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IOI GROUP

IOI PELITA LAND DISPUTE RESOLUTION PROCESS

IOI and Grassroots Joint Statement III

It has been a year since IOI's Resolution Plan received a conditional endorsement from the Complaints Panel (CP) of the RSPO. Since then IOI - guided by the CP, advised by Grassroots and with regular input from other stakeholders - made significant progress, details of which have been regularly reported on IOI's webpage dedicated to IOI Pelita land dispute.

In this 3rd joint statement, in addition to summarizing the progress, IOI and Grassroots would like to share some insights, which might provide an important context to a better understanding of the cultural, social and even logistical challenges which IOI and partners have to overcome.

Progress

IOI's Resolution Plan consists of 3 stages: Community Capacity Building, Community Participatory Mapping, and Negotiations for the final settlement. In May 2019, IOI completed the 1st stage: Community Capacity Building. The 2nd stage, Community Participatory Mapping, is being currently implemented and on schedule for completion in November 2019. A Sarawak-based NGO called CICOM provided the invaluable contribution into the implementation of both stages. As soon as the Community Participatory Mapping is done and the affected communities' grievances mapped and documented, IOI will launch the 3rd and final stage: Negotiations for the Final Settlement. IOI and Grassroots expect this final stage to be initiated in early 2020.

Importance of Due Process and Proper Socialization

Soon after the Resolution Plan received the conditional endorsement of the CP in June 2018, IOI and Grassroots together with an RSPO representative conducted the first round of in-field meetings and socialization sessions with the longhouses. The socialization process continued for several months and took on different forms. One of the challenges IOI faced in that respect was the fact that the communities, and also some stakeholders, mistook the Resolution Plan for IOI's offer of settlement. It took significant effort for IOI to explain and ensure communities and other stakeholders understand the Resolution Plan simply meant a road map - an outline of a process at the end of which IOI would propose an offer.

Having witnessed over the last 20 years multiple attempts by various parties to resolve the conflict, the communities were sceptical, impatient and reluctant to go through a lengthy process of community capacity building and community participatory mapping. They wanted to hear as soon as possible what IOI had to offer in terms of compensation. IOI explained the reasons for how the Resolution Plan was designed so that communities and other stakeholders had clear understanding of where the process was leading towards and what role FPIC was to play in it. Specifically, IOI had to explain that before we get to the final stage, we have to first build communities' capacity to understand all matters related to the case, and then to assist them in identifying, mapping and documenting their claims and issues through the community participatory mapping. Only then the negotiations for the final settlement could start and be conducted in a fair, transparent, inclusive and effective manner. It was challenging for IOI and partners (including NGOs) to convince the affected communities that it was in their long-term interest to participate in the RSPO dispute resolution process, even if it would necessitate more time and delay the final settlement.

Free Prior & Informed Consent: Time-consuming but Key

The first immediate goal for IOI was to obtain Free Prior and Informed Consent (FPIC) from all 9 affected communities for the implementation of the IOI's Resolution Plan. This task proved to be a challenge and it took IOI eight months to accomplish it. There were many reasons:

- The affected communities were going through the FPIC process for the first time;
- The trust between IOI and communities had yet to be established; and,
- The community leaders felt uncomfortable with the burden of responsibility for signing the FPIC form on behalf of their community. They felt particularly uneasy about putting things in writing!

IOI held dozens of meetings with each community and their leaders to explain the implications of their signing of the consent form. Arranging these meetings proved challenging, too. Most longhouses have no internet, telephone lines or cellular connection. Their leaders often move between Miri and their longhouses - making appointments difficult, sometimes taking a couple of weeks. Furthermore, physically getting to their locations was difficult due to the long distance and generally poor road conditions, especially during the raining season when roads are frequently flooded and impassable.

During the socialization period and while waiting for communities' consent, IOI ensured the 9 communities had access to any advice they needed. They consulted legal advisers and sometimes even their political leaders.

It took most of the communities 3-4 months to reach some internal consensus or a tentative position before verbally agreeing. Then it was an additional couple of months before consent was officially signed off on the consent forms. The last community provided its consent only 8 months later, in March 2019. IOI, needing all 9 communities' consent in order to proceed with the Resolution Plan implementation, had to wait for that last community to be able to start the implementation process. Obtaining FPIC from all 9 communities required significant investment in engaging communities and took a long time, but was worth the effort because, at the end of it, the affected communities became truly committed to the resolution process outlined in the Resolution Plan.

Community Capacity Building and Community Participatory Mapping: lessons learned

These two activities are the cornerstones and pre-requisites to negotiations. They required a competent third party, with these ideal characteristics:

- Familiarity with locality, local customs and language;
- Awareness about the ioi pelita dispute itself;
- Competence in implementing fpic principles and other rsपो p&c requirements;
- Strong technical expertise in gis mapping for community participatory mapping; and,
- Positive organizational profile in the eyes of the communities.

IOI was fortunate to find and engage such an outfit: The Community Information and Communication Centre (CICOM), which consists of two local NGOs familiar with IOI Pelita case and having the technical skills and experience in the community participatory mapping. Most importantly, CICOM enjoyed trust of the affected communities who gave CICOM their consent to conduct both community capacity building and community participatory mapping.

One of the lessons we learnt from the community capacity building is that not all community members have the capacity to comprehend or are interested in the RSPO P&C, FPIC principle, or legal aspects of the dispute. Therefore, community capacity building had to combine large

meetings with the members of an entire longhouse as well as several smaller meetings or discussions with the leaders and those with strong interest or capacity to process the information. Communities' close interaction with CICOM helped them to bridge any remaining gaps of knowledge, conceptualization and language, resulting in a better comprehension of all nuances related to the implementation of the Resolution Plan. Another important lesson is that the community capacity building is an on-going process and should be continued on as needed basis throughout the entire dispute resolution process.

Ex Gratia Payment: Trust and Momentum Building

In addition to practically completing 2 out of 3 stages of the Resolution Plan, IOI also conducted an individual land plot survey exercise to identify the remaining community members who were yet to receive the ex gratia payment for the land they occupied prior to the establishment of IOI Pelita's Provisional Lease. The exercise successfully identified and documented 35 outstanding cases that were then processed for settlement. The ex gratia payment event was conducted on September 5, 2019 in Miri at the Grand Palace Hotel and was witnessed by local authorities and community leaders. IOI reiterated to the recipients that the ex gratia payment did not mean that they would be giving up their right to make further claims during the negotiation stage of the resolution process. The payment of ex gratia to these last remaining farmers was an important milestone in terms of ensuring parity among all affected individuals ahead of the start of the negotiations. It was also a tangible action by IOI to demonstrate willingness to produce a win-win outcome. The entire exercise was seen as crucial in terms of building trust, momentum and good will between the company and the communities.

What to Expect Next?

Once the Community Participatory Mapping is completed, IOI will proceed with the final stage and negotiate the final settlement. For the affected communities, securing their land rights is the most important aspiration. However, IOI is only a leaseholder, and the Sarawak Government holds authority over land matters. Even if IOI wish to excise some land in favour of local communities, ultimately it will be government's decision.

The success of the resolution process will depend on the willingness of all affected parties to compromise and consider a resolution that must find a balance between short-term gains, individual aspirations and a prosperous future for the community as a whole. In that respect, solving the intra-communal overlapping land claims will be of the critical importance.

IOI and Grassroots have come a long way on this journey and will continue to work together to bring this longstanding dispute to a closure in a manner that is fair and equitable to the communities, the state government, and IOI.