

GEMFIELDS

Outlining the Operational Grievance Mechanism

4 February 2021

This month marks the opening of Montepuez Ruby Mining's ("**MRM**") Operational Grievance Mechanism ("**OGM**"). The below provides further information relating to this initiative.

Why has MRM set up a grievance mechanism?

In short, we felt that setting up an OGM was the right thing to do in order to address grievances from the communities in which we operate. Self-evidently there have been a number of allegations of human rights impacts levelled against MRM. These allegations are unproven, but have been compensated through the settlement agreement which ended the English court proceedings brought by Leigh Day. MRM agreed to implement a grievance mechanism in order to allow any other individuals with similar grievances to come forward and have their claims assessed by a fair, efficient and independent mechanism. The resultant OGM complements other community outreach and CSR projects initiated at MRM and aligns with our mission to promote transparency, trust and responsible mining.

What expertise has been consulted in order to design the OGM?

A team of experts was convened for the design and implementation of the project, including international human rights advisory specialists, Triple R Alliance, Mozambican legal counsel and former British police officers (to assist with the training of the Fact-Finding Team ("**FFT**"). During the operational phase of the project, Anna Triponel, a human rights consultant, is on hand to advise the OGM personnel as need arises.

In the initial stages, the OGM team held more than 75 consultation meetings involving community, NGO and other stakeholder representatives in order to inform the design of the OGM. The team also focused on consultations with the relevant Mozambican government authorities in order to ensure the appropriate interface between the OGM and government law enforcement agencies. In the run-up to the opening of the OGM for business, the team circled back to the same group of stakeholders, including the Mozambican Bar Association and IPAJ, to validate the ultimate form of the OGM. These stakeholders were supportive and provided constructive suggestions to strengthen the project.

A roster of experts of other specialisms (e.g. gender, psychosocial and medical) have been secured to remain on call, should personnel need advice during the operational phase. This is not to mention the very substantial Gemfields/MRM management time and budget committed to the establishment of the project. We have also expanded headcount in MRM's community outreach team with a new Head of Sustainability and a Grievance Coordinator, specifically in order to better serve the needs of our local communities.

It was originally envisaged that the OGM would take between six months and one year to become operational. In fact, it took over 24 months to become fully operational, a measure of the care and thought that went into the OGM, in order to make it as resilient as possible. The team remains committed to receiving constructive feedback and, where necessary, making improvements on a continual basis over the life of the project.

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What is the OGM?

The OGM is a non-judicial mechanism which aims to complement the existing Mozambican law enforcement infrastructure rather than replace it.

The OGM has been designed in accordance with the UN Guiding Principles on Business and Human Rights (“**UNGPs**”) and Mozambican law. The third pillar of the UNGPs deals with State and corporate responsibility to prevent and remediate any infringements of human rights that they contribute to. Further, “access to remedy” mechanisms should be legitimate, accessible, predictable, rights-compatible, equitable and transparent. The OGM has also been designed with the Mozambican and local context specifically in mind and is therefore unique.

The OGM will aim to distinguish claims that meet an evidential threshold (balance of probabilities) from those that do not, and provide remedy for the claims which have been substantiated. All claims will be thoroughly investigated by an independent Fact-Finding Team (“**FFT**”) and then brought to an Independent Panel (“**IP**”) for a decision. Remedies may be financial or non-financial and the amount of any financial compensation will be determined under the relevant principles of Mozambican law. There is also recourse to an independent appeals panel made up of senior Mozambican legal practitioners, in respect of decisions of the IP. This is available to either party (the complainant or MRM).

The OGM will have an operational life of at least two years.

Does the OGM operate independently of MRM?

Although the OGM’s establishment and running costs and any compensation awarded will ultimately be funded by MRM, the assessment and remediation of human rights matters will be performed completely independently of MRM. A diagram to illustrate is provided below.

The IP will assess whether grievances meet the requisite evidential threshold and, if so, determine the appropriate remedy. The IP consists of five individuals and includes representatives from Mozambican NGOs and civil society organisations, the communities themselves and academics. The FFT has a similar composition, numbering eight individuals in all (increased from four initially). Both the IP and FFT were selected following an extensive and meticulous request for proposals (RFP) process. The selection panel for the IP comprised a representative of local NGOs, a university lecturer, an international human rights expert and a representative of MRM.

The OGM will be independently administered by a secretariat provided by SCDS, a locally-based social development consultancy with good experience of other resources projects in Mozambique. The secretariat will, amongst other things, coordinate the activities of OGM personnel, maintain a grievance database (using specialist IsoMetrix software), ensure appropriate safeguards for complainants (including confidentiality) and arrange payment of the fees of personnel and any compensation awarded by the IP to complainants. Payments are therefore made independently of MRM. An additional layer of independence is provided by KPMG, which will act as “fund manager” to the OGM, making cash calls to MRM and disbursing funds to the secretariat for further distribution.

Moreover, an experienced and independent human rights monitor has been engaged to assess periodically the effectiveness of the OGM against the criteria set out in the UNGPs. Formal evaluations will be carried out on a six-monthly reporting cycle and these evaluations will be published.

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Further information

Triple R Alliance

Triple R Alliance is a small collective of experts that supports companies in their efforts to establish positive and constructive relations with local communities, civil society organizations and authorities and to ensure they do so in a manner that meets human rights expectations. They typically work in frontier markets. Triple R Alliance has both a Social Performance practice and a Business and Human Rights practice. They often find themselves working in the area where these fields overlap and where risk to people is also a risk to the company.

Triple R Alliance was involved in the design process of the MRM grievance mechanism, including the development of an Independent Panel to address human rights grievances. They conducted the initial scoping study and had a team on site at MRM to ensure that the mechanism was developed in line with the effectiveness criteria of the UN Guiding Principles on Business and Human Rights; that appropriate safeguards and supports for complainants were in place; and that local, regional, and national stakeholders felt that the mechanism is independent and adapted to the context in Mozambique.

Synergy

Synergy is an international consultancy and training company with over 20 years of experience working with companies, governments and community-based organisations who operate in complex and conflict environments. Its work centres on enhancing the ways that large-scale development projects interact with and impact upon their stakeholders. Synergy works predominantly in the natural resource sector and have managed over 300 projects in 75 countries.

Synergy's work focusses on strengthening systems, relationships and creating collaboration so that large-scale projects contribute shared developmental and sustainable outcomes. It specialises in human rights, social impact and risk assessment, deepening socio economic benefits, land access, resettlement and livelihoods, and conflict mediation and peace building. Synergy undertakes monitoring and evaluation, auditing and due diligence, and training and capacity building.

Synergy acts as Independent Monitor, appointed by MRM to help evaluate the OGM according to the effectiveness criteria in the UN Guiding Principles on Business and Human Rights.

Anna Triponel

Anna Triponel is an internationally recognised business and human rights expert. As a consultant to the Harvard Kennedy School of Government, she supported the UN Special Representative for Business and Human Rights to develop the UNGPs – the global authoritative standard of how states and businesses should uphold human rights, endorsed by the UN Human Rights Council. She works with companies, investors and law firms across the globe to embed human rights respect into business practice, including acting as Ombudsperson for grievances and advising on a rights-based approach to remedy for workers and community members.

The International Human Rights Expert plays a supporting role to the OGM to provide guidance on how the OGM can be 'rights-compatible' and aligned with the UNGPs and international human rights law. Anna Triponel's role entails providing advice and support to the OGM, in particular to support the Secretariat, Fact-Finding Team, and Independent Panel in resolving complex grievances about allegations of severe impacts on human rights. This includes providing support on the triage of grievances that may involve human rights impacts and may need escalation to the OGM's Independent Panel, providing advice to the Fact-Finding Team about adequacy of safeguards put in place to protect complainants and witnesses and due process and confidentiality considerations, and providing guidance to the Independent Panel about remedies for human rights impacts according to relevant international standards.

The International Human Rights Expert is not a voting member of the Independent Panel. She provides advice and support on an as-needed basis to the different tiers and actors of the OGM.

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The Operational Grievance Mechanism

Independent from MRM, the OGM is administered by the OGM Secretariat (SCDS) and handles grievances that meet a certain human rights threshold.

INTERNATIONAL MONITOR – Synergy Global Consulting PTY (Ltd) Conducts formal evaluations of the OGM on a 6 monthly reporting cycle. After each reporting cycle a comprehensive progress report will be provided to MRM and the Independent Panel. A summary of the progress report will be made public.

