland tax treaty; but may have led to a liability of up to 20% Irish withholding tax on dividends paid on to Illovo Group Marketing Services Ltd.
- Replacing Illovo Sugar Ireland with Illovo Sugar Cooperatief U.A. in the structure means that 5% Zambian withholding tax may be due on its dividends under the Zambia-Netherlands tax treaty; but the Dutch tax treatment of Cooperatiefs means that subsequent 'profit distributions' by the Dutch company will not be liable to Dutch withholding taxes on dividends.

Without the accounts of the Mauritius and Jersey companies we cannot see how much tax has been paid worldwide on this stream of dividends, but we can estimate the likely amount of Zambian withholding tax on dividends avoided due to the Irish and Dutch holding structures, based on the full reduction of withholding tax in 2006/7 from 15% to 0% under the Zambia-Ireland tax treaty, and the reduction from 15% to 5% in subsequent years under the Zambia-Netherlands tax treaty.

7) Wages of Zambia Sugar and Nanga Farms employees

We also sought to examine wider consequences of the reduction of Zambia Sugar's (taxable) profits through intra-group payments. We note that during 2012 pay negotiations with Zambia Sugar employees, employees have claimed that Zambia Sugar's management argued that the company could not meet their demanded wage increases because of lowered profit margins following the company's recent expansion; while over a quarter of Zambia Sugar's operating profit is being paid to other group companies located in low-tax jurisdictions.

We also understand that some seasonal employees of Nanga Farms – the Mazabuka-based cane-growing company owned by Zambia Sugar – have up to July 2012 earned some ZK330,720 a month, 20% less than the government-benchmarked minimum wage of ZK419,000 specified for general (non-specified) workers under the Minimum Wages and Conditions of Employment (General) Order 2011 (Statutory Instrument No.2 of 2011). We are not alleging that this is unlawful, since the Zambian minimum wage is not binding on the pay of workers, like those at Zambia Sugar and Nanga Farms, who are subject to collective pay bargaining. We nonetheless note that the minimum wage is intended to benchmark wages necessary for basic subsistence in Zambia. We also note that many Zambia Sugar and Nanga Farms employees have to borrow continuously to provide for their families, taking loans arranged by Zambia Sugar with a local lending company, with repayments deducted directly from their salaries.

We understand that wage increases from July 2012 have brought both Zambia Sugar and Nanga Farms employees' wage rates just over the updated Zambian minimum wage (ZK700,000).

Finally, we also note that low profitability has been Zambia Sugar's explanation to local shareholders complaining about low dividends at recent shareholder meetings.

8) Zambia Sugar employee access and entitlement to company clinics and schools

We sought to examine the social and economic inputs that Zambia Sugar provides for its employees' welfare and their wider community, outlined in your letter of 28 November 2012. We note that the company provides two schools and several clinics on its Mazabuka estate. However, we understand that the dependents of non-permanent workers, which constitute more than half of the company's employees, are not eligible for free access to these company-run schools and clinics; and that fees are also deducted from non-permanent workers' salaries for their own medical treatment at company-run clinics.

We would be grateful for clarification regarding:
- which categories of Zambia Sugar employees (permanent/temporary/seasonal), and which of each category's dependents, are eligible for free access to these schools and clinics;
- which categories of workers and their dependents are eligible for access to these schools and clinics if they pay;
- whether fees are also deducted from non-permanent workers' salaries for their own medical treatment at company clinics?

9) Loan financing arrangements between Illovo Sugar (Malawi) Ltd and Illovo Group Holdings Ltd

From statements in Illovo Sugar (Malawi) Ltd's 2012 accounts, we understand that the Malawian Revenue Authority has recently started proceedings to recover MK3.25 billion (including interest and penalties) from Illovo Sugar (Malawi) Ltd, alleging that purchase by Illovo Sugar (Malawi) Ltd of zero coupon bonds issued by Illovo Group Holdings Ltd (Mauritius) were used to avoid tax through invalid deductions. We note that the company has denied the Malawian government's claim, and is currently contesting it.

10) Illovo investment in Mali

We note that Illovo's investment in the planned expansion of a sugar estate and biofuel plant at Markala in Mali was routed through Illovo Group Holdings Ltd in Mauritius, although the intended or actual tax impact of this structure remains unclear. We understand that this investment project is currently on hold due to political instability in Mali.

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18th January 2013

Dear Sirs

Thank you for your letter of 9th January 2013 summarising details of a report which you intend to publish on ActionAid's findings relating to the tax and CSR practices of our African sugar operations.

We also thank you for the opportunity to comment on these findings, which are attached.

As we have found some serious errors in those findings, we must insist on seeing the final draft of the report before publication. Obviously, were the report to be published including such serious errors, it would cause damage both to our business and to the many stakeholders in Africa which depend on it. The consequence of this could also have a lasting negative impact for ActionAid.

In any event, we accept your offer, as set out in your letter of 9th January 2013, "to publish [our] response to the detailed findings set out …….., in full, alongside …. [the] research report."

Please be aware that the existence of a draft report is already known in Zambia and is already causing concern to various stakeholders. This puts us in a difficult position, given the many material inaccuracies we have identified and have now notified to you. Please could you confirm that you are taking all relevant steps to maintain confidentiality around the draft report.

We look forward to receiving the final draft, for final comment in due course.

Yours faithfully

PAUL LISTER
Director of Legal Services & Company Secretary

Enc.

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REG. NO. 1906/000622/06

18 January 2013

ActionAid UK
Attention: Mr Mike Lewis
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Sirs

Response to ActionAid letter of 9 January 2013

With limited detail, ActionAid have attempted to use Zambia Sugar Plc's tax affairs to gain publicity, at the expense of accuracy.

ActionAid has made it very clear that it does not allege any unlawful activity or tax evasion either by Illovo Sugar Ltd or Zambia Sugar Plc. We always comply fully with the law and deal openly and honestly with the relevant tax authorities. Our corporate structure is determined by a commercial rationale and it is not driven by tax considerations.

In their letter of 9 January 2013, ActionAid state that it has done its "best to reach fair conclusions". When making serious allegations of this type, only accurate conclusions, should be acceptable. Innuendo and assertion have no part to play.

ActionAid focuses on Illovo's operations in Zambia and, in particular, the consequences of its R1.6 billion further investment. However, it fails to highlight the benefits of this investment to Zambia and the local community nor does it recognise the substantial and on-going social and community support provided by Zambia Sugar Plc.

We fully understand our obligations in relation to the payment of taxes everywhere in the world. Like any other commercial organisation, we owe duties to a number of stakeholders; employees, customers, suppliers and shareholders. In dealing with our businesses and their tax affairs, we are very conscious of these duties.

We would remind ActionAid that Zambia Sugar Plc is listed on the Lusaka stock exchange and is not wholly owned by Illovo. Accordingly it has the appropriate governance structure including independent non-executive directors.

Specifically in response to the observations in ActionAid's letter focusing on particular elements of our commercial arrangements in Zambia, we make the following comments:

1. As a direct result of our investment in Zambia since 2008, the availability of substantial capital allowances has led to virtually no corporate tax being payable.

2. A number of expatriate experts are working for Zambia Sugar Plc and include engineers, agronomists and senior management all of whom are experienced in the African sugar industry. These people have employment contracts with Illovo Sugar Ireland Ltd. The cost of these people, together with a number of third party contractors working on the expansion project is charged by Illovo Sugar Ireland Ltd to Zambia Sugar Plc. These people would not have been available at the same cost (or potentially not at all) were they to have contracted directly with Zambia Sugar Plc.

3. Zambia Sugar Plc pays an arms-length commission for export services to Illovo Group Marketing Services Ltd in Mauritius. These services include the provision of trade contacts with customers in the European sugar market, arrangement of transportation of sugar to Europe, foreign currency management and the availability of cost-effective credit terms. Some of these services are not available directly from South Africa as a result of exchange control laws.

4. ActionAid suggest that our actions are motivated by a desire to reduce tax but, irrespective of the commercial considerations detailed above, this has no regard for the fact that any profit earned in Ireland or Mauritius would be taxed in South Africa at 28%. This compares with a tax rate of 10% in Zambia.

Investment by Zambia Sugar Plc, including the R1.6 billion expansion of the Nakambala sugar mill, has benefited a number of constituencies including local residents, employees, local businesses, local governments and the environment. They will all continue to benefit from this sustainable business for generations to come and we are rightly proud of the part our business plays in the local community. ABF referred, in their letter of 28 November to ActionAid, to the extensive activities undertaken by Zambia Sugar Plc in support of its local communities. It is irresponsible for ActionAid to seek to denigrate this contribution.

Although ActionAid first raised a number of queries about our Zambian operations in October 2012, it was not until their letter of 9 January 2013 that they provided any rationale or context for those enquiries. The attached Appendix contains a detailed response to the points made in ActionAid's letter of 9 January and in making these remarks we make no apology for keeping certain, commercially sensitive, information confidential.

We believe that ActionAid should be bound by the highest duties of responsibility when publishing information and should ensure that any information they do publish is true, accurate and in no way misleading. If ActionAid is unable to reach an accurate conclusion, corroborated by substantive evidence, they should not publish.

Yours sincerely
ILLOVO SUGAR LIMITED

MOHAMMED ABDOOL-SAMAD
FINANCIAL DIRECTOR

APPENDIX

We set out below some detailed comments to ActionAid's letter of 9 January 2013. We have used ActionAid's headings in this regard.

Subsidiary companies involved

There are a number of material inaccuracies in the ActionAid structure chart with incorrect shareholdings, wrong or omitted third party shareholders and the inclusion of nominee shareholders who have no involvement in the transaction flows that ActionAid attempt to summarise. The Silver Spoon Company Ltd is a dormant company and references to it are misleading and utterly irrelevant. Illovo Project Services Ltd is no longer operational. Several of the transaction flows illustrated are incorrect and others appear to be set out in a way that seeks to add credibility to ActionAid's assertions.

1 Tax paid by Zambia Sugar

Zambia Sugar invested R1.6 billion from 2008 to double the size of its sugar mill making it the largest in Africa. Zambian tax law provides a full tax deduction through capital allowances for this type of investment in the country. In addition, the Zambian Development Agency Act (No.11 of 2006) offered a corporate fiscal incentive commensurate with the scale and type of this investment in the agricultural sector. As required by law, an Investment License was issued to Zambia Sugar by the Zambian Development Agency (ZDA) to formally grant this incentive. To date this has not been used. The sugar mill will continue to operate profitably and pay tax in Zambia for generations to come.

Zambia Sugar recently presented to an international audience hosted by the ZDA on the benefits of investing in Zambia. The Zambian Sugar expansion project is widely viewed in Zambia and by the ZDA as one of the most successful investment projects ever undertaken in Zambia.

Accounting for taxes is complex and ActionAid's analysis is flawed. We agree that cash tax paid is a good, clear and understandable measure of one element of a company's contribution to the local economy. However, for the purposes of their report ActionAid fail to be totally clear. Corporate tax of ZK27.3 billion (R50m) was paid in respect of the period 2006/07 to 2011/12. The receipt of the tax overpayment of ZK24.6 billion (R41m) was for a prior period, 2001/01 to 2004/05. These payments should not be netted as ActionAid have done.

The reason for the reduction in corporate tax paid from 2007/08 is the availability of the capital allowances referred to above.

ActionAid omit from their letter, any mention of the payment of other taxes. Zambia Sugar paid withholding taxes of ZK28.7 billion (R44m) and customs duty of ZK24.8 billion (R39m) and collected employment taxes of ZK136 billion (R228m).

ActionAid reference a figure of ZK118 billion (R197m) and describe this as a tax rebate. This is not a tax rebate and no cash was received. It is an accounting entry as required by relevant accounting standards and represents the potential future tax value of the capital allowances at the time of the investment.

2 Tax incentives and tax rate changes for Zambia Sugar

Any changes to the tax rates following the Zambia Revenue Tribunal ruling in 2007 should be considered a reflection of due process and the "rule of law" and should not be criticised. Instead praise should be given to an open and honest system. It is right under law that Zambia Sugar's farming and sugar processing business is considered, for tax purposes, as one agricultural business qualifying for the lower corporate tax rate and the Tribunal, having considered detailed arguments from both sides, came to this conclusion. A key component of any developing democracy is its application of the "rule of law".

As for the application of concessionary income tax rates, please see above.

3 Management and secondment fees paid by Zambia Sugar to Illovo Sugar Ireland

ActionAid claim that Zambia Sugar has reduced its profits by making payments or routing money through other countries such as Ireland, for tax purposes. This demonstrates a complete lack of understanding of the commercial realities of a business operating in Africa and related tax laws. Furthermore, ActionAid's allegations of tax motivated transactions do not make sense.

1) The capital allowances provided by Zambian tax law on the R1.6 billion investment result in no significant corporate tax being payable in Zambia for several years. An alleged scheme designed to reduce profitability in Zambia with the use of 'tax havens' to reduce the tax liability to zero just does not make sense;

2) When Zambia Sugar has used the capital allowances and pays corporate tax, the applicable rate in Zambia is currently 10% which is below the Irish tax rate. It makes no sense to shift profits from Zambia to Ireland for tax purposes as ActionAid imply; and

3) Tax rules require profits declared in Ireland and Mauritius to be included in the Illovo South Africa tax return where they are subject to tax at 28%. Profits made in Zambia Sugar are not subject to these rules.

Zambia Sugar has not "re-characterised" its management fees. There was an error in the disclosure note to the Zambia Sugar accounts relating to these fees in prior years. This was corrected in the 2012 accounts.

Illovo Sugar Ireland provides real services. The company's board consists of individuals with the requisite experience, and meets regularly in Dublin. The company employs some 20 individuals, the notes to the company's accounts failed to reflect this.

Illovo Sugar Ireland facilitates various services required by Zambia Sugar including the provision of senior management, engineers and agronomists, all of whom have significant experience in the African sugar industry. These are real people, doing real jobs, adding real value to Zambia Sugar. In 2008 to 2010 the costs increased due to the R1.6 billion expansion project due to services provided by third party service providers. Many of these third party service providers would not have been willing to contract directly with Zambia Sugar due to possible financial or political risk and, if they had contracted directly, the cost to Zambia Sugar would have been substantially higher.

4 Fees paid by Zambia Sugar to Illovo Group Marketing Services Ltd.

ActionAid informed us that they could see no clear tax advantage obtained by Zambia Sugar from the payment of these fees. They nevertheless speculate that the fees may have been charged in anticipation of a more favourable tax treaty coming into force between Zambia and Mauritius. A new tax treaty is now in the process of being ratified but for ActionAid to suggest that, a company set up well in advance of such a change, should have been formed in order to avoid tax, is just not credible.

Illovo Group Marketing Services Ltd, a Mauritian company, provides export services to the Illovo group. These services include the provision of trade contacts with customers in the European sugar market, transportation of sugar to Europe, foreign currency management and the availability of cost effective credit terms. The company's board consists of individuals with the requisite experience in the African sugar industry and meets regularly in Mauritius. It contracts with Illovo in South Africa for the provision of specialist expertise.

Financial, political and supply chain risk make direct sales of sugar from African producers to European customers commercially difficult, if not impossible. Exchange control issues prevent these services being provided directly from South Africa.

Any suggestion that Zambia Sugar would reduce its profits by making payments to Mauritius for tax purposes is wrong, as any profit recognised in Mauritius is taxed in South Africa at 28%.

As ActionAid have noted, there are no tax advantages to this arrangement. It is good commercial business for Zambia Sugar and the Illovo group as a whole.

5 Loans to Zambia Sugar through Illovo Sugar Ireland

Zambia Sugar required additional funding from banks outside of Zambia to fund the expansion project as it had exhausted local bank facilities. Interest on loans to Zambia Sugar from such banks would have been subject to withholding tax. The banks would therefore have increased their interest charge to compensate for this.

The loan referred to by ActionAid did not have "a two year interest holiday". The interest cost during the two year build phase was capitalised in the Zambia Sugar accounts, in accordance with accounting standards. This was not disclosed in the related party note in the financial statements.

6 Avoidance of Zambian withholding taxes on Zambia Sugar dividends

ActionAid is correct that there is a withholding tax cost on dividends paid by Zambian companies to shareholders outside Zambia. The rate of withholding tax varies depending on the location of the shareholder. Illovo's investment in Zambia Sugar is held by a legally incorporated and properly constituted entity in the Netherlands where the rate of withholding tax on dividends is 5%.

ActionAid's shareholding diagram is inaccurate because dividends are not paid to Illovo Group Marketing Services Ltd but to Illovo Group Holdings Limited in Mauritius.

Dividends paid from the Netherlands to Mauritius are taxed at 3%. Had they been paid directly to South Africa there would have been no tax to pay, further demonstrating that this structure was not created to avoid tax.

ActionAid suggests that the company uses tax havens in order to avoid filing public accounts. For the avoidance of doubt, company law in many countries does not require the public filing of accounts.

7 Wages of Zambia Sugar and Nanga Farms employees

Reference is made to wage negotiations in which employees claimed that Zambia Sugar's management could not meet their wage demands because of the company's lower profit margins following expansion. Action Aid further suggest that the lower profits are the result of payments made to low-tax jurisdictions. Both claims are absolutely wrong. The company awarded an increase that was double the level of the prevailing inflation rate, and was one of the highest percentage increases awarded in the country.

Zambia Sugar has an 85% shareholding in Nanga Farms. As ActionAid note, there is a collective bargaining agreement for all employees of Nanga Farms under the auspices of the Zambian Farmers Employer's Association (ZFEA) with the NUPAWU union. Not all growers pay the same rates within the agricultural sector, with variations often based on performance. Nanga Farms recognises the disparity and is in the process of reviewing the wage rates with the new minimum wage rate in mind.

ActionAid makes reference to employees of Nanga Farm and Zambia Sugar having to borrow continuously – taking loans arranged by Zambia Sugar with a local lending company and deducting repayments directly from their salaries. These loans are actually arranged by the unions and not Zambia Sugar. Most loans are used to construct houses or, in the absence in Zambia of credit cards or hire purchase schemes, to purchase household goods.

8 Zambia Sugar employee access and entitlement to company clinics and schools

Seasonal workers usually return home annually when their contracts are complete. Their homes are often situated far from the estate and they generally do not bring their dependants and families to live with them during the season.

The company's school is only able to cater for 566 pupils in total. Therefore not all employees' children can attend the school. There is no discrimination in terms of fees between seasonal and permanent employees. There are however more permanent employees' children enrolled as those children reside permanently in the area of Mazabuka. Furthermore, Zambia Sugar has facilitated the provision of Government schools on the estate which provide free education.

All workers, including non-permanent staff, receive free medical treatment from the company's medical facilities. All employees do however contribute a nominal monthly amount that helps fund additional equipment, but the company bears approximately 95% of the cost of running the medical facilities.

9 Loan financing arrangements between Illovo Sugar (Malawi) Ltd and Illovo Group Holdings Ltd

ActionAid are not up to date with the current position. The matter referred to was withdrawn by the Malawi Revenue Authority once the commercial drivers for the transaction were understood.

ActionAid omit to state that Illovo Sugar (Malawi) Ltd is the largest corporate tax payer in the country. In 2012 the company paid corporate tax of MK2.2 billion (R104m).

10 Illovo investment in Mali

ActionAid refers in its letter to the investment in Mali being routed through Mauritius with the implication that this might lead to intended or actual tax benefits. The holding of this investment by Illovo Group Holdings Ltd in Mauritius is consistent with the holding of Illovo's other investments outside South Africa and this structure is not motivated by tax considerations. The decision to terminate further involvement in the project was taken on commercial grounds and the investment of R174m was written off with no tax relief. Full disclosure of the impairment of this investment was made in the 2012 Illovo accounts.

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23 January 2013

Dear Mr Abdool-Samad and Mr Lister,

Thank you for your letters of 18 January 2013. We are grateful for the responses that you have provided to us on the findings set out in our letter of 9 January.

We would like to reiterate our commitment to reaching both fair and accurate conclusions; and, of course, our commitment to eliminating any inadvertent factual inaccuracies from any material that we may publish.

In addition, given the level of detail provided in your responses we consider it important to reflect your responses both by publishing your letters on our website, as already indicated; and by integrating your responses into the body of our report itself. We hope this will provide the fullest presentation of your views. We reiterate also that we are committed to keeping our findings confidential prior to publication.

We recognise that there are disagreements on matters of fact; and also disagreements regarding whether particular arrangements and transactions constitute normal business practice “reflecting the commercial realities of a business operating in Africa and related tax laws”, or the avoidance of tax liabilities. We are of course seeking to establish the correct information regarding the former; but recognise that we may be unable to reach agreement over the latter in all cases.

In terms of matters of fact:

1) Thank you for the additional information you have provided regarding the group’s Malawian tax dispute.

2) Your letter states that *“there are a number of material inaccuracies in the ActionAid structure chart with incorrect shareholdings, wrong or omitted third party shareholders and the inclusion of nominee shareholders who have no involvement in the transaction flows that ActionAid attempt to summarise. The Silver Spoon Company Ltd is a dormant company and references to it are misleading and utterly irrelevant. Illovo Project Services Ltd is no longer operational. Several of the transaction flows illustrated are incorrect and others appear to be set out in a way that seeks to add credibility to ActionAid’s assertions.”*

We are grateful for the additional information you have provided regarding the Illovo structure i.e. that the recipient of dividends via Illovo Sugar Cooperatief U.A. (Netherlands) is Illovo Group Holdings Limited (Mauritius). We have correspondingly altered the company structure diagram to indicate this. I attach a copy of this amended diagram.

We would be very grateful if you could indicate to us any other outstanding specific inaccuracies regarding this diagram, so that we can correct them.

We should note that since the diagram is intended to show Illovo's ownership structure specifically, minority shareholders are not shown, as is also the practice in the group structure given in Illovo Sugar Ltd's annual reports (e.g. Integrated Annual Report 2012, p.6). Likewise the diagram is intended to show the legal ownership structure of the group, and we have therefore included the two companies acting as (nominee) shareholders of Illovo Project Services Ltd.

Since the object of the diagram is to show relations and transactions between group companies mentioned in the report, we considered it relevant to include llovo Project Services Ltd, because Illovo Sugar Ireland's accounts appear to indicate that Illovo Project Services Ltd received payments from Illovo Sugar Ireland in 2009/10 and 2010/11, the latest two financial years for which information is available. Likewise we considered it relevant to include The Silver Spoon Company Ltd because it also engaged in a related party transaction in 2011/12 with Zambia Sugar, according to Zambia Sugar's accounts. **Please do let us know if this information from these accounts is inaccurate.**

3) Regarding the disclosure of management fees paid from Zambia Sugar to Illovo Sugar Ireland: we are grateful for your explanation that "there was an error in the disclosure note to the Zambia Sugar accounts relating to these fees in prior years. This was corrected in the 2012 accounts." So that we can be as accurate as possible, **please could you let us know whether this error relates only to the 2010/11 fee figure that was corrected in the 2011/12 accounts, or whether it also relates to the management fees disclosed in the 'related party transactions' note of previous years' accounts?** I.e. should the entirety of the 'purchases and management fees' to Illovo Sugar Ireland disclosed in the 'related party transactions' notes of previous years' accounts also be considered as 'management fees', deducted from operational profits as per the 'Profits from Operations' note in each year; or is this only the case for 2010/11?

4) Regarding the South African tax treatment of Illovo's Irish and Mauritian subsidiaries: we note your statement that "tax rules require profits declared in Ireland and Mauritius to be included in the Illovo South Africa tax return where they are subject to tax at 28%". We assume this relates to the South African Controlled Foreign Companies (CFC) regime. Our understanding of the South African CFC rules as defined under Section 9D of the South African Income Tax Act is that only certain 'tainted income' of CFCs, rather than the totality of CFCs' profits, is taxable in South Africa.

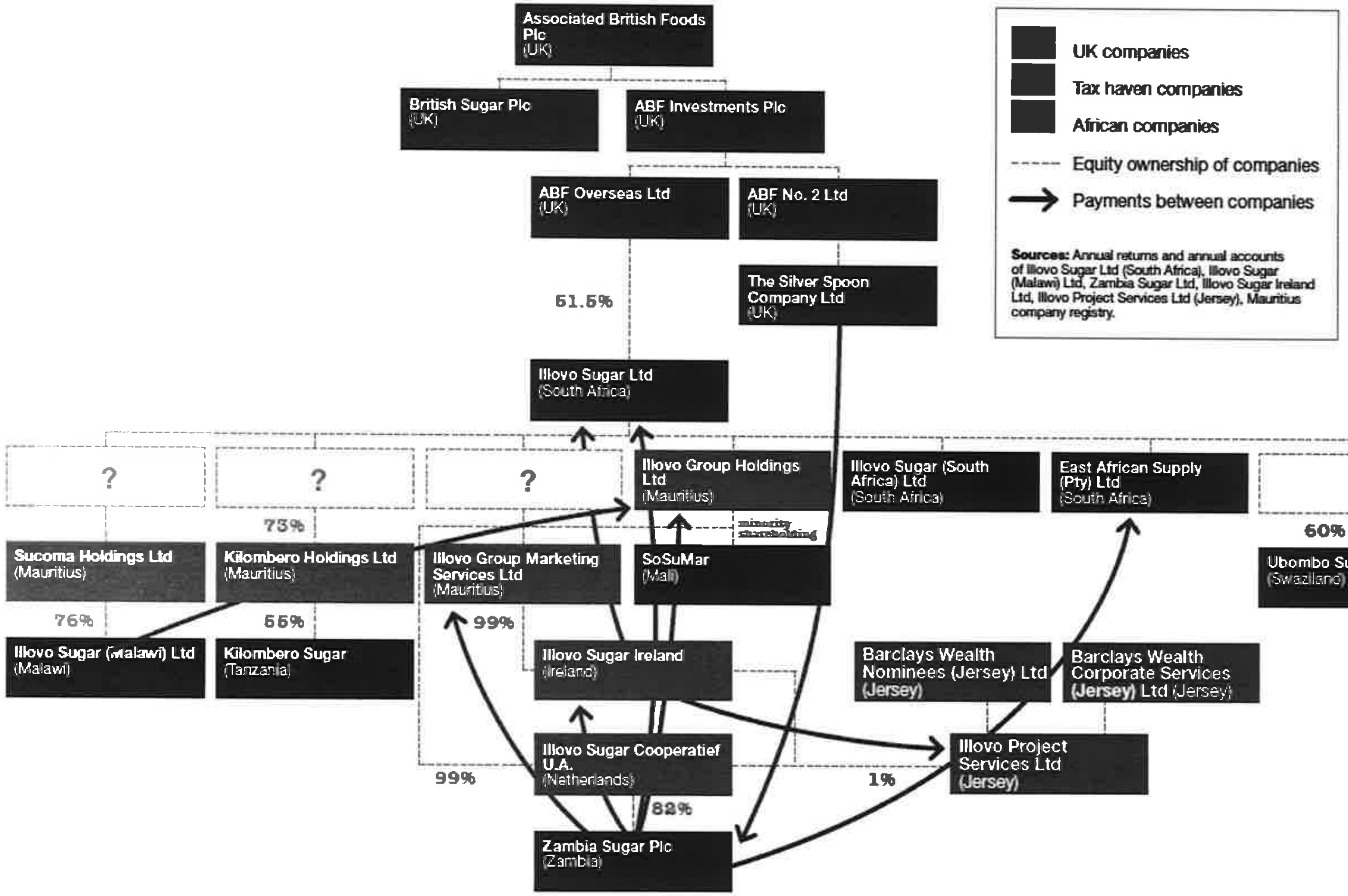
Are you able to confirm specifically whether the management fees paid from Zambia Sugar to Illovo Sugar Ireland, and the commission agency fees paid to Illovo Group Marketing Services Ltd, specifically bear tax as CFC 'tainted income' and contributes to Illovo Sugar Ltd's tax charge? Could you also let us know whether these Irish and Mauritian companies are deemed to have Foreign Business Establishments under the CFC rules; and the amount of the South African CFC charge borne by the Illovo group in relation to (i) Illovo Sugar Ireland's income; (ii) Illovo Group Marketing Services Ltd, in the 2011/12 accounting period?

We would be grateful if you were able to provide responses to these questions by 30th January.

Once again, we thank you for your on-going communication. Please do not hesitate to contact us if you require any further information or clarification.

Yours sincerely,

Beverley Duckworth
Director of Policy, Advocacy and Campaigns
ActionAid UK (beverley.duckworth@actionaid.org)



Sources: Annual returns and annual accounts of Illovo Sugar Ltd (South Africa), Illovo Sugar (Malawi) Ltd, Zambia Sugar Ltd, Illovo Sugar Ireland Ltd, Illovo Project Services Ltd (Jersey), Mauritius company registry.

Note: This diagram shows the legal ownership structure of the group as far as we have been able to determine it. Where we have been unable to determine companies' ownership structure definitively from available public accounts and annual returns, we have indicated this with question marks.

Where Illovo voting rights/shareholdings are below 100%, the balance of the voting rights/ shareholdings is held by a variety of individual, institutional and government investors. The '55%' shareholding shown for Kilombero Sugar refers to Illovo Sugar Ltd's effective ownership of Kilombero Sugar, not Kilombero Holdings Ltd's shareholding.

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30 January 2013

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Sirs

Response to ActionAid letter of 23 January 2013

We refer to your letter of 23 January 2013.

We note your commitment to publish all our responses on your website in full alongside the report ActionAid will publish. For the avoidance of doubt, our responses of 28 November 2012, 18 January 2013 and today form the totality of our right to reply.

We note your commitment to reach fair and accurate conclusions and to eliminate the serious errors identified in the findings detailed in your letter of 9 January.

However, we are concerned at your refusal to provide us with a copy of your draft report for final comment before publication. Clearly this is denying us an opportunity to correct further mistakes and lacks transparency.

A fair and accurate report would recognise Illovo's total contribution to the Government and local communities in the countries in which we make substantial, long term and sustainable investments. It should highlight the on-going social and community support provided by companies such as Zambia Sugar plc which form the economic and social backbone of the communities in which they operate. Communities will benefit from this sustainable business for generations to come and we are rightly proud of the part our business plays.

This contribution includes the direct provision of services including healthcare, educational facilities, feeding schemes and improvements to public facilities in rural areas that are often hindered by inadequate infrastructure and social support.

You focus on Illovo's operations in Zambia and in particular on the company's R1.6 billion investment there. This investment is a huge commitment to Zambia and its economy, doubling the size of the business and making it the largest sugar mill in Africa and providing thousands of people with direct employment. Furthermore, because of the multiplier effect on the local community, the mill now supports tens of thousands of family members and other dependents.

We take our responsibility to that local community very seriously indeed. Our letter of 28 November 2012 included details of the extensive activities undertaken by Zambia Sugar plc in support of its local communities. From your response to this letter, it is clear that you are seeking to denigrate this contribution, an attitude that we find both bizarre and irresponsible.

On taxation, we fully understand our obligations in relation to the payment of taxes in every country in which we operate. The Illovo group has paid R1.3 billion in taxes over the past 5 years and collected a further R1.9 billion in employment and sales taxes.

Zambia Sugar plc's corporate tax payments since 2008 are a direct consequence of the government's decision to make tax relief available in the form of capital allowances and incentives. This relief was offered by the Government precisely to attract this type of long-term, substantial investment in the country. The mill and its associated operations will be making a substantial corporate tax contribution for many years after the reliefs have expired. You have recognised in your letter of 9 January that this is not tax avoidance, but we go much further than that: this investment shows how governments can drive economic growth by attracting inward investment, bringing economic benefits for many years after that initial investment has been made.

You focus on payments from Zambia Sugar plc to other parts of the Illovo group, including management charges and commission fees, and conclude these are tax motivated. This is simply not true. These payments have nothing to do with tax planning and your assertions are clearly totally illogical.

There is no tax advantage to Illovo moving profits from Zambia to other group companies where the income is taxed at higher rates. The prevailing tax rate for these other group companies is 28%, either directly due to payments made to South Africa, or indirectly due to specific South African tax rules. Contrast this with Zambia, where the tax rate is 10%. You accuse us of tax planning. If so, this has to be an example of spectacularly unsuccessful tax planning where profits are shifted into higher tax regimes.

The truth is that these payments are made in return for the services of real people, doing real jobs, adding real value in Zambia.

Finally, we remind you of our over-riding principles. When investing in any country, we recognise our obligations towards all of our stakeholders. We are acutely aware that our businesses operate in a number of countries where infrastructure and development needs are significant. We focus on providing much needed employment and social benefits through sustainable business, generating a significant economic contribution, including the payment of tax. Your detailed findings fail to reflect any of these and reflect poorly on ActionAid as a result.

Yours sincerely
ILLOVO SUGAR LIMITED

MOHAMMED ABDOOL-SAMAD
FINANCIAL DIRECTOR

APPENDIX

We set out below some detailed comments to ActionAid's letter of 23 January 2013. We have used ActionAid's numbering in this regard.

1) Malawi

We note ActionAid's specific acknowledgement to the information we provided with regard to Malawi.

2) Subsidiary companies involved

We note ActionAid have revised their representation of our corporate structure and confirmed their focus to be on Illovo's share ownership and transaction flows. However, it remains materially inaccurate despite the information we provided in our letter of 18 January.

The continued inclusion of five mystery companies that do not exist and references to entities that are no longer active gives us cause for concern. The diagram in ActionAid's letter of 23 January is also unnecessarily complex, mixing both historic and current transaction flows. This is not a fair or accurate representation of the facts. Despite confirming to the contrary, ActionAid also continue to show companies that are not part of the Illovo group nor are they involved in any way in the transaction flows on which ActionAid focus.

ActionAid claim to arrive at fair and accurate conclusions but once again they have demonstrated to us that they have failed to do either in their latest version of our corporate structure chart.

We therefore set out below an extract of the current group structure and current transaction flows which correctly reflect the facts.

ActionAid show Illovo Project Services Ltd as being 100% owned by two nominee shareholders unrelated to the Illovo group. This is wholly misleading. Illovo Project Services Ltd is 100% owned by Illovo Sugar Limited. Furthermore, these nominee shareholders, when approached by ActionAid, confirmed that they are nominee shareholders with no active involvement with the company or the wider Illovo group and, along with Illovo, have confirmed to ActionAid that the company is now inactive.

ActionAid have labelled several companies as "tax haven companies." ActionAid do not set out the criteria they have used in making this distinction and their findings continue to appear to have been drafted in an attempt to support their assertions, which are wrong.

For example:

- Zambia Sugar's corporate tax rate is 10%. The companies labelled as tax havens by ActionAid have corporate tax rates of 3% to 15% in Mauritius and 12.5% or 25% in Ireland.
- Companies with no activities have been included as tax haven companies.
- ActionAid deem the Netherlands to be a tax haven. The Dutch corporate tax rate is 25% (higher than the current UK tax rate). If it is because the Netherlands does not tax

dividend income, then the UK and South Africa should also be shown as tax havens, whereas Ireland and Mauritius should not.

ActionAid have failed to articulate a coherent argument as to how the Illovo group uses low corporate tax rates in Ireland and Mauritius to avoid taxes. It therefore seems wholly inappropriate to describe these companies with such emotive language.

The Silver Spoon Company Ltd has no activities. The UK retail trading brand of British Sugar plc is Silverspoon and it is this entity to whom Zambia Sugar sold a small amount of speciality sugar on commercial terms. There have been no such sales to date in the current year.

3) Payments made from Zambia Sugar to Illovo Sugar Ireland

Payments are made by Zambia Sugar to Illovo Sugar Ireland for a number of different services, including management fees, as set out in our letter of 18 January.

All management fees have been correctly accounted for in the profit and loss accounts of both Zambia Sugar and Illovo Sugar Ireland. The disclosure notes in the 2009/10 and 2010/11 accounts, confirming the amount of management fees paid by Zambia Sugar to Illovo Sugar Ireland, were wrong. This error was identified in 2011/12 and the correct amount for that year was disclosed. The Illovo Sugar Ireland disclosure notes confirming the amount of management fees received from Zambia Sugar are correct.

The remaining expense within "purchases and management services" in the Zambia Sugar accounts are the directly attributable costs that Illovo Sugar Ireland incurred on Zambia Sugar's behalf (for example, expatriate salary costs and third party services). These relate to the provision of senior management, engineers and agronomists. As we have previously stated, many of these third party service providers would not have been willing to contract directly with Zambia Sugar due to financial or political risk and, if they had contracted directly, the cost to Zambia Sugar would have been substantially higher.

To be clear, Illovo Sugar Ireland does not apply a mark-up to these directly attributable costs.

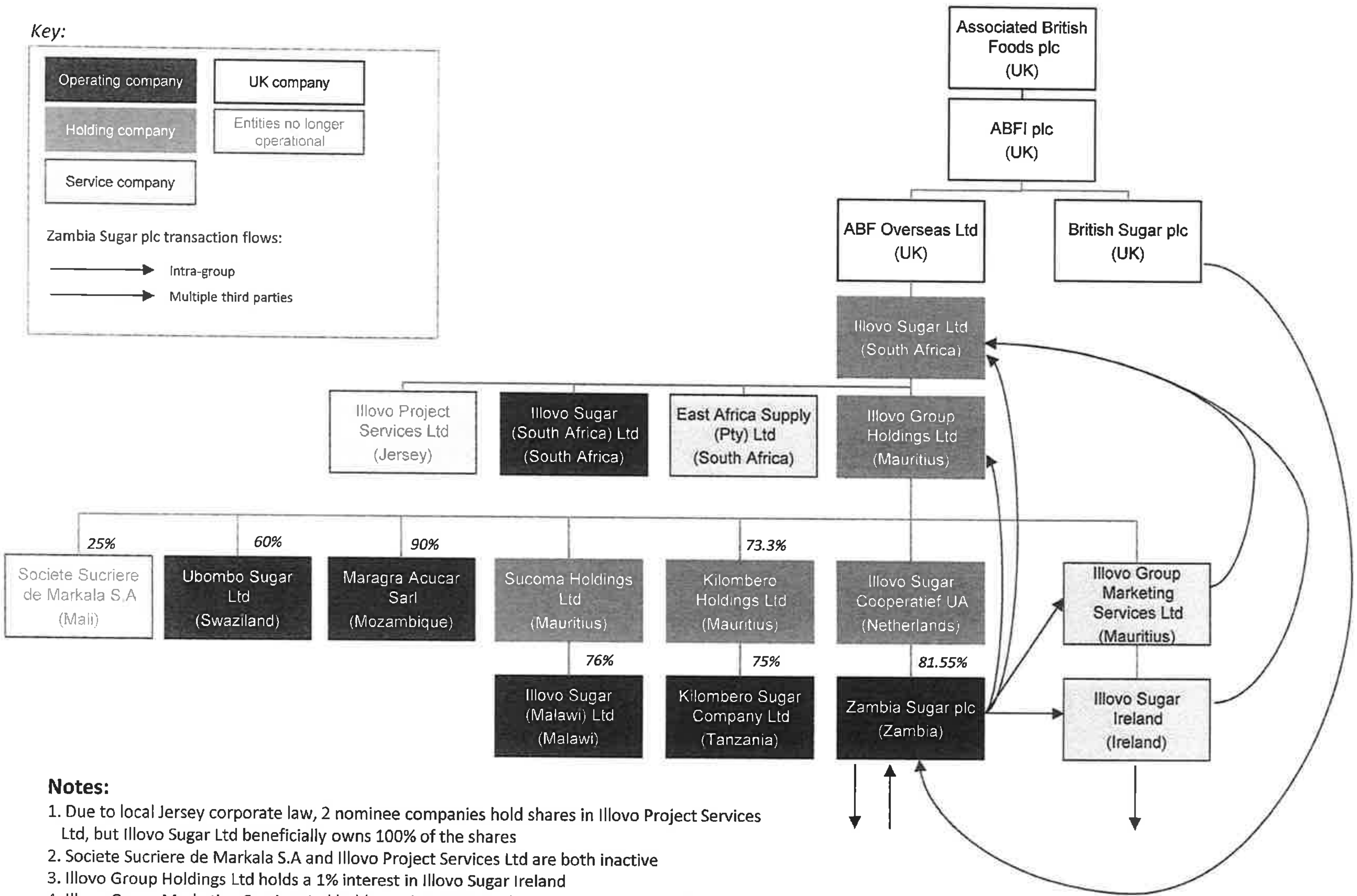
4) South African Controlled Foreign Company (CFC) regime

Following our letter of 18 January, ActionAid recognise the need to consider the application of the South African CFC rules to the Illovo group.

We confirm that after payments have been made to the service providers, including Illovo Sugar Limited in South Africa, the profit generated by Illovo Sugar Ireland and Illovo Group Marketing Services is small. The majority of any intra group income relating to the management and commission fees is therefore taxed directly at 28%. Any small residual profit that is taxed at a lower rate in Ireland or Mauritius is also taxed in South Africa at 28% under the CFC rules.

We set out in our letter of 18 January why ActionAid's detailed findings of tax motivated payments made by Zambia Sugar are not credible. In summary, Illovo would not seek to charge management and commission fees to Zambia for tax avoidance reasons, a country with a 10% corporate tax rate when these charges would then be subject to tax in South Africa at 28%. The only credible conclusion is that these are real costs, for real services, and are not paid to avoid tax.

Extract of current Associated British Foods plc and Illovo Sugar Ltd group structure



Notes:

1. Due to local Jersey corporate law, 2 nominee companies hold shares in Illovo Project Services Ltd, but Illovo Sugar Ltd beneficially owns 100% of the shares
2. Societe Sucriere de Markala S.A and Illovo Project Services Ltd are both inactive
3. Illovo Group Holdings Ltd holds a 1% interest in Illovo Sugar Ireland
4. Illovo Group Marketing Services Ltd holds a 1% interest in Illovo Sugar Cooperatief UA