

**Public Statement by
Rt Hon Sir Mekere Morauta
Port Moresby, 20 June 2016**

Date set for constitutional challenge to illegal expropriation of PNGSDP shares in Ok Tedi



The Supreme Court has set 1 July as the date for a hearing on the right of Sir Mekere Morauta to challenge the constitutionality of the O'Neill Government's illegal expropriation of PNG Sustainable Development Program Ltd's 63.4 percent shareholding in Ok Tedi Mining Ltd.

Sir Mekere is seeking standing to bring the challenge as a private citizen – former Prime Minister and senior public servant, businessman, economist, chairman of PNGSDP and former chairman of OTML.

He announced in January 2016 that he had begun new legal proceedings seeking to have the Mining (Ok Tedi Tenth Supplemental Agreement) Act 2013 declared unconstitutional and invalid.

Should the Court declare that Sir Mekere has standing, a full trial of the substantive issues will follow.

Sir Mekere believes serious Constitutional issues arise from the fact that the Government through the Parliament illegally expropriated SDP's 63.4 percent shareholding in Ok Tedi Mining Ltd.

He said the decision to proceed with the constitutional case came after the State had repeatedly failed to agree to a fair and legally binding negotiated settlement of the dispute, and the International Court for the Settlement of Investment Disputes found it did not have jurisdiction.

Sir Mekere said his decision to proceed with the case was based on his rights as a citizen to ensure that the laws of Papua New Guinea are fair and reasonable and comply with the Constitution.

Sir Mekere believes the Tenth Supplemental Agreement Act offends a number of sections of the Constitution, especially Sections 38, 39 and 41, which deal primarily with legal rights and freedoms, whether laws are reasonable and justified or whether they are harsh, oppressive and unwarranted.

He also maintains that it is inconsistent with the UN Universal Declaration of Human Rights, which states that "everyone has the right to own property alone as well as in association with others" and that "no one shall be arbitrarily deprived of his property".

The Constitution states that a PNG court may take this into account in deciding the constitutional validity of laws.

Sir Mekere is seeking a number of declarations by the Supreme Court, including that the Act is unconstitutional, the return of PNGSDP's 63.4 percent shareholding, the reinstatement of the former board of Ok Tedi Mining Limited, the immediate payment of outstanding dividends to PNGSDP, the cessation of attempts to restructure PNGSDP into a State entity and the payment of damages, with interest.

Should the Court refuse to grant standing this will end the proceeding.

Other parties in the proceeding are the Minister for Justice and Attorney-General, Ano Pala, the Speaker, Theodore Zurenuoc, Prime Minister Peter O'Neill, the National Executive Council and the State.

The constitutional challenge is in addition to other cases between PNGSDP and the State in Papua New Guinea and Singapore.