

The following summary captures the key points and recommendations of the CMCA Working Group meeting held June 19-22, 2006 in Tabubil.

This document is intended for those individuals who attended the meeting and may lack the necessary context for those who were not in attendance. The following is not a comprehensive summary of the presentations, but rather a guide to the goals, objectives, and key discussion areas talked about at the meeting. Working Group members are encouraged to share this document and its content with those who are interested in an effort to feed additional perspectives into the Working Group proceedings.

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**Working Group for CMCA Review 2006-2007
Fourth Meeting, December 2006
Tabubil**

Meeting Notes

The Mining Minister came to the meeting and presented an offer on behalf of all shareholders including:

- Ok Tedi Mining Limited (OTML)
- Papua New Guinea Sustainable Development Program Company (PNG SDP)
- The National Government
- INMET

The offer has not yet been accepted or rejected by the leaders

The offer has several pieces

- 2.5% equity ownership in the mine is offered by OTML on behalf of all shareholders
- A commitment of at least K18 million a year for projects in the Community Mine Continuation Agreement (CMCA) regions is offered by PNG SDP
- A commitment of 5% of total dividends (profits) is offered by the Government, and will come from the Western Province People's 10% fund
- A new independent CMCA entity [organisation] would hold much of the resources that would come from the offer. CMCA regions would manage projects and resources through this entity.
- PNG SDP has agreed to fund a consultant to assist in the establishment of this entity.

- There would be an extra one-time payment to a new CMCA entity. This would be about K94 million and will come from the 2006 payment to the Western Province People's 10% fund.

The offer would provide part ownership in the mine

- The CMCA regions would have equity ownership in the mine (2.5%)
- This is part ownership, but does not carry a seat on the board of the mine

The offer would give money for projects until the mine closes

- These commitments and ownership of the mine will last from 2007-2013, or whenever the current mining operation ends
- After the mine closes, the money and projects that will come to the area will come from the PNGSDP long-term fund, any government projects, or possibly other donor organisations.

This offer would be an increase in money for projects

- At the least, this offer would result in 3 times the amount now available to CMCA regions (all together).
- If copper and gold prices stay high, the amount of money for projects would be many times greater than available now to CMCA's

It is not yet decided how the money for projects will be shared

- Current CMCA agreements still stand, though the amount for each CMCA region will increase.
- Delegates will have to decide how some of the new money for projects would be shared among regions.

A mine waste storage solution affects this and any offer

- The Government has said that the dividends (profits) offered by the Government will only come if the mine waste management project proposed by OTML goes ahead (this includes a new pipeline and the storage of mine waste on the west bank of the Ok Tedi near Dome).
- If no waste storage solution can be found, the threat of damage to the river from copper is so great that the mine will be forced to close. Closure would mean that no money would be available to the CMCA's.
- It is recommended that the National Executive Council (NEC) direct the Ministers of Mining, Treasury and Environment to negotiate with OTML to undertake specific initiatives to investigate and monitor environmental monitoring of the Fly River system beyond mine closure under the Mine Closure Code.

There are important time considerations

- Given elections, the timing of Parliamentary sessions and the possibility of a new Mining Minister next year, it is possible that if leaders wait too long to respond to the Minister, that the offer may no longer be available.

Comments by the Minister of Mining regarding the Offer

- All stakeholders, especially OTML management and the Mining Minister, worked very hard to prepare this offer.

- It took a lot of effort to get this offer passed through the NEC. Given coming elections, it is possible that the Mining Minister will be replaced soon; it may be difficult to push a different offer through NEC if there is no agreement reached on this one.
- There are some conditions to the offer
 - o The delegates must agree upon a new CMCA Entity that will manage and hold CMCA resources.
 - o The 5% of total dividends which would come from the Western Province People's fund is conditional upon building agreement on the proposed waste management solution that includes a new pipeline and the storage on the West Bank near the village of Dome.

Comments by Robert Igara, PNG SDP

- PNG SDP Accepts criticism for lack of work done in impacted areas
- PNG does not want to question the development priorities of the regions
- When BHP left, SDP insured the financing for the mine so that operations could continue.
- Much of SDP's role and responsibilities kick in after mine closure. Approximately 1.6 Billion Kina is already set aside in the long term fund. It is SDP's obligation to guard this fund, and Robert Igara wanted to highlight that the long term fund has a priority focus for the Western Province.
- SDP is happy to participate in new CMCA Entity that will be responsible for delivering development projects. SDP will commit to fund research to help the establishment of such an entity, but the final decision about its mission and structure should be that of the regions.
- SDP is not an implementation body, but a funding body. So, SDP needs to work with subsidiary corporations and highlights the need for a partnership with CMCA Entity
- Projects SDP wants to work on include:
 - o Rural electrification through gas powered electricity
 - o Hydropower where possible (not possible in South Fly regions)
 - o Rubber, cashews, forestry, though forestry interests mostly decided.
 - o Plantation forestry in Tapila

Comments by the Delegates regarding the offer:

- The offer is not accepted or rejected.
- If a counter offer or a modified offer can not be reintroduced to the NEC, then this is not a negotiation, but a decision. The Working Group was set up to be a negotiating body.
- The portion of the offer that comes from the Western Province People's fund is money already allocated to the people of the Western Province. This is not an increase in the offer, but instead simply taking from one pocket and putting it in another.
- The National Government is the responsible party, both legally and because it originally allowed the mine to continue to operate and do damage. The National Government has not sacrificed anything to contribute to this offer.
- Delegates expressed that the offer is complicated, difficult to understand, and predict that it will be even more difficult to explain this offer at the village level. They have a desire to have the offer presented in terms of dollars or kina.

- Many delegates highlighted the standing request for commitments by the government and by SDP to be specific, and to be legally binding. Otherwise, once the mine closes, the Western Province is at the mercy of SDP and its decisions about where to spend its resources.

Questions about new offer:

- Questions remain about how the offer presented by the Minister relates to existing and previous offers.
- OTML stated that for their portions:
 - o Existing CMCA agreements will stay in place and any new agreement will exist on-top and in addition to current agreements.
 - o The 2.5% equity offer supersedes and replaces the previous offer of dividends equal to 2.5% of total dividends.
 - OTML also stated that the 2.5% equity offer continues to guarantee that each CMCA region will receive at least 50% more than they do currently.

General Development Needs

- It is disappointing that the Western Province government is still not participating in these discussions. FRPG and SDP need to engage in comprehensive discussions about development needs and priorities with the people of the Western Province.

Legal Advice and Review

- All regions highlighted the need for legal advice and review of any agreement language so that all regions and villages, and especially signatories, understand completely the ramifications of a new agreement
- Most agreed that this role can be fulfilled with the help of some of the lawyers already involved in the process, such as Sir Arnold Amet and John Kawi.
- There is still limited understanding of the existing agreements and many regions want help understanding those clauses and agreement which will still be in place.

Progress on waste management solutions

- There has been some progress with Highway villages in reaching agreement on a new pipeline.
- The people of the Dome village continue to be opposed to the storage of waste materials near their village. OTML has a legal right through a lease agreement to store waste here but does not want to force villages to do anything.
- Questions were asked about alternative storage sites. OTML answered that a feasibility study has been done and there are no other available, feasible sites to dispose of Acid Rock Drainage ARD-producing waste.
- Mining management stresses that if an agreement cannot be reached on a waste management solution that the mine should close due to the increase impacts that will come from ARD.

General Process Comments

- Delegates have held specific meetings with women in certain regions. Women are asking for greater involvement in decision making and the shaping of packages.
- Middle Fly citizens requested that their delegates did not participate in discussions until certain other specific requests from the Middle Fly region unrelated to the CMCA review were considered by OTML. OTML stated that they had considered and responded to these requests, and restated that they will not be a part of separate negotiations with any regions while the CMCA continues.
- There is no “sunset clause” by which the current CMCA agreement expires if the review is not completed by a certain time.
- There is a mixed level of understanding about the offer, and it is predicted to be very difficult to explain the offer at the village level.
- The discussions of the Working Group are centered on new offers and packages. When is the review of the current agreements?

Regarding the structure of a new agreement

The delegates and OTML discussed the possible form of a new agreement. It is believed that any agreements reached by the Working Group would be codified in the following ways:

- A Memorandum of Understanding (MOU) would be developed to formalize agreements at the highest levels (among the stakeholders).
- Regional agreements would be drafted, to be signed by regional representatives. These agreements would include information about environmental predictions and any future CMCA review.
- Separate legal contracts between agencies, may be necessary to make agreements real.

Independent Observer Closing Comments

- Messages from the Working Group are not making it back to the villages in a complete or satisfactory way.
- The conditional portions of the stakeholders’ offer seem to be in competition with the guiding principles of the process regarding fairness and respect. The waste management issue needs to be discussed properly.
- The NEC paper including the full language of the offer and Minister’s proposal should be available to the delegates.
- It is important that all leaders embody principles of good Christian leadership.

Tanorama Facilitators presented summaries and statistics from 2nd Village Patrols and 3rd Regional Meetings. *Please see attached presentations.*

Tim Offor from Offor Sharp & Associates presented materials designed to help explain the offer presented by the Minister and Stakeholders, and how it may increase or decrease given mine performance. *Please see attached presentations.*