

INDEPENDENT OBSERVERS REPORT 2

This is our second Report covering our observations of the second Working Group Meeting of the Community Mine Continuation Agreements Review held in Tabubil from 21st – 23rd June and the second round of Regional Meetings which were conducted from 27th June to 6th July 2006.

BACKGROUND

We re-state the background to this process, for the sake of completeness though we outlined them in our first report.

In 2001 Ok Tedi Mining Limited (OTML) entered into compensation agreements known as Community Mine Continuation Agreements (CMCA's) with 14 communities whose environments were adversely impacted by the mining operations. In exchange for the compensation the affected communities agreed not to pursue any legal action or claims against OTML or its previous shareholders and to allow the mine to continue its operations until end of mine life which is presently indicated to be around the year 2012.

Following the execution of the CMCA's the National Parliament passed and ratified the *Mining (Ok Tedi Mine Continuation) (Ninth Supplemental Agreement) Act 2001* to give the agreements the force of law.

The 14 CMCA communities cover 152 villages and an estimated 50,000 people from the Mine Area, North Ok Tedi, Lower Ok Tedi, and the Highway Region from Tabubil to Kiunga, the Middle Fly and the South Fly Areas.

The CMCA's established Trusts for each region through which compensation payments are made. The Trusts administer these funds on behalf of the affected regions. Under the CMCA's the communities consented to the continuation of the mine based upon the then predicted environmental impacts.

These environmental predictions which are comprehensively set out in Schedule II to the CMCA are:

- Dirty Water;
- Sand build up; (Sedimentation)
- Flooding;
- Trees losing leaves and dying (dieback);
- Fish;
- Copper;
- Acid rock Drainage (ARD);
- Sago

OTML has an obligation under the CMCA's to continually monitor the environmental impacts and to ensure that the communities are kept informed of the results progressively. If the environmental impacts exceed the levels predicted, then the River and Highway CMCA's require OTML to meet with the communities to discuss revision of compensation payments.

Continuous environmental monitoring by OTML since 2001 has now revealed that the environmental predictions have changed and sediment depositions, flooding, die back and acid rock drainage (ARD) impacts are now greater than initially predicted in some CMCA regions. The CMCA's provide for a review of the 'operation of the Agreement' after the

expiration of five (5) years from the termination date, which is 31st of December 2001. The review therefore is aimed at being completed by the 31st December 2006 or early 2007.

STRUCTURE AND PROCESS OF THE CMCA REVIEW (Village, Regional and Working Group Meetings)

The structure and processes of the review was designed differently to the separate regional negotiations and agreements entered into in 2001.

It was agreed, as in 2001, that each of the CMCA communities' village would select a representative to a Regional Meeting. At each of the regional meetings the village representatives would select three members to represent their region at the Working Group. The working group would be the main review and negotiation forum.

Following each working group meeting the three regional representatives are expected to meet with their respective regional groups in regional meetings to brief them on the progress and outcomes of the working group meetings. These regional meetings would be facilitated by Keystone and Tanorama with Independent Observers monitoring and observing the process and progress of each regional meeting. After the regional meetings, the village representatives, together with the working group representatives are expected to conduct village meetings to inform the villagers of the progress of working group review of the CMCA's.

COMPOSITION OF WORKING GROUP

The Working Group is the premier review and negotiation forum which is attended by all the following stake-holders apart from the regional representatives. These stakeholders are OTML, the National Government represented by the following Departments: Mines, Environment and Conservation, Justice and Attorney General and Treasury and Finance and National Planning, the Fly River Provincial Government which is represented by the Provincial Administration, representatives of women, churches and non-government organization interested in environment and sustainable development issues.

INDEPENDENT FACILITATORS

To ensure that the CMCA Review is undertaken independently and impartially OTML engaged an American Non-Governmental Organization, The Keystone Centre, who specializes in multi-party negotiation and problem solving through mediation, consensus and dialogue and the PNG based Consultants, Tanorama to be the lead Independent Facilitators.

INDEPENDENT OBSERVERS

To further strengthen the credibility and integrity of the review process OTML engaged as Independent Observers, Sir Arnold Amet, the former Chief Justice of Papua New Guinea and Mr John Kawi, the former Solicitor General to observe, monitor and independently report on the conduct of the CMCA Review process against the following Principles outlined in the *"Principles Guiding Ok Tedi Ltd's Discussions with Communities"*: integrity, transparency, equity, participation, fairness, respect, responsiveness, adequacy of information and timeliness. Additionally, the Independent Observers are to conduct desk reviews of village meeting reports and also report on them publicly.

SECOND WORKING GROUP MEETING:TABUBIL: 20-22 JUNE 2006

The second Working Group Meeting was held in Tabubil from the 20th – 22nd June 2006 and the following stakeholders attended and participated in the discussions:

- Three representatives from each of the 14 CMCA communities;
- OTML represented by the Managing Director, General Manager (Community and Business Support and Manager, Community Relations);
- The National Government was represented by officers from the Departments of Mines, Environment and Conservation; Justice and Attorney General, Treasury and National Planning;
- Representatives from the PNG Sustainable Development Programme Company;
- A representative of the Catholic Church and the Evangelical Church;
- A representative of women;
- A representative of an NGO interested in environment and sustainable development.

The Fly River Provincial Government is an important stakeholder but in this second Working Group Meeting there was no representation from them. This prompted the delegates to write a letter to the Governor expressing concerns about their non attendance by himself or the Provincial Administration.

The Keystone Centre was again the lead facilitator supported by Tanorama and observed and monitored by the two Independent Observers.

ISSUES DISCUSSED IN THE WORKING GROUP MEETINGS

In the second Working Meeting, the following issues were discussed.

a) Mine Ownership

- Leaders asked for part ownership of the Mine for the CMCA Regions.
- People wanted greater control over their future.
- Regions want to be a part of decisions about projects and how money is spent.
- Some of the most important projects which the people wanted are health care, food security, education, relocation, skills training and transport and communication skills.

b) Better Future for CMCA Regions

- The people need to organize themselves to speak with one voice, manage their money well and invest in their future.
- NGOs and churches will continue to help the people with services and giving them good advice.
- OTML will continue to deliver some basic services in the Western Province until the mine closes in 2013.
- PNGSDP is presently investing 2/3 of its funds abroad for future sustainable projects with focus in the Western Province.
- National Government will be responsible for long term monitoring of the environmental and health problem in the Western Province.

- Fly River Provincial Government is responsible for delivering basic services including transportation, health care, communication and education.

c) The Ok Tedi Offer

- OTML made it clear to the delegates that it cannot offer ownership in the Mine, but that it did offer to share profits.
- By this offer each of the CMCA Regions get 50% more than what they are getting now.
- Alternatively when copper and gold prices are high and the mine makes more money, then OTML has offered to pay the impacted regions a 2.5% share of the profits instead of the 50% increase, which ever is greater. The 50% profit will however remain as the safety net. When copper and gold prices are low, the impacted regions will still receive the 50% increase.
- In future, regions will be able to decide on how CMCA money is spent. This can be done by setting up a new separate body.
- If there is a cash component there needs to be a way to make sure money is managed well and gets to the right people.
- There will however be special consideration for women and children in this fund.
- Delegates however did not accept or reject this offer. They made it clear that they wanted to talk to their regional delegates as well as consult their people first before making a decision on the offer.
- Delegates also want to speak to other mine owners such as the National Government and PNGSDP first before deciding.

d) Stake holders that need to participate.

- The Fly River Provincial Government is an important partner but was absent from the Working Group. All CMCA Working Group members strongly requested the FRPG to participate and sent them a letter expressing concerns about their non attendance and at the same time inviting them to attend the next working group meeting.
- Delegates want to speak to PNGSDP about how to work together on development projects at the next CMCA Working Group meeting.
- Delegates want to speak to Ministers and people in authority in the National Government at the next CMCA Working Group Meeting.
- Delegates want to speak to other mine owners about sharing ownership in the mine by the next CMCA Working Group Meeting.

e) Other Issues

- Leaders selected an independent scientist Dr. Allan Tingay to review environmental and health data.
- The leaders will find need independent legal advice. The State Solicitors Office has also offered its help on legal matters through the Department of Mining.
- Eligible Villages and individuals can still join CMCA's during the present CMCA review process. Delegates will carry information on how to join.

- Facilitators will not hold village meetings in June, but will return after the next Working Group meeting when there is a more complete proposal.

These discussions were all recorded and a record of these discussions were presented to the meetings to be verified as accurate and signed by the three elected representatives to the working group and the independent observers. In our observations the meetings and the discussions were all conducted in an open and transparent manner. All Delegates who wanted to speak were given the opportunity to speak and air their views. In our view there was maximum participation by Delegates in the Meeting. We conclude that there was minimum compliance with the principles against which we are to report.

SECOND REGIONAL MEETINGS

The second round of Regional Meeting was basically structured along the same lines as the first Regional Meetings held in February. There were two teams with The Keystone Centre and Tanorama facilitators leading each group, whilst the independent observers Sir Arnold and Mr Kawi observed each group. Meetings in the South Fly Region covering Manawete, Kiwaba and Dudi regions were monitored and observed by Sir Arnold Amet, while Mr John Kawi observed regional meetings in the Mine Area Villages, the Middle Fly, Lower Ok Tedi, North Ok Tedi and Highway Communities and the Suki Fly Gogo regions. These meetings took up to two weeks.

The Regional Meetings were concerned with dissemination of information particularly conveying of key messages discussed in the 2nd Working Group Meeting, to the Regional Representatives. After the regional meetings, the village representatives, together with the working group representatives are now expected to conduct their own village meetings in their respective villages to inform the villagers of the key messages discussed and generally the progress of working group review of the CMCA's.

SUMMARY OF RESPONSES TO MESSAGES FROM SECOND REGIONAL MEETINGS

The Table below outlines the key messages disseminated in the second round of regional meetings and the responses from both the delegates and the regional representatives present at the regional meetings.

KEY MESSAGES PRESENTED	RESPONSES
The CMCA Review Process	<ul style="list-style-type: none"> • All regions would like to see the review process completed by January 2007. • Leaders needed more time to talk together as representatives from the nine CMCA regions. • Leaders stressed that the CMCA is not about any single region or village but involves the future of all the regions. It is about setting up a vehicle for the future and about coming together to manage their own affairs and to speak with one voice. • Leaders raised concerns about the village meetings being put off this time. It was felt that there is a longer gap in the communication between the Working Group and the Communities.

KEY MESSAGES PRESENTED	RESPONSES
Key Partners That Must Work Together To Make a Better Future	<ul style="list-style-type: none"> • Leaders are very concerned about the absence of some key stakeholders from the CMCA Working Group Meetings. Leaders want PNGSDP, FRPG and the National Government to participate in Working group Meeting # 3. • Delegates would like to see representatives from the key partners who can make decisions. Leaders were given copies of the letters written to FRPG and the Mining Minister. They supported and endorsed the actions of their leaders. • FRGP and PNGSDP need to do more in terms of projects and services for the impacted regions. e.g. the need for relocation of some of the villages especially in South Fly. • Leaders want access to money from the National Government and PNGSDP. Leaders want this money to go to the impacted regions. Ten percent (10%) to be committed for project and services. • Some regions want special consideration for a cash component in their package. • Leaders want to manage their own affairs in terms of project selection and delivery and how their money is spent. • All regions called for more projects such as schools, health services and infrastructure development.
The OTML Offer	<ul style="list-style-type: none"> • All regions support and endorsed the stand taken by the delegates not to accept or reject the OTML offer. • Leaders would also like to see the other stakeholders put their offer also. • Leaders from the mine villages would like to know what OTML has to offer them. • The leaders want equity share in the mine.
Independent Legal Advice	<ul style="list-style-type: none"> • Leaders want independent legal advice for the CMCA process.
Independent Scientist	<ul style="list-style-type: none"> • Leaders want to ensure that the Independent scientist's report will continue to the negotiation. • Leaders also requested for an independent medical advisor.
Environmental Mitigation Plan by OTML	<ul style="list-style-type: none"> • Leaders understood the importance of having a good environmental mitigation plan but were sceptical about the plan itself.
Mine Closure Plans	<ul style="list-style-type: none"> • Leaders also want to be involved in the Mine Closure Plans and the plans should be part of the review process.
Communication	<ul style="list-style-type: none"> • Leaders expressed concern for the development needs of women and children. • Leaders agreed to go back to the villages and share information from the regional meetings and provide feed back through their delegates, although a few felt reluctant due to an incomplete package at this point in time.
Other Issues	<ul style="list-style-type: none"> • Leaders suggested that future regional meetings should be held at venues within easy access to observers (villages). • Leaders asked to be given ample time at the Regional Meetings to absorb the messages and respond appropriately.

Having observed the facilitation of the second round of regional meetings and the level of participation by the delegates and representatives to discuss issues presented, we are quite satisfied that they satisfy the principles against which we are required to report.

SECOND VILLAGE MEETINGS

During the Second Working Group Meeting it was agreed by the delegates that there would be no village meetings held after the second round regional meetings. The delegates decided on this course as they considered that whilst OTML has made an offer, the other stakeholders, viz, the National Government, the PNGSDP and the Fly River Provincial Government should also make their respective offers which would then constitute a complete compensation package which the impacted communities would consider as fair and just compensation to compensate them for the environmental damage, before a new round of village meetings could be conducted to explain the new package as a whole.

OTML PRESENTATION – ENVIRONMENTAL MITIGATION PLAN

During the Regional Meetings OTML gave a short statement on the environmental impacts and particularly the mitigation options it was taking to try and reduce the degree of environmental impacts. One of this was built a tailings pipeline from the mine site all the way to a site near Bige where an underground pit would be dug and all tailings would be buried. Leaders understood the importance of having a good environmental mitigation plan but expressed reservations about the mitigations options being pursued.

We believe this presentation, albeit short and verbal, were nonetheless full and frank, acknowledging serious environmental impacts and at the same time advising leaders about what OTML was trying to do to lessen the serious environmental consequences of the mine operations.

ENGAGEMENT OF AN INDEPENDENT SCIENTIST – DR. ALLAN TINGAY

During the first working group meeting there was general consensus on the benefit of engaging independent technical expert advice to advise the regional representatives and other working group representatives independently on a range of issues before the working group. This included environmental, legal, economic and health issues and general advise on the future livelihood of affected communities.

It was agreed than that a small working group of three representatives from the regions plus The Keystone Centre and Tanorama with the oversight of the Independent Observers would go through a short list of possible candidates to make recommendations to the working group. Through this process an Independent Scientist, Dr Allan Tingay was selected. His selection was sanctioned in the second working group meeting. We believe that the process used in selecting Dr. Tingay was transparent and credible.

The meeting also resolved that through this same process an independent legal advisor would be engaged to advise the delegates and regional representatives on legal issues arising out of the CMCA review process.

Dr Tingay subsequently gave a short brief on the scope of what he was required to do and the approach he was required to take. The scope of his work is to conduct a review of OTML's

proposals for a new set of environmental predictions and to review and evaluate technical studies relating to matters of concern among impacted communities including the following:

- The proposed strategies for ARD Management;
- Existing and future sedimentation;
- Existing and future ARD effects;
- Physical and chemical changes in water quality and the implications in terms of drinking water, bathing and other forms of contact.
- Physical and chemical changes in water quality and the implications for plants and animals that live in the rivers and associated areas;
- Dieback and other impacts on food crops;
- Decline in fish populations and fish species and other effects on fish;
- Community health implications of impacts on river systems;
- Post- closure environmental and health issues, management and monitoring strategies and the method of implementing these strategies.
- Non river issues such as complaints about dust along the Highway and allegations of air pollution in Kiunga.

The approach will involve consultation, review of available information, preparation of briefing material and presentation of the findings of the review. These include:

- Consultations with communities, women and children representatives, church representatives and NGOs to determine issues of particular concern and exchange information;
- Consult with OTML to access and discuss technical information;
- Analyse available information in terms of terms of the Guiding Questions in the Statement of Work;
- Consult with expert colleagues as and when required;
- Discuss issues arising from the technical review with OTML for clarification, further information and response;
- Meet with Department of Mines and Environment, PNGSDP, Provincial Government and Independent Observers to discuss issues and analysis;
- Prepare Summary Briefing Papers including conclusions and possibilities;
- Follow up meetings with communities.

We believe that provision of an independent scientist will not only enhance the equity, fairness and transparency and integrity of the process and the outcomes and, but will also provide necessary and adequate independent scientific data and information which will assist the impacted communities to make better informed judgements and decisions on the environmental impacts and predictions, let alone, the degree of environmental accedence. With such information available at their disposal the impacted communities would then be better placed to make informed judgements and decisions on whether to accept or reject the offer by OTML.

MEETING WITH MINISTER FOR MINING AND PNGSDP: Port Moresby 18 July 2006.

During the second Working Group Meeting the Delegates decided that instead of conducting village meetings the delegates would send a delegation comprising nine delegates to travel to Port Moresby and meet with the Minister for Mining as well as officials from the PNG Sustainable Development Company Limited. OTML facilitated the Delegates travel to Port Moresby as well as organized the meetings.

In the meeting with the Mining Minister and the Chief Executive Officer of the PNG Sustainable Company, the delegates presented a petition outlining their demands.

These demands include a request to the National Government to seriously consider allocating a share of its 30% stake in the Ok Tedi Project to the impacted communities. In particular it was requested that the present 10% equity allocated to the people of Western Province, be split in half and 50% of that 10% be allocated to the impacted people. Alternatively the delegates requested that 5% of the National Government's 15% share be allocated to the impacted communities.

INMET MINING LTD

The leaders also petitioned the National Government to acquire either all 18% shares in Inmet Mining Ltd or half of the full shares (50%) of the shares and allocate them to the impacted communities.

PNGSDP

The leaders also requested that 1/3 of the 2/3 currently being spent by PNG Sustainable Development Program Company Limited in projects throughout PNG, be redirected and spent among the people of the impacted communities. Of this it was proposed that 50% be spent among the impacted communities and the other 50% in the Western Province.

The leaders also wanted the National Government to consult with BHP Biliton with a view to having some of the 52% presently held by the Program Company allocated to the CMCA Regions.

Both the Mining Minister and the Program Company advised the delegates that a response outlining the respective positions of the Government and the Program Company would be given during the 3rd Working Group Meeting in September.

In our observations, the meetings with the Mining Minister and the Program Company were conducted in an open, honest and transparent manner. Leaders were quite frank in expressing their views and all who wanted to speak were given an opportunity to do so. Similarly leaders listened attentively and were respectfully when the other parties had the floor to speak. In our observations all the principles against which we are required to report had been observed and complied with.

GUIDING PRINCIPLES FOR THE REVIEW DISCUSSIONS

LANGUAGE

The second Working Group Meetings was conducted in English as most of the representatives spoke good English. Regional Meetings were also conducted in English although often explanations were conducted in pidgin.

We make the following observations on basic compliance with the guiding principles for the discussions.

ADEQUACY OF INFORMATION

This principle requires that communities and their representatives are provided with information necessary for them to make informed judgements and decisions.

It was observed that generally there has been communication with impacted communities over an extended period of time to prepare participants for the review. The platform for the Second Working Group Meeting and the second round of Regional Meetings was laid in the First Working Group Meeting. In the first Working Group Meeting delegates spent some time discussing what would constitute agenda for the second Working Group Meeting. On this basis we find that there was sufficient information available in the Working Group Meeting on the issues and delegates did understand the issues discussed.

An important aspect of sufficiency of information is to understand the information being disseminated. It would appear that there was some misunderstanding particularly in respect of the offer from OTML. All of the impacted communities and their representatives agreed that they would neither accept nor reject this offer. This was because they wanted to talk to and consult other stakeholders to see if they could also make their own independent offers that would then constitute a complete compensation package. In addition the delegates wanted more time to consult their respective villagers first before making a decision on the offer. This is commendable on the part of the delegates. In our view such approach ensures that people in the village also participate in the decision making process of accepting or rejecting the OTML offer.

We do however make the observation that the delegates themselves were not able to fully grasp and understand the crux of the offer both during the Working Group Meeting and the Regional Meetings. This became quite evident during the Regional Meetings when delegates who were explaining the package to the other representatives were unable to fully explain the offer in its proper context. This in turn reflects the level of understanding lead facilitators themselves had of the thrust of the offer. We are concerned that if delegates do not fully understand the offer, there is a high risk that they may misrepresent the whole scenario resulting in a situation where people are not better placed to make informed judgements and decisions.

We recommend that more effort should be made by facilitators again in the next round of Regional Meetings to explain the OTML offer.

EQUITY

All the regional representatives were predominantly male with one exception from the Dudi Region, where the Parama village was represented by a woman, the Reverend Anna Bisai. There was a noticeable absence of youth representation. During the Middle Fly Regional Meeting at Kavianaga Primary School, two female lead facilitators took some time during the lunch hour to talk to the women who were preparing lunch for the delegates. From this discussion it became clear that the women population in the village did not fully grasp and understand the issues being discussed let alone being informed about and ensuring minimum participation in the CMCA Review process. It was clear that the female population were being left out of many discussions arising from this review process. This simply highlights the need to have more women representation in Regional level as well as in the Working Group Meeting.

We therefore recommend that regional representatives make a more meaningful effort to involve more women and youth in discussion at appropriated levels. In addition delegates tasked with representing women in the Working Group Meeting spend more time with women on the ground to explain to them issues being discussed at the CMCA Review process.

PARTICIPATION

In our observations of the Second Working Group Meeting and the second round of Regional Meetings , we are satisfied that all representatives who were present in both Working Group and Regional Meetings and who wished to speak were given every opportunity to speak. There were differences of opinion as can be expected, but those who had differing views did have the opportunity to fully express themselves.

RESPONSIVENESS

We are satisfied that the concerns and issues raised by village and regional representatives at the regional, and working group meetings were responded to promptly based on information available at that point in time. Representatives were advised that concerns or issues raised which could not be responded to immediately would be taken up and discussed in the first working group meeting.

TRANSPARENCY

In our opinion both the second round regional meetings, and working group meetings were all conducted in acceptably transparent manner. The current stage of the processes of the CMCA review were explained to the delegates and representatives in simple and understandable English and on a number of occasions pidgin was used to elaborate and explain issues which needed clarification. We find that this was acceptable to all those present.

In the first Working Group the Delegates expressed a strong desire to have the services of independent professionals such as medical doctors, accountants, environmental scientists and lawyers to advise them on technical issues arising out of this CMCA Review Process.

An Independent Environmental Scientist Dr. Allan Tingay was subsequently engaged and his appointment sanctioned in the Second Working Group Meeting, to advise the people on the scientific and environmental predictions and to review and evaluate technical information arising out of this review. His engagement will no doubt enhance the integrity and transparency of this process.

In the second Working Group Meeting and the subsequent regional meetings, Delegates and representatives still expressed a strong desire to have the services of an independent lawyer to advise them on legal issues arising from this process.

On our part having observed the process thus far, we strongly believe that there is an urgent need now more than ever to engage a lawyer to advise the delegates and representatives on legal issues arising. Again this will greatly boosts the integrity and credibility of the CMCA review process.

We believe the structure and processes gives transparency and credibility to the review process. Once again we are quite satisfied that the engagement of independent facilitators,

The Keystone Centre and Tanorama plus the independent observers, and funds administrator have added considerably to the transparency and integrity of the whole review process.

INTEGRITY

In our first report we reported that the structure and processes generally satisfy the values of integrity. So too in this second report, it is our observation that the structure and process have been well embraced and accepted by all stakeholders. We again report that they have been morally sound, honest, and free from corrupting influence. We are quite satisfied that in our observations of the second working group meeting and the second round of regional meetings, all the representatives from the various stakeholders and the delegates as well as the regional representatives have been sincere, honest and quite frank in their discussions and deliberations.

The development and publication of a set of principles to guide the independent facilitators in guiding the conduct of the review and the independent observers in their monitoring, observation and reporting against them, as we now do, lend integrity to the process and the commitment of OTML in undertaking this review process.

The engagement of independent facilitators, independent observers, and an independent funds administrator and other wider interest groups and provincial and national government representatives have enhanced the integrity and credibility of this whole CMCA Review process. So too is the engagement of an independent scientist to advise the impacted communities on scientific and technical data.

We however make two comments on the representations from the various stakeholders particularly from the National Government and the Fly River Provincial Governments. Concern was expressed by the Delegates as to the failure by the Fly River Provincial Government to attend the meeting. This prompted the delegates to write to the Governor expressing concerns about the importance of the Provincial Government attending. Delegates also express concerns that the attendance of the National Government representatives from the various key Departments were generally at a junior level.

In our observations, these concerns reflects the apparent lack of seriousness given by the two levels of government to the present CMCA Review process. We strongly recommend that as an important stakeholder it is imperative the Provincial Government and its administration give some serious attention to this review and attend the next Working Group Meeting in September. The National Government should also ensure that it is represented at a very high level by officers who can either make decisions or who can directly influence decisions.

This will then demonstrate their level of seriousness and commitment to this CMCA Review process.

FAIRNESS

Generally, we believe the processes of the meetings to date have been fair. We do make observations about some aspects of the structure and processes that representatives raised some concerns about, but on the whole as we report above the process has been fair.

RESPECT

Given the historical circumstances of the operation of OTML and the environmental impact upon the communities, we believe sincere efforts are being made by all parties to be respectful. In both the Second Working Group Meeting and the subsequent Regional Meetings, the need to respect one another was always emphasised as a principal ground rule.

The courtesy to respect each other and to allow others to express themselves has been agreed upon as good practice and observed in all regional meetings, although in the Middle Fly Regional Meeting two representatives who were drunk were often disruptive at times while other representatives including Facilitators spoke. Otherwise all participants have been continually encouraged by the facilitators to be respectful to each other and each others opinions.

As a result we are quite satisfied that discussions were conducted at a pace and in a manner that allows parties to understand the information and, where necessary, consult with those that they represent before continuing. Everyone was given an opportunity to speak and actively participated in all the discussion of the issues being discussed.

TIMELINESS

Though the time frames for the processes of consultation and meetings may seem long, we are satisfied that they are reasonable given the complexity of the issues and the important need to inform and consult all the affected communities and interested parties. Given the physical spread of communities and the logistics of transport and communication, we are satisfied that the length of time between meetings and briefing of representatives and villages is reasonable and sufficient.

OBSERVATIONS AND RECOMMENDATIONS

OWNERSHIP OF REVIEW STRUCTURE AND PROCESS

During the second round of regional meetings facilitators allowed the three delegates from each region to take the lead in presenting key messages arising from the Working Group Meeting to the regional representatives. This is a commendable effort. However from our observations, still the greater part of the meeting was controlled and led by facilitators. We believe that rather than controlling and running the entire meeting, facilitators should as much as possible allow the delegates themselves to take full control and lead the meeting. Facilitators should only intervene when required or to explain issues requiring their explanation. In this way the delegates and representatives will feel a greater sense of involvement and thus ownership of the structure and process of the review.

COMMUNICATION, PUBLICITY AND EXPOSURE OF THE CMCA REVIEW PROCESS

A good tool of communicating and dissemination of information concerning this review process is through the print and electronic media. So far in this process we have observed that not much effort or if not no effort at all is being made to bring information about this process to relevant media outlets and organizations for publicity and exposure. Media organizations immediately within our reach such as FM Fly, should take a more proactive approach to ensure that due publicity and exposure is given to this important process.

PARTICIPATION IN AGREED OUTCOME (SIGNING)

We feel consideration should be given to the concern and desire that all village representatives to the regional meeting sign the CMCA on behalf of their villages. And they expressed the strong desire that before any new agreements are signed, the Independent Legal Advisor must explain and translate its contents into simple and understandable English and fully explained to them in order that they could understand and more meaningfully participate in the review process and to be able to consider whether any changes needed to be made. This would give the villagers a greater sense of informed consent and ownership of the final agreement.

PARTICIPATION BY LAND OWNERS NOT PARTY TO THE CMCA’S

There was consensus of concern that other land owner’s who supported the court action against OTML that have not joined the CMCA’s should be involved in the review process and benefit from the agreements. Leaders agreed that the opportunity should be left open for these village communities to agree to participate in the review and thus benefit from the benefits of the agreements.

We believe that there needs to be much more positive encouragement and engagement of the leaders and villages who have remained outside of the CMCA process and thus benefits.

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Sir Arnold Amet

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John Kawi