

Decision-Making in the Lokono Communities of West Suriname



Vereniging van Inheemse Dorpshoofden in Suriname
(Association of Indigenous Village Leaders in Suriname)

VIDS

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This report presents the main findings of a study to document the context and existing strengths of decision-making processes in Indigenous Villages in West Suriname. Research was undertaken with the goal of further strengthening traditional leadership and to this end a number of important recommendations emerged from discussions with community members. Findings and recommendations have been compiled here for the Inter-American Development Bank and the general public with permission of the village leaders — Carlo Lewis, Nado Apoera and Ricardo Mac-Intosh. Additional information was gathered during the course of this research, but is not included in this “Decision-Making Report.”

Background information

Between October 2006 and October 2007, a study was conducted to examine traditional leadership in the villages of Apoera, Section and Washabo. The concept of ‘traditional leadership’ was interpreted as referring not merely to the village leaders and their assistants, the *basjas*, but more broadly, namely as the way in which the villages are led and governed according to traditional rules. The study examined the way decisions are made, the persons who participate in the process and other factors considered important in making a good decision. Traditionally, it is not only the village leaders and the *basjas* who make decisions for the villages: decisions are made in consultation with community members at village meetings.

This study was conducted on the instructions of village leaders Carlo Lewis of Apoera, Nado Aroepa of Section and Ricardo Mac-Intosh of Washabo. It is part of the project “Indigenous People and Mining in Suriname – building community capacity and encouraging dialogue” that ran from June 2006 to November 2007, with an extension to July 2008. The project was financed by the IDB and implemented by the Association of Indigenous Village Leaders in Suriname (VIDS) and the North-South Institute (NSI) in cooperation with the Lokono communities of West Suriname.

Why this study?

The Indigenous Peoples of West Suriname are being confronted with several large-scale developments proposed for their territory. In 2003, the government granted a concession to companies BHP Billiton and Suralco to explore for bauxite in the Bakhuys mountain range in West Suriname. The concession, where a hunting ban applies (imposed by the mining companies), is part of the traditional land of the Indigenous People of West Suriname. The planned transportation corridor for bauxite, workers and material, will also run through Indigenous territory.

In addition, the Suriname government has granted various concessions in close proximity to the villages of Apoera, Section and Washabo, without consulting or informing the Indigenous People in advance. In September 2005, for example, concessions had been issued to eight forestry, two aggregate mining (gravel) companies and two mining companies exploring for bauxite, without the free, prior and informed consent of the Indigenous inhabitants.

Communication between the management of these various companies and the village leaders is not always what it should be. The activities of the companies do not yield any economic gain for the villages, while the number of workers from the villages who are employed by the companies is very small. In addition, the village leaders receive complaints about poor and unpaid wages, as well as about poor working conditions.

These experiences pushed the Indigenous Peoples to become more aware of the need to obtain legal recognition for their rights to the land they have been occupying and using for generations, as well as the importance of taking development into their own hands. Up until now the Indigenous Peoples have been excluded from decisions that have significantly affected their lives, and this is something they want to change. They want to achieve this change by urging the government to legally recognize their rights to the land they have been occupying and cultivating since time immemorial, and to ensure that the

companies respect their obligation to comply with national and international rules concerning activities on or near Indigenous territories¹.

In a letter dated September 21, 2006 (see annex 1) addressed to BHP Billiton and Suralco, the village leaders of Apoera, Section and Washabo pointed out that these companies should also comply with the BHP corporate policy to “*understand, promote and uphold fundamental human rights within our sphere of influence, respecting the traditional rights of Indigenous peoples and valuing cultural heritage.*” The village leaders suggested meeting to negotiate a protocol for traditional rights, as well as for consultation and consent procedures. To facilitate this, they submitted a draft agreement to the bauxite companies (see annex 2).

In response, the bauxite companies took the position that they would neither commit themselves to recognizing the traditional rights of the Indigenous Peoples, nor would they recognize the right to free, prior and informed consent (FPIC). According to the companies, as long as the land rights issue has not been legally resolved they will not be able to make these commitments.

Consequently the talks about a consultation protocol reached a stand still. At the same time, there were also differences of opinion about a compensation arrangement² for the village leaders and about the Information and Documentation Centre (IDC)³. This led to a crisis in the Bakhuis Forum⁴. The village leaders and the general managers of the bauxite companies agreed that despite the differences of opinion, the consultations had to continue and differences that existed were to some extent resolved. However, an

¹ Such as the NIMOS and the World Bank environmental guidelines.

² This arrangement implied that the village leaders would be compensated by the bauxite companies for the time they had to spend on the ESIA process.

³ At the request of the village leaders, the bauxite companies established the IDC in Section. There was a difference of opinion about the ownership and the use of the building.

⁴ The Bakhuis Forum is a consultative body for consultation between the bauxite companies and the Indigenous communities. The general managers of BHP Billiton and Suralco, the village leaders of Apoera, Section and Washabo and their basja's and advisors, VIDS Bureau and the District Commissioner. The first meeting took place on September 21, 2006 and in first instance it was agreed to meet on a bi-weekly basis. Later on this became once a month. The minutes of the Bakhuis Forum meetings are open to the public at the Information and Documentation Centre in Section.

agreement to consult the Indigenous communities has never been signed. The companies did promise verbally they would respect traditional rights and that this would be expressed in the consultation, their support of the development process and in the agreement between the companies and the communities⁵.

The communities also wish to enter into agreements with other companies in the area (logging, aggregate mining/gravel), which would lay down provisions to respect their rights. The draft Protocol for Traditional Rights and for Consultation and Consent Procedures serves as a point of departure for consultations with the communities. The village leaders are aware that they must continue to work on their draft protocol in order to enter into stronger agreements with companies that wish to develop activities in West Suriname in the future.

The experiences with the bauxite and other companies have made the communities aware that they need solid and strong leadership for the economic development and management of their traditional territories, to ensure that the identity and culture of the Indigenous Peoples is not lost. That is why the village leaders of Apoera, Section and Washabo decided to first work on improving and strengthening their way of leading the villages. This study marks the beginning of this process.

Objective of the study

The goal of the study is to strengthen the traditional authority in the villages Apoera, Section and Washabo. Strengthening the traditional leadership must be seen as one of the pre-conditions to achieve sustainable development and management of the land that the Indigenous People of West Suriname occupy and use traditionally.

Target audience

The report was written for the communities of Apoera, Section and Washabo, so that with this information, they are able to work on establishing a solid and strong leadership.

⁵ This promise was made at the meeting of May 20, 2007 of the three village leaders with the general managers of both companies, the jurists of the Indigenous communities and of the Alcoa, VIDS Bureau and the District Commissioner of Sipaliwini

Methodology and study team

Because this study ran parallel with the study examining traditional land use of the Indigenous territory, the choice was made to employ the same local researchers for both studies. Community researchers included:

- Dina Romalo (Washabo)
- Els Linaard (Washabo)
- Henk James (Section)
- Sandra Jeffrey (Apoera)
- Marcia Jarmohamed (Apoera)

Marcia Jarmohamed was the local coordinator of the project, while for the VIDS Bureau, Carla Madsian was in charge of project coordination.

In August 2006, the researchers attended a 4 days' training workshop, conducted by Ellen-Rose Kambel and Caroline de Jong. During the training sessions, the researchers obtained information with regard to the rights of Indigenous Peoples, in particular land rights, specifically focused on the situation in Suriname. In addition the workshop dealt with various research methods and interview techniques and exercises were conducted to practice these techniques. Other issues that were dealt with are reporting, and preparing and holding presentations. In October 2006, the researchers received an additional training session conducted by Carla Madsian. During this workshop they obtained information about the study into strengthening the traditional authority and how to perform a strengths, weaknesses, opportunities and threats analysis (SWOT-analysis, see box below). They were also taught techniques for group interviews. A manual written by Ellen-Rose Kambel and Caroline de Jong for a similar study in the Indigenous villages of Lower Marowijne was used.

Following the workshops, the researchers gathered information in the villages by interviewing Elders, and by group interviews with men, women and youth. During these group interviews the SWOT method was used.

Definition:

“A SWOT-analysis is an instrument to relate strengths and weaknesses of something or someone to opportunities and threats from the environment. By performing a SWOT-analysis, a comparative assessment framework is created. On the basis thereof a strategy can be determined” (manual study into traditional authority)

The SWOT-analyses examined the strengths and weaknesses of the way in which decision-making in the villages currently takes place. The role of the village leadership as well as the role of the villagers was also examined. In addition, the analyses studied how the communities can make use of opportunities offered from outside to strengthen the traditional authority. Further, external matters that weaken the traditional authority in the villages were critically analyzed.

In total, 8 SWOT meetings were held with men, women and youth: 3 in Apoera, 3 in Washabo and 2 in Section. The results were processed in a matrix in which all strengths and weaknesses, opportunities and threats were identified. On the basis of the matrix, the participants thought about how weaknesses in the decision-making process can be addressed, and how external threats can be converted into opportunities to strengthen the traditional leadership of the villages. The participants in the SWOT meetings did not only identify the problems in the decision-making process, but also came up with solutions.

In addition to the SWOT analyses, the local researchers interviewed Elders from the communities about how decisions were made in the past. They used a questionnaire and visited Elders at their homes to conduct interviews. A total of 16 Elders told the researchers about the period before 1997. The year 1997 marks the big change that took place in the Lokono communities with regards to village governance and decision-making: They increased their leadership from one village leader who had authority over the villages of Apoera, Section and Washabo, to three separate village councils.

A third group that was interviewed consisted of ‘key figures’ from Apoera, Section and Washabo. In mid-2007, these key people created a joint forum including the three village

councils and villagers to discuss the leadership of the three villages. It is not a permanent group, and does not have a clearly defined terms of reference for membership. The point of departure is, however, that the villagers participating in the forum give support to the village authorities in Apoera, Section and Washabo. They jointly examine the bottlenecks in the decision-making and seek solutions for the problems. The first meeting of this group took place on June 4, 2007.

The first version of this report was read by the researchers to the communities in early September 2007 for corrections and additions. The Elders seized this opportunity to give additional information about how things were in the past. All adjustments and additional information were immediately included in this final report.

Main Findings

Differences between then and now

Then	Now
There was 1 captain for the three villages. The captain was assisted by <i>basjas</i> from the villages.	Each village has its own captain and <i>basjas</i> . The three councils have to work together and pursue a joint policy regarding issues that concern the three villages.
The most important task of the captain and <i>basjas</i> was to ensure peace and order in the villages.	The captains and <i>basjas</i> now have many more tasks than in the past. In addition to maintaining peace and order in the villages they also have to see to it that the government and companies that (want to) work in the traditional territory of Indigenous People, have to respect their rights.
The captain ensured an income for the village through logging.	The village leadership has to see to it that the community has social and economic gains from activities developed by companies.

<p>The captain and the <i>basjas</i> did not have to be educated. It sufficed if they could communicate well and treated others with respect.</p>	<p>Now much more is required from the captain and the <i>basjas</i>. They, and especially the captain, must be well-educated and have management skills. They must be able to communicate well and also be able to negotiate adequately with the government and the companies.</p>
<p>Elders had an advisory and mediating role.</p>	<p>Key figures have an advisory role and help to shape the policy for the three villages</p>

Recommendations from the SWOT-analyses

The SWOT results do not reveal major differences among the three villages. The strengths and weaknesses in the decision-making process identified are similar. The same applies to the external opportunities and threats. The specific problems in each of the villages do differ, however. For example, in all three communities villagers indicated there are problems within the leadership, but in each village it concerned a different problem. If we take a look at how decisions were made in the past and how they are currently taken, we see a continuation of the traditional manner of reaching consensus by means of village meetings. With this process, the vast majority of villagers agree with the position taken. Often, several village meetings are convened before a consensus is reached. All people who participated in the study indicated that it is important that everyone in the community is involved in the decision-making process. Although no limits are imposed on age and gender, women and youth feel less free to express their opinion. Therefore both groups appealed to the village authorities to enhance their participation in decision-making.

Participants in the SWOT meetings made recommendations to convert the weaknesses and threats into strengths or opportunities. The final goal is to achieve strong and good governance in the villages, which is a pre-condition for sustainable development.

The strengths in the decision-making are identified below, together with recommendations made to enhance these strengths.

1. The village leadership is in charge of running the village, with the captain as the leader and the *basjas* as the captain's assistants.

Recommendations:

- An assignment of tasks within the leadership is necessary. Each *basja* must be assigned a task for which he is responsible.
- The captain and *basjas* must receive management training so that they are better equipped to perform their tasks.
- Better communication between the captain and *basjas* is imperative. They must be informed of and coordinate activities.
- It must be clear who will substitute the captain when the captain is away from the village. The substitute captain must also be decisive. The *basjas* must also be able to make decisions and take actions when the captain is absent.
- When conflicts within the village leadership arise, these must be resolved.
- The village authority must be recognized and respected by the Government of Suriname. This will among other things create a better cooperation with government agencies.
- The captain and the *basjas* must receive a better salary so they can spend more time on governing the village.

2. The village leadership promotes the interests of the community

Recommendations:

- The village leadership must ensure good health care facilities and proper education.
- The village leadership must resolve conflicts within the village.

- The village leadership must establish rules for villagers and outsiders. These rules must be clear, in writing, so that everyone knows them. Those persons who do not adhere to the rules, must be punished by the village leadership. Rules must be drawn up for among other things:
 - i. Logging
 - ii. Tourism
 - iii. Outsiders in the village
 - iv. The use of the road Apoera-Section-Washabo by company vehicles.
- The village leadership must continue the struggle for recognition of land rights of the Indigenous People so they can decide themselves what type of development takes place in their communities.
- There must be cooperation among the three village councils with regard to issues that concern the three villages.
- The village leadership must negotiate with companies that wish to work in the traditional areas so the communities benefit from company activities. The village leadership must see to it that the communities do not suffer harm such as environmental pollution, increased prostitution, criminality and HIV infection.
- The village leadership must make written arrangements and agreements with companies about among other things terms and conditions of employment, wages, health care provisions and revenue-sharing. With the financial revenues, the communities will be able to finance projects themselves, such as care for the elderly and child care.
- Matters must be transparent. In other words, everyone must be aware of what is going on. There must be, for example, transparency of financial affairs: How much money comes in, and on what the money is spent.
- The village leadership must also see to it that company activities are monitored to ensure the companies do not pollute the environment, and that the companies comply with and implement agreements.

3. Information for everyone in the community

Recommendations:

- Communication between the leadership and the community must be improved. The community must be better informed and have appropriate amounts of time to think about matters before a decision is made.
- The community wants information before a decision is made. The people want information about, among other things:
 - Activities of the captain and the *basjas*
 - Discussions with the government
 - Discussions with the companies
 - Advantages and disadvantages of activities proposed by companies.
- Information must reach everyone. This could be achieved by:
 - Meetings
 - Discussions during community volunteer work
 - Door-to-door visits from the captain and the *basjas*
 - Community radio programs
 - An information bulletin
 - Informing organizations. If the organizations get information from the village leaders, they can pass this on to the people in the village.

4. Involvement and participation of the community

Recommendations:

- The captain and the *basjas* have too much on their plate. That is why committees have to be established with a mandate by the captain to perform certain tasks.
- The captain must never make quick decisions, but first consult the community at a village meeting.
- Negotiations must not only be conducted by the captain and the *basjas*, but also by the members of the committee.
- At meetings the captain must encourage the people to express their opinion, especially youth and the women.

- The captain and *basjas* could go door-to-door to ask people for their opinion. They should especially ask the elderly people for advice.

5. Meetings and volunteer work

Recommendations:

- Meetings must be held on a regular basis with the agenda being announced in advance. The meetings must be conducted in an orderly manner.
- The unity and cooperation in the village must be promoted. At present there is discord as a result of:
 - religious conviction;
 - conflicts between the *basja* and the captain;
 - criticism from others. For example, people who were not born in the village are afraid to give their opinion. Others are afraid to be laughed at.
- The invitation must reach everyone. The radio alone is not sufficient because not everyone has a radio or listens to the radio.
- Youth must be addressed separately so that they also participate in the meetings and community volunteer work.
- The village leadership must meet regularly with the committees..
- The village leadership must encourage the people to take part in the meetings and the mission work. In the past this was obligatory and those who did not participate were called on by the captain.

6. Direct contact between the village leadership and the villagers

Recommendations:

- There must be a village office that people can turn to and where a *basja* or the captain is always present. At the village office there is more privacy to talk about personal problems. This is also good for outsiders, because then they know where to report.

- The captain and the *basjas* must visit the people in their homes.
- The captain must pay special attention to youngsters, talk to them and exchange thoughts.
- The people must be able to discuss their problems with the captain. The problems may be personal, they may concern problems of the village and the captain must help to find a solution to the problem in question.

7. The village leadership motivates the villagers

Recommendations:

- The youngsters must be motivated to participate more actively in the activities of the village. This could be achieved by talking to them personally and by organizing activities for them e.g. sports activities. The youngsters believe that it is important that the captain talks to them and asks their opinion.
- The captain and the *basjas* motivate the people by participating themselves in the activities in the village, such as mission work.
- The captain must encourage and support initiatives of villagers.

Conclusion

Apoera, Section and Washabo have distinct social and political structures in their decision-making. A key element of these structures is consensus through information and participation. Members of the villages have also expressed the need to achieve strong leadership, not only for peace and order within the villages, but to bring about sustainable development for the Indigenous People. It is this strengthened leadership, supported by the community, that will protect their rights as Indigenous People in negotiations with the government and companies acting on their traditional territories. Participants of this research clearly indicated that the Indigenous People cannot be left out of the negotiating process and must actively participate in all policies and decisions that will affect their lives.

The villages will each have to take a number of measures if they actually want to improve their leadership. Each village will have to consider measures that are suitable to their own specific circumstances. The recommendations were made by the villagers themselves and they should also be involved in formulating next steps. The manner in which this will be done, is something that can be determined by the villagers and village leaders jointly.

Cooperation is required on issues that affect all three communities. Community members should also participate in this cooperative effort. An initial impetus to that effect was establishing the forum in which villagers actively participate in the policy formulation of the three villages. This effort has to be continued, so that the forum continues to exist and does not fizzle out. Among other things the following should be worked on:

- Greater participation of villagers, particularly representatives of diverse groups within the community, including women and youth.
- Ensuring there are meeting minutes, so that everyone is able to know which topics were dealt with and what views were brought forward.
- Ensuring members of the forum comply with its rules.
- Conducting evaluations of the forum regularly to examine how it can function more effectively.
- Considering giving the forum official recognition as a policy body of the three villages.

ANNEX 1: Letter of the village leaders of Washabo, Section and Apoera to the bauxite companies, September 2006

West Suriname, September 21, 2006

To:

Mr. E. Scholtz

Managing Director BHP Billiton

&

Mr. W. Pederson

Managing Director Suralco LLC

Dear Mr. Scholtz and Mr. Pedersen,

Thank you for your letter of June 1, 2006, and for agreeing to participate in our Paramaribo workshop on June 26th to continue our discussions with respect to the proposed developments affecting our traditional territories. We would like to address several issues raised in your letter as well as in the workshop.

1. Recognition of rights, traditional territories and mapping

In your letter you note that “*the topic of traditional rights recognition is an important yet challenging and complicated nation-wide issue between the government and indigenous people of Suriname.*” Further, while you consider yourselves “stakeholders” on this issue, you say you are not clear “*how best to constructively contribute to resolution of this issue.*” You also note and understand “*the desire of the communities to map land use*” but you “*do not believe it necessary to complete the entire mapping exercise in order to assess impacts to lands that may be affected by the project.*”

We would like to begin by noting BHP’s 2005 policy to “*understand, promote and uphold fundamental human rights within our sphere of influence, respecting the traditional rights of Indigenous peoples and valuing cultural heritage.*” As you know, “traditional rights” have not been defined in Surinamese law. In order to fulfill BHP’s policy, it is necessary to first define what “traditional rights” mean in the case of the affected communities in West Suriname. In order to do this appropriately, we have suggested the negotiation of a protocol on traditional rights as well as consultation and consent procedures, which you agreed to negotiate with us in a workshop in May 2005. Such a protocol would greatly clarify how to go about respecting traditional rights, and is within your mandate and certainly your sphere of influence.

With regards to the national context, BHPB and Alcoa can be leaders in this regard by showing that it upholds these rights even if there is no explicit legal backing within

Surinamese law. Suriname's international commitments, which are incorporated into Surinamese law via the Constitution, require FPIC for activities that affect traditionally owned indigenous territories. They can also encourage the Surinamese government in resolving land rights issues as a win-win-win situation for everyone: the companies have increased certainty over their investments and clarity with regards to which areas are Indigenous territories, as well as reduced potential for conflict including recourse to international courts, which will invoke the liability of the State as well as reputational and commercial risk of the companies; the government can meet its international commitments, while at the same time being more confident in attracting companies to explore opportunities in conditions where conflict is reduced; the communities can begin planning the use of their territories in ways that meets their own criteria for sustainable development, which may also include extractive industries.

You could also, as we have previously suggested, contribute towards enabling conditions for us to map our traditional lands, for example through establishing and providing funding for a documentation centre that could also house our mapping tools.

2. Protocol for Free, prior and informed consent

While you say that BHPB and Alcoa do not have a commitment to FPIC in their corporate policies, please let us remind you again that you publicly committed to this in May 2005. In addition to the above cited policy that recognizes Indigenous Peoples' traditional rights, the ICMM Sustainable Development Framework to which both Alcoa and BHPB subscribe states that the companies will "*Ensure that appropriate systems are in place for ongoing interaction with affected parties, making sure that minorities and other marginalized groups have equitable and culturally appropriate means of engagement*" (emphasis added). ICMM's 2006 draft Position Statement on Indigenous Peoples contains similar language including a specific reference to FPIC. For Indigenous peoples, "equitable and culturally appropriate means of engagement" means that they are enabled to engage in their own internal consultation and consent procedures, and these processes may result in communities saying "no" to a given project. These internal processes must follow any external interactions in means that are appropriate to the peoples' customs. All this to say that BHP and Alcoa's policies could indeed be interpreted as endorsing FPIC.

Regardless of interpretation, you infer that you need a social license to operate, and that you would not do so "*if there was overwhelming community opposition*". The communities themselves need to define what that phrase means for their communities. For this reason, as well as the arguments made above, a clear consent protocol is key.

We would like to clarify your misinterpretation of our reference to BHP's Ekati mine in Canada. In our correspondence we noted that BHP's consultants could not engage in studies in the community without going through the appropriate consent procedures that the community has put in place. When you do research in Lutsel K'e – in fact in all communities in the Northwest Territories – it is common and ethical procedure to obtain the free, prior and informed consent of the Band and Council first, for agreeing that the

study go ahead, and second, the individual consent from any person taking part in the study. There are formal rules set in place and consent forms to be filled out to ensure that these ethical principles are not violated. We did not say that free, prior and informed consent was part of the diamond mine approval process. Indeed, if you read the case study the North-South Institute wrote about this diamond mine (available at <http://www.nsi-ins.ca/english/pdf/lk-en.pdf>), you will see that it clearly states that community members felt they did not have any option – that the mine was going to go ahead regardless, that they were not consulted properly at all, and indeed, they did not give their consent to the mine. They did agree to negotiate an Impact Benefit Agreement, and they also agreed to accept funding from BHPB to carry out GIS work and to map their traditional use areas, among other funding for different activities.

In the case of Peru, we know that the agreement BHP had with the affected communities recognizes consent. What we do not understand is why you seem to have different standards for operations taking place in different places. Why couldn't you formally recognize consent in Suriname, if you have in Peru? Why couldn't you recognize the need for appropriate ethical and consent procedures regarding research, if these are the requirements for work undertaken in communities in Canada? Surely the companies should seek to raise the bar wherever they operate regarding sustainable development and upholding fundamental human rights.

In order to help clarify our own policies on the matter, we are attaching our draft regulations and requirements protocol for your comments (Appendix 1). We will be building on this draft in the coming months, but encourage the companies and their consultants to use this version as of now.

Please note that while we appreciate your efforts at building a direct relationship with us, we are asking that all communication regarding future activities in our communities go through VIDS as per our protocol. They were unaware of your initial meeting with us in May regarding the Transportation ESIA as you did not invite them directly, and we did not contact them because we were unaware that this was a distinct activity and separate from the ongoing Mine ESIA. In addition, VIDS has not been involved in deliberations regarding the community Documentation Centre. We have asked VIDS to be intermediaries for us on these developments and communications with you, and to provide long-term technical and legal support for us precisely because of the possibility of the type of confusion mentioned above regarding the mine/transportation ESIA. As you can imagine, this is all extremely new for us.

3. Inclusion of Indigenous Peoples' knowledge

We also appreciate your efforts and commitment to including Indigenous knowledge in future studies. As we noted at the June 26th workshop, the process you have followed for selecting potential candidates is not one we wish to encourage. You did not, as your letter states, consult with the captains and enable us to freely select from our communities members who are knowledgeable in the specific areas. Instead the “consultation” was constrained to a pool of potential candidates that had previously been hired by the

company. We would like to encourage ongoing hiring of community members for all ESIA studies, but in meaningful consultation with us, which means that we have the choice of who in our communities would be the best person for the job.

With regards to the traditional knowledge study you proposed in your letter, and that your consultants have now undertaken, please note that any studies that involve traditional knowledge need to have both the consent of our traditional authorities as well as the consent of the individuals participating. This standard ethical research procedure was not followed in the study, and in the future we ask that no studies of this type take place until we have defined our own consent procedures for research. While there are internationally recognized standards for working with Indigenous Peoples on these issues that SRK consultants should have followed, we will be tailoring these to our own needs in the future and expect any researchers wanting to work in our traditional territories -- especially on traditional knowledge studies -- to follow our procedures.

4. Documentation Centre

We are looking forward to hearing back from you regarding our recent letter concerning the documentation centre.

5. Inclusion of other potentially affected communities

We are pleased that you are now including in your studies Witagron, Kaaimanston and Kwamalasamutu. We are very concerned that in your letter you did not include Wanapan and other communities in the Wayombo . However, we also note that at the workshop you did make a commitment to include the Guyanese communities especially in the Transportation ESIA, as well as the Wayombo communities. It is common practice to look at the scope of the ESIA for a given project from a watershed and airshed perspective, rather than from a political jurisdiction perspective, including all communities affected.

6. Scoping Document

We are pleased that you are working to provide us with a plain language, Dutch version of the scoping document, as well the original as soon as possible, and that you will make it available for our review and comments. We are also pleased to hear that the SRK team will be updating the Plan of Study and providing it to the other communities that will be included in the work for their review and comment, taking into consideration lessons learned from the information-sharing, translation and other technical/communications issues that surfaced from sharing this document with Apoera, Section and Washabo.

7. Other

We would very much like to have access to the schedule/timeframe for the planned Mine and Transportation ESIA's, and any relevant supporting documentation, so we can know

in advance what the milestones and dates and plans are. When will you start scoping for the Transportation ESIA?

We would also like clarification of what the new “water developments” are with regards to Bakhuis that you mention in the letter that you think would result in impacts to other the downstream communities. Could you please elaborate?

Finally, we understand that there has been no action or thinking with regards to Kabalebo since the first formal presentation in May 2005, which is why Mr. Pedersen did not give a presentation at our June 26th workshop. However, as you know, there has been much in the press regarding the “integrated aluminium industry” in the West, which includes plans for Kabalebo, a smelter in the West, the potential diversion of the Jai Kreek/Tapanohony, etc. This is also highlighted in the government’s multi-year plan. Can you confirm whether or not any studies have taken place between May 2005 and now? If so, could you please make these available to us? Please note that we have heard that a study was conducted on the Lucie Diversion, and we would very much appreciate a copy of this.

In closing, please know that we are pleased that SRK has assigned two senior consultants to help improve current engagement with affected communities. We look forward to working with him and the team in making the outcomes of this work of the highest quality, and precedent-setting for Suriname. In respecting our traditional rights and our rights under international law, the companies will have the opportunity to work with us to ensure the highest sustainable development standards are met for the benefit of our future generations.

Yours truly,

R. Mac-Intosh

N. Arupa

C. Lewis

Village leader Washabo

Village leader Section

Village leader Apoera

cc. the Minister of Natural Resources, NIMOS, Bauxite Institute, DC Strijk, ICMM

encl/ Recommendations from the June 26th presentation

ANNEX 2: Agreement between the Indigenous Peoples of West Suriname and BHP/Billiton and Suralco NV (Draft 2006)

Considering that BHP/Billiton and Suralco NV have signed Memoranda of Understanding with the State of Suriname which grant rights in relation to bauxite deposits in the Bakhuis area of West Suriname as well as the development of hydro power in the Kabalebo River and surrounding area, and that these companies have made considerable investments to define the nature and the feasibility of mining these bauxite deposits;

Considering also that BHP/Billiton and Suralco NV are presently negotiating with the State of Suriname to define and secure rights and permits to mine and otherwise exploit the Bakhuis area bauxite deposits, including for the construction of associated infrastructure, and Kabalebo hydro power potential, and that an Environmental and Social Impact Assessment in relation to the bauxite mining has commenced;

Further considering that the Bakhuis area is part of the traditional territory of the indigenous peoples of West Suriname on which they depend for their cultural, spiritual and physical sustenance and well-being, and that mining and associated infrastructure plans will affect them as well as indigenous peoples in the Wayambo region;

Acknowledging that the rights of indigenous peoples to own and control their traditional lands, territories and resources and to participate in and consent to decisions that affect them are not explicitly recognized in the laws of Suriname, and that this absence of effective legal protections for the rights of indigenous peoples exposes BHP/Billiton and Suralco NV to reputational, commercial and legal risk, and undermines the effective exercise and enjoyment of the rights of indigenous peoples;

Observing that, while indigenous peoples' rights are not explicitly recognized in the laws of Suriname, these rights are nonetheless guaranteed and protected by international human rights law, which is binding on the State of Suriname, and applicable in relation to the acts and omissions of the State and those authorized by the State by virtue of international law and via Article 103, 105 and 106 of the 1987 Constitution of Suriname;

Observing also, consistent with Inter-American human rights law, that the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the United Nations Human Rights Council on 23 June 2006⁶ provides, in Article 26, that

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

⁶ UN Doc. A/HRC/1/L.3, 23 June 2006

3.States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

and, in Article 30, that;

1.Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2.States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources.

3.States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Acknowledging also that BHP/Billiton’s Sustainable Development Policy, states that BHP/Billiton will “ensure [that] we understand, promote and uphold fundamental human rights within our sphere of influence” and respect “the traditional rights of Indigenous peoples and valu[e] cultural heritage;”

Further acknowledging the BHP/Billiton and Suralco NV have publicly stated their desire and intention to ensure that the development of mining in West Suriname represents a ‘win-win’ situation for all involved, and that the indigenous peoples of West Suriname have affirmed that this cannot be achieved without full respect for their rights and interests and the development and maintenance of relationships based on mutual respect;

IN ORDER TO ACHIEVE A MUTUALLY RESPECTFUL AND BENEFICIAL RELATIONSHIP AND TO REDUCE THE RISKS TO THEIR RIGHTS AND INTERESTS, the indigenous peoples of West Suriname, as represented by their traditional authorities who exercise their authority pursuant to the consensus of their respective communities in accordance with their customary laws (hereinafter ‘the indigenous peoples’), and BHP/Billiton and Suralco NV, as represented by their undersigned duly authorized officers (hereinafter ‘the companies’)

–

HEREBY AGREE AND COMMIT TO THE FOLLOWING:

Article 1 – Indigenous Peoples’ Traditional and Human Rights

1. The terms ‘traditional rights’ and ‘fundamental human rights’ shall be understood in accordance with international human rights law, in particular as defined by the Inter-American Commission and Court of Human Rights and the United Nations Committee on the Elimination of Racial Discrimination, and by the indigenous peoples’ customary laws.

2. As stated in BHP/Billiton's Sustainable Development Policy, the traditional rights of indigenous peoples and their fundamental human rights shall be respected. Adequate and effective safeguards and guarantees protecting these traditional and human rights shall be included in all instruments, plans, and operations pertaining to mining in the Bakhuis area, including those pertaining to any associated infrastructure and in relation to development of hydro power potential in the Kabalebo area.
3. The companies shall promote the traditional and human rights of indigenous peoples in all negotiations with the State of Suriname in connection with bauxite mining in the Bakhuis region and any associated infrastructure, and hydro power generation, and shall strive to ensure that adequate and effective protections for these rights are included in all agreements with the State of Suriname and in any permits issued by the State.

Article 2 – Adherence to Indigenous Peoples' Regulations

1. Pursuant to and in the exercise of their traditional rights, the indigenous peoples have adopted a policy and regulations that broadly define the manner in which they shall engage in consultation processes and express their consent in relation to activities, plans and proposals that may affect them. The policy and regulations are set forth in the Annex to this agreement and are hereby incorporated by reference and shall be deemed an integral part of this agreement.
2. The companies confirm that they will adhere to and comply with the indigenous peoples' policy and regulations as the basis for their engagement with the indigenous peoples.
3. The indigenous peoples shall not amend or otherwise alter the policy and regulations without providing a minimum of 90 days notice to the companies.
4. In the case of a significant amendment to or revision of the policy and regulations that may materially affect the interests the companies, the indigenous peoples shall consult the companies with a view to obtaining their agreement to the proposed amendment or revision at least 90 days prior to enacting the amendment or revision.

Article 3 – Dispute Resolution

1. In the event of a dispute concerning any aspect of this agreement, the indigenous peoples and the companies shall establish a committee composed of three (3) persons representing the companies and three (3) persons representing the indigenous peoples. This committee shall have the authority to act on behalf of the parties and shall attempt to resolve the dispute through dialogue and negotiation.
2. This committee shall adopt mutually acceptable and written terms of reference and procedures to govern its attempts to resolve the dispute.

3. Unless the parties decide otherwise, the committee shall examine and attempt to resolve each dispute under consideration within a 120 day period.
4. The parties shall not pursue legal or other remedies without first seeking to resolve the dispute in accordance with sub-paragraphs 1-3 above.

Signed on this the ____ day of _____, 2006;

On behalf of the Indigenous Peoples:

On Behalf of the Companies: ADD NAMES

ANNEX 3: Policy and Regulations on Consultation and Consent Processes Adopted by the Indigenous Peoples of West Suriname (2006 Draft)

1. **Principle and Rationale:** In accordance with international law and human rights instruments ratified and binding on the State of Suriname, the indigenous peoples and communities of Western Suriname are the legitimate owners of the lands, resources, waters and territories traditionally owned or otherwise occupied and used by us in accordance with our customary laws. This is confirmed by, among others, the Inter-American Court of Human Rights in the *Case of Moiwana Village v. Suriname*, which stated that:

this Court's holding with regard to indigenous communities and their communal rights to property under Article 21 of the Convention must also apply to the tribal Moiwana community members: their traditional occupancy of Moiwana Village and its surrounding lands – which has been recognized and respected by neighboring N'djuka clans and indigenous communities over the years (*supra* paragraph 86(4)) – should suffice to obtain State recognition of their ownership.⁷

Despite this, Suriname's policy and laws have denied the indigenous peoples our right to control and manage our traditionally owned territory and resources. As a result, we have considerable concerns regarding the nature and extent of development within our territory and the effect such development may have on our cultural integrity and the exercise and enjoyment of our indigenous and human rights. As a first step to prevent further damage and expropriation, this policy and regulations, adopted by us in XXXX 2006, is intended to ensure that consultation processes and other activities that may affect us are understood and undertaken in a way that is respectful of our inherent rights, is culturally appropriate, and respects our obligations to our past, present and future generations.

2. **Permission to Consult:** This policy and regulations cover only permission to consult with us and the general principles pertaining to consultation, which is a prerequisite to obtaining our free, prior and informed consent regarding activities affecting our traditionally owned lands, waters and territories. In order to be fully informed of the impacts of a project we require a process of culturally appropriate engagement and information sharing, a full environmental and social impact assessment and a formal role in the impact assessment process and any measures adopted to implement the results of the assessment through out the life of the project.

3. **The FPIC Process:** We can only consider giving our free, prior and informed consent to large-scale projects following an environmental and social impact assessment and negotiation of a legal Impact Benefit Agreement (IBA) and/or other necessary agreements.

4. **Application to Consult:** All persons or groups wishing to work, research or start a project in Western Suriname must complete an "Application for permission to consult" which must be approved by the Indigenous Peoples' representatives in advance. The

⁷ *Case of Moiwana Village v. Suriname, Judgment of June 15, 2005*, Ser. C, No. 124, at para. 133.

Association of Indigenous Village Leaders in Suriname (VIDS) may be asked if there is any doubt whether a specific project needs to complete this application form. In general, the “Application for Permission to Consult” is directed primarily at private sector projects that may have negative impacts, such as mining, logging, artisanal mining, road building or significant upgrading, bridge building, ports, factories and significant infrastructure.

5. **Application Form:** The form to apply for permission to consult can be obtained from the three community Captains or from VIDS, Paramaribo. The application form should be completed and three copies, one for each of the three Captains, in Dutch (copies in English appreciated). The three applications should be delivered to the three Captains or to their representatives or to the Council, in person, or to VIDS. The completed application forms should be accompanied by a processing fee commensurate with the size of the proposed work. (total project costs, number of expected employees)

6. **International Standards:** The applicant is required to confirm and provide supporting information demonstrating that the proposed project will fully comply with specified international standards and best practice, including international human rights norms. Information pertaining to an environmental and social assessment must confirm that the ESA will fully meet international standards, such as FPIC, IBA, and the Akwe:Kon Guidelines (which are the product of discussions by signatories to the Convention on Biological Diversity, ratified by Suriname), and that the ESA will be undertaken jointly with the Indigenous Peoples..

7. **Legal Entity:** The applicant must show they are a legal entity, registered by the government of Suriname.

8. **Logistics:** The communities offer to find suitable buildings, chairs, tables, refreshments, and lunch etc for each presentation upon request from the proponent. The communities will bill the proponent for provision of such services. Portable generators are not available in the communities. The Captains or their representatives are responsible for inviting representative numbers of each community to attend the presentations. Reasonable compensation for opportunity costs related to attending the meeting is expected (Annex x). A visit by representatives of the communities to the site of the proposed project and/or a similar existing project is required.

9. **Decisions:** After the presentations, discussions by the communities and site visits, *if the communities agree that consultation may begin*, that decision will be communicated promptly. *If there is uncertainty about the proposed project*, the communities will request clarification. In cases of uncertainty, decisions must be expected to take longer.

10. **Elements of the Consultation Process:** If an application for permission to consult has been accepted, the following are fundamental elements of an acceptable and effective consultation process – additional and more specific elements may be required depending on the nature of each application:

- (a). The proactive dissemination of all relevant information at least four (4) weeks prior to scheduled meetings. Copies shall also be submitted to the VIDS. The information must be in non-technical, simple language, and be sufficient to provide the basis for meaningful discussion. Audio-visual materials are often useful aids in explaining projects and other matters.
- (b) Meetings, which will always be presided over by the Captain of the village, unless otherwise stated, should be conducted in Sranan Tongo⁸ and shall be of sufficient duration to ensure that those in attendance can understand the subject matter and the underlying rationale for the proposed activity. If necessary, periodic evaluations should be held throughout the meeting to verify that people understand the material. The use of graphics, maps, posters, and video is recommended rather than sole reliance with the written word. The duration of the presentations shall be commensurate with the complexity of the proposed project. An average presentation would be about half a day (3 hours). The presentations shall be in Sranan Tongo.
- (c) The proposed agenda for any meetings must be submitted to the communities no later than four (4) weeks prior to the scheduled date and the communities shall have the rights to add to the agenda or otherwise propose modifications. Such proposals shall be accepted unless they are manifestly unfounded or irrelevant.
- (d) Unrealistic deadlines from the proponent will automatically be rejected. The communities must not be required to make a decision at the end of a meeting, unless they so decide. Cultural characteristics and differences must be accounted for. Indigenous decision-making processes are usually diffused and consensus based. Extended discussions at the community, extended family and household levels often take place before consensus can be reached and this process must be respected.
- (e) There must be adequate feed back to the communities subsequent to consultation so that they may see to what extent their views have been accounted for and to ensure that their views have been understood correctly. It is not unusual for comments to be misconstrued and faulty assumptions to be based on those misunderstandings. This is often the cause for conflict at a later date.

⁸ The proponent is responsible for providing translation.