



2006 CMCA Review Process

“A new way forward”

January 2006

PURPOSE

The purpose of this paper is to explain the process that will be used to review the Ok Tedi Community Mine Continuation Agreements. This process is referred to as the 2006 CMCA Review.

BACKGROUND

OTML entered into CMCAs with communities affected by its operations so as to facilitate the continuation of the mine with the communities' consent. They were signed from late 2001 and run through to the end of the mine life, which was expected to be 2010 at the time the agreements were drafted.

There are 14 CMCAs altogether covering 152 villages and approximately 50,000 people. Nine CMCAs relate to regional groupings of villages and five to individual mine area villages. The CMCAs are:

- Lower Ok Tedi CMCA
- South Fly CMCAs (four)
- Middle Fly CMCA
- Highway Communities CMCA
- North Ok Tedi CMCA, and
- Mine Area Village CMCAs (five)

The CMCAs commit OTML to making payments to communities or trusts set up specifically to receive these payments and distribute them on behalf of communities. In return, the communities agree to support the continued operation of the mine and not make further claims against the company.

The CMCAs have been given the force of law through the *Mining (Ok Tedi Mine Continuation (Ninth Supplemental) Agreement) Act 2001*.

The consent of the communities was obtained following a communication and consultation process intended to ensure that if the communities consented to mine continuation, this was based upon an understanding of the predicted impacts of the

mine if it continued to operate. These predicted impacts are contained in a schedule of Environmental Predictions in each CMCA.

Under the CMCA's, OTML is obliged to keep communities informed of the results of its environmental monitoring. In the event that the environmental impacts exceed the predictions, river and highway community CMCA's require the company to meet with communities to discuss revision of the payments. If agreement can't be reached, the company may reconsider its decision to continue to operate the mine.

Since the agreements were signed in 2001, the environmental predictions have changed and sediment deposition, flooding and acid rock drainage may have a greater impact that predicted before.

Because of this, the company recognises that it needs to sit down with community leaders to discuss a revision of compensation payments and put together a new package that will reset the balance between the mine's environmental impacts and its social and economic benefits to the communities affected by the mine.

THE CMCA REVIEW PROCESS

Goal

The goal of the CMCA Review process is:

To establish a framework within which OTML and the affected communities can successfully discuss issues of mutual interest relating to the CMCA's, and effectively agree on an appropriate balance between the mine's social and economic benefits, and the environmental impacts on their way of life.

Guiding principles

OTML's Charter guides its conduct for the review.

The OTML Charter says:

"We value:

- integrity
- open and transparent communications
- participation and involvement
- win-win relationships
- operating excellence with continuous improvement

"We are successful when:

- all participants value our partnership
- our customers seek our product
- every employee takes pride in combined achievements
- we are making positive social and economic contributions to PNG, the Western Province and the North Fly."

The following additional Principles to Guide the CMCA Review (the Principles) support the Charter's objectives and will guide the CMCA Review:

- Integrity
- Transparency
- Equity
- Fairness
- Participation
- Respect
- Responsiveness
- Adequacy of information, and
- Timeliness

OTML staff and village leaders have made written commitments to respect these Principles. The Principles have also strongly influenced the design of the review process. A full copy of the Principles is available from OTML on request.

Review timeframe

The CMCA Review will begin in February 2006 with a series of Regional Meetings of Village Representatives. These will be followed by meetings in all villages to explain the review and discuss community issues to be carried forward. Working Group meetings are expected to begin in April 2006. The review is expected to finish by late 2006.

Consultation with communities about the review process

Over 2005, OTML met with community leaders from each of the CMCA regions to discuss their expectations and an acceptable process for reviewing the CMCA's. This culminated in a November 2005 Process Design Workshop, facilitated by Dr Peter Adler of The Keystone Centre. The workshop included community, government, shareholder, company and NGO representatives.

The Process Design Workshop considered a number of different ways for reviewing the CMCA's. These included: reviewing each CMCA in a separate, regional process; OTML developing a new compensation and benefits package and consulting over it; asking a panel of independent experts to conduct the review; or a single working group reviewing all CMCA's together.

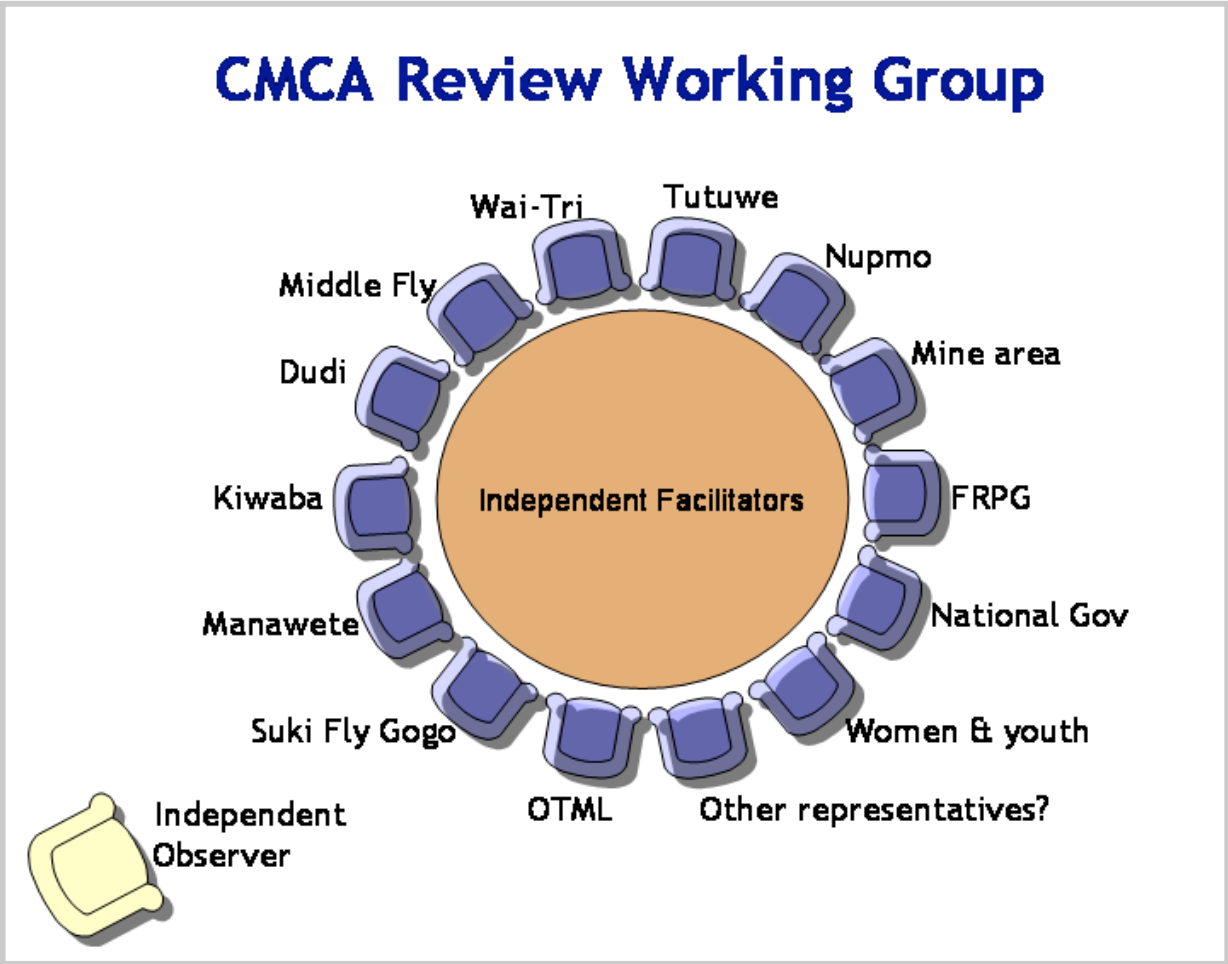
It was clear from the workshop that a **Working Group** model would be the most effective and appropriate model for conducting the CMCA Review and it was decided to proceed to set one up.

Membership of the CMCA Review Working Group

The CMCA Review Working Group will be the high-level group that will undertake the review. Members of the working group are expected to include representatives of each CMCA region, PNG National Government (Mining, Environment), Fly River Provincial Government, PNG Sustainable Development Program and OTML. Other members or advisers to the group may include organisations representing women and youth.

The Working Group is expected to meet four times over 2006, with each meeting lasting around three days.

Membership of the Working Group will be finalised in early 2006. The following diagram shows what the working group membership may look like:



A fair, independent review

To ensure the review is conducted in accordance with the Principles, it has been set up so that it is at “arm’s length” from the company. This is in recognition that with OTML as both a major party to the review, and a major provider of logistical and other support for the review process, there is potential for a real or perceived conflict of interest.

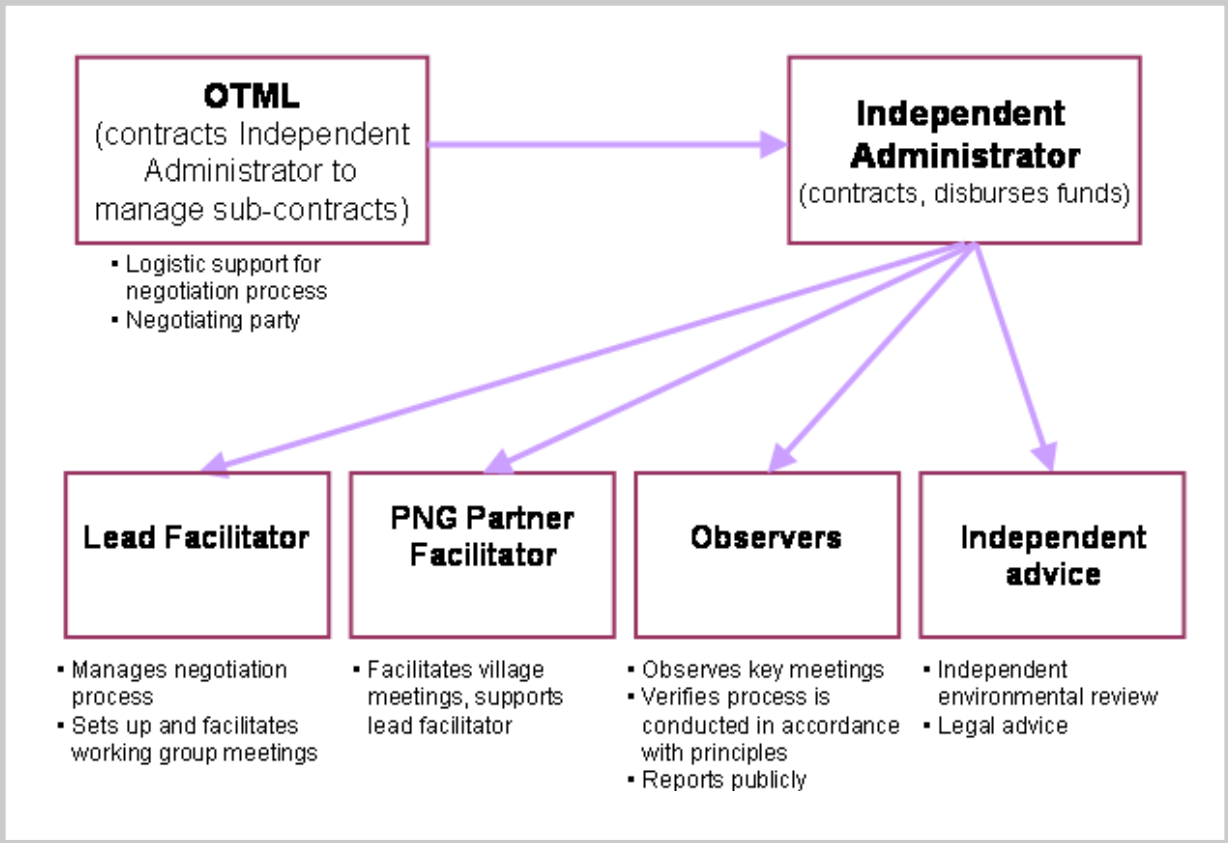
To ensure the review embodies the OTML Charter and Principles, the following mechanisms have been put in place:

Independent Facilitators – a non-government organisation, independent of OTML, will manage the overall review process, facilitate all meetings of the working group and oversee the independent facilitation of all village meetings. A US non-government organisation, The Keystone Centre, will perform this role, in partnership with PNG-based development organisation Tanorama Ltd.

Independent Observers – independent observers will observe and publicly report on the conduct of the review process to ensure it is conducted in accordance with the Principles and agreed process. Former Chief Justice of the PNG Supreme Court, Sir Arnold Amet, will lead the independent observer team.

Independent Administrator – an independent administrator will be funded by OTML to manage the contracts and payments to working group members, independent facilitators, independent observers and any independent advisors engaged as a result of a working group decision. The PNG office of Deloitte Touche Tohmatsu has been engaged to undertake this role. Administrative and dispute resolution procedures will be put in place to enshrine the review principles.

The structure of these arrangements is presented in the following diagram:



Village and regional meetings

Community issues will be carried from the village to the working group through meetings in each village as well as at Regional Meetings of Village Representatives.

Community representatives for the Working Group will be drawn from representatives of villages within each of the nine CMCA regions.

The process of identifying community representatives for the Working Group is well underway. By the end of 2005, more than 80 per cent of villages had nominated a Village Representative to participate in regional meetings. Selection of Village Representatives was based on a formal selection process requiring a properly documented village meeting to elect a representative.

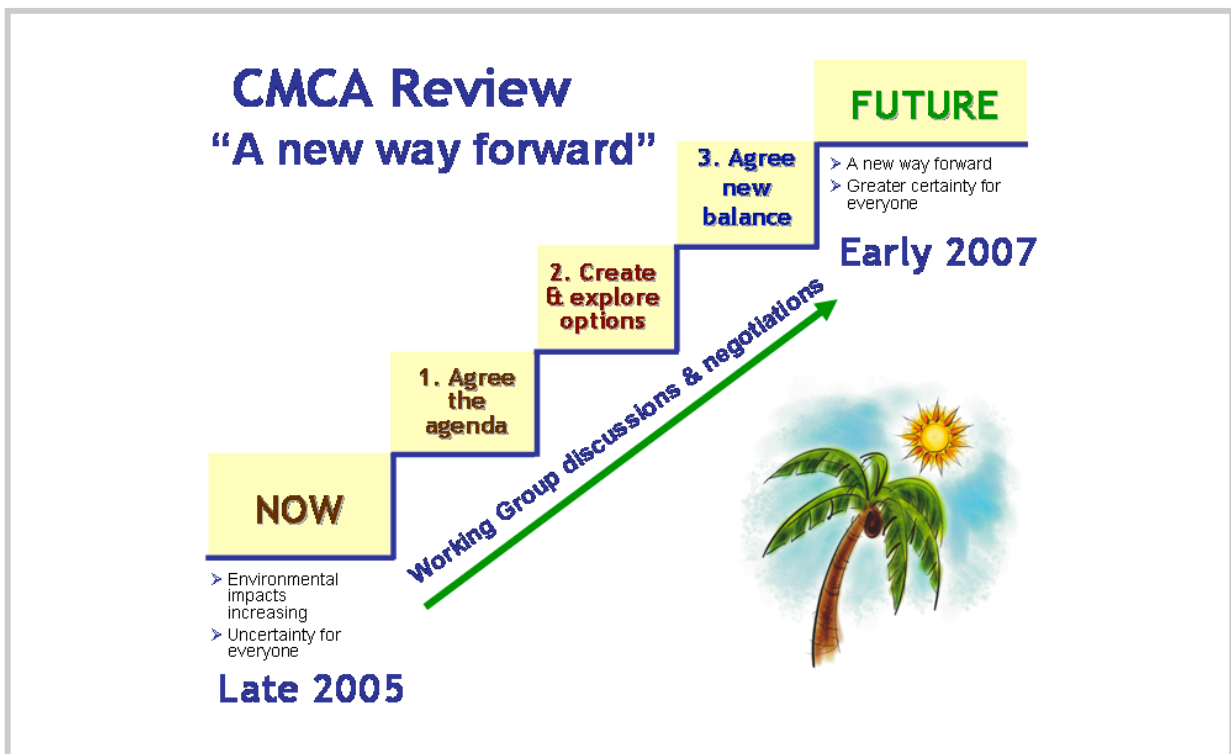
In February 2006, nine Regional Meetings of Village Representatives will be held to select the community members of the Working Group from each CMCA region. More village and regional meetings will be held over the year to report back on progress with the Working Group discussions and get feedback from the communities.

The relationship between village, regional and working group meetings is shown in the following diagram:



Phases of the CMCA Review

The CMCA Review process has three phases, as illustrated in the following diagram:



The following table describes in more detail the three phases of the review:

Agree the Agenda	Create and Explore Options/solutions	Agree New Balance
Goal: issues to be discussed are put on the table, and agenda going forward is agreed	Goal: shape a package of options out of the issues on the agenda through dialogue and information	Goal: confirm the negotiated package and achieve consent to continue mining on agreed terms
Timing: Feb-May 2006	Timing: June-Oct 2006	Timing: Nov-Dec 2006
<p>Activities:</p> <ul style="list-style-type: none"> • Patrols to all CMCA villages to confirm who will represent villages in discussions and develop list of villagers' issues for Working Group discussions (Patrol #1) • CMCA Regional Meetings of Village Representatives to nominate Community Representatives to Working Group • <u>Working Group Meeting #1</u> to develop agenda of issues for discussion • Working Group agrees principles for discussion, such as protocols and guidelines and develops basis for fair compensation • Outcomes of Working Group Meeting #1 communicated to villagers and general public via Independent Observer 	<p>Activities:</p> <ul style="list-style-type: none"> • <u>Working Group Meeting #2</u> to generate and explore options for solutions to issues • Independent advice on options is commissioned • Information on options being explored is communicated to Regional Meetings of Village Representatives and villagers (patrol #2) • <u>Working Group Meeting #3:</u> consider patrol feedback and independent advice and refine options and solutions • Working group negotiates options under discussion 	<p>Activities:</p> <ul style="list-style-type: none"> • <u>Working Group Meeting #4</u> to finalise the new package • Communication patrol to villages (Patrol #3) • Celebration and public announcement of outcome of review process
Outcome: talk/listen process deals with emotions ahead of discussion and negotiation, "informed consent" (impacts) confirmed, representation and other issues resolved, and a decision on resetting the balance is reached.	Outcome: a package is shaped, negotiated and confirmed	Outcome: reviewed CMCA's provide stability and certainty for all parties, and genuine delivery of development benefits to the impacted communities. They provide robust relationships with the communities for future negotiation over mine closure and other issues of mutual interest

Further information

For more information on any aspect of the CMCA Review you can contact any of the following people:

General information

Ph. 548 3320 (Ok Tedi, Tabubil)

The Keystone Centre

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Dr Peter Adler, President, padler@keystone.org

Ms Janesse Brewer, Senior Associate Mediator, jbrewer@keystone.org

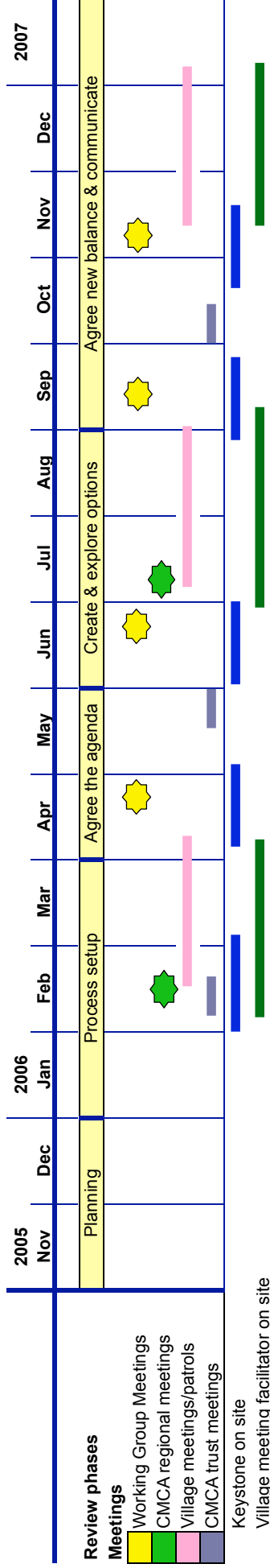
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2006 CMCA Review - Process Outline



Meeting Key



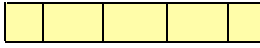
Working group (WG): a single high-level group with representatives of 9 CMCA regions, OTML, national and provincial government and PNGSDP that will negotiate the overall "package". Meetings would typically be three days' duration and would be held in Kiunga or Tabubil. Considerable work would be done between meetings to develop the detail of packages, seek additional information, provide feedback to communities.

CMCA regional meetings (RM): a meeting within a CMCA region involving one representative from each village. Regional meeting 1 (RM1) is to select CMCA regional representatives for the working group, RM2 to update village representatives and solicit further input to working group.

Village meetings (patrols): meetings within individual villages as part of a typical patrol. The aim is to visit all villages within the CMCA regions three times over 2006. Other activities on patrols may include delivery of project materials and health services.

CMCA Trust meetings: the normal meetings of CMCA trusts. It is proposed that these be held at approximately 6-monthly intervals during 2006, rather than quarterly as usual.

Process summary



Planning: Finalise review process

Process setup: put in place necessary arrangements such as partner contracts, CMCA regional representation, communication with communities about updated impacts and WG process

Agenda setting: convene first meeting, briefings and joint fact finding, start developing principles of future compensation and long-term vision for communities, agree issues to be negotiated

Problem solving/negotiation: report on mitigation options, refine principles for compensation and long-term vision, create scenarios assuming different compensation and benefits scenarios, identify critical trades

Agree new balance & communicate: examine draft package and evaluate against principles and vision statement, negotiate final package, communicate & celebrate!