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18 UNITED STATES DISTRICT COURT
 19 CENTRAL DISTRICT OF CALIFORNIA
 20 WESTERN DIVISION

21 ALEXIS HOLYWEEK SAREI, et al.,
 22 Plaintiffs,
 23 v.
 24 RIO TINTO, plc. et al.,
 25 Defendants.

26 No. 00-11695 MMM AIJx
 27 DECLARATION OF SIR MICHAEL
 28 SOMARE, FORMER PRIME MINISTER
 OF PAPUA NEW GUINEA

29 I, Sir Michael Somare, hereby declare as follows:

30 **My Background and Experience**

31 1. I am the former Prime Minister of Papua New Guinea
 32 ("PNG"). I am over the age of twenty-one and have personal
 33 knowledge of and am competent to testify to the matters stated
 34 below.

35 2. I was the first Prime Minister of PNG and served in that
 36 capacity from September 16, 1975 to March 11, 1980, and again from

1 August 2, 1982 to November 21, 1985. Prior to becoming the first
2 Prime Minister of PNG, I have served as a member of Parliament from
3 1968 until the present day.

4 3. I am one of the principal architects of PNG's
5 Constitution.

6 4. Additionally, I have served PNG in the following official
7 capacities: In 1973 I acted as First Chief Minister in the PNG
8 Government which was then under Australian administration; In 1999 I
9 was appointed as minister responsible for Foreign Affairs and
10 Bougainville, during that time I was also Minister for Mines.

11
12 **The Relationship Between BCL and the Government of PNG**

13 5. Through BCL, Rio Tinto exerted and exercised significant
14 control over the government's actions on Bougainville.

15 6. PNG was BCL's minority partner at the Panguna mine. As
16 the minority partner, the government took direction from BCL. The
17 government coordinated with BCL (i.e., Rio Tinto) on all activities
18 related to Bougainville, the mine and the government's efforts to
19 reopen the mine. This was the way business at the mine was
20 conducted; BCL gave the orders and the government executed them
21 with the company's assistance and cooperation.

22 7. As BCL's partner at the Panguna mine, one of the PNG
23 government's primary responsibilities was maintaining the security
24 to ensure the continued operation of the mine. Strong security
25 measures were needed in light on the local and long-standing
26 opposition to the mine.

27 8. The mining operations at Panguna were a critical part of
28 the PNG government's commercial endeavors. PNG was BCL's minority

1 partner at the Panguna mine, and whenever government action was
2 called for on Bougainville, BCL was the one that requested it.

3 9. None of the actions taken by the PNG government
4 concerning the allegations in this litigation were taken for any
5 purpose other than as part of a private, profit-making commercial
6 enterprise. More specifically, the actions taken by PNG to reopen
7 the mine were not done for any public benefit, except derivatively
8 as the money the government made in its joint venture with BCL
9 would trickle down to benefit the PNG citizenry.

10 10. Rio Tinto understood that its instructions to the PNG
11 government concerning or affecting the mine would be followed, as
12 that had always been the case when it came to matters involving the
13 Panguna mine.

14 11. Furthermore, because of the economic needs of the
15 government, BCL knew the PNG government would take strong action to
16 reopen the Panguna mine. In fact, after the mine was shut down,
17 BCL pressured the PNG government to ensure that the government
18 would do everything in its power to reopen the mine by threatening
19 to pull all of its investments out of the country entirely. At the
20 time, and throughout the 1980s and 1990s, Rio Tinto was investing
21 heavily in PNG, in exploration, reinvestments in Panguna, the
22 planned "Hidden Valley" project and the gold mine on Lihir Island.
23 Rio Tinto's continued investment in PNG was vital to the
24 government: the continued viability of the government, and
25 derivatively the welfare of PNG citizens, was dependent on revenue
26 from the Panguna mine.

27 12. In order to prevent Rio from abandoning all of its
28 investments in PNG, the government complied with Rio Tinto's

1 demands. These demands included, as the plaintiffs' complaint
2 alleges, the demand that the medical blockade continue until the
3 government had "starved the bastards out" and the mine was
4 reopened. Had BCL not directed PNG to initiate the blockade and
5 continue it, the blockade would not have occurred, or last for the
6 many years that it did.

7 13. In sum, because of Rio Tinto's financial influence in
8 PNG, the company controlled the government. The government of PNG
9 followed Rio Tinto's instructions and carried out its requests.
10 The actions taken by PNG in an effort to reopen the Panguna mine
11 and suppress the local rebellion are examples of where PNG followed
12 Rio Tinto's instructions. The actions taken by PNG were done to
13 further a private commercial enterprise so that BCL and PNG could
14 continue to reap the large profits from their joint business
15 venture.

16 **BCL's Was Involved in the Atrocities**

17 14. BCL was also directly involved in the military operations
18 on Bougainville, and it played an active role. BCL supplied
19 helicopters, which were used as gun ships, the pilots, troop
20 transportation, fuel, and troop barracks.

21 15. BCL's involvement in the atrocities alleged in this
22 litigation was much more than direct participation. BCL, the mine
23 and the large profits its operation generated, were the reason for
24 the actions.

25 16. Even before the bloodshed began, BCL knew bloodshed was
26 likely to occur because it instructed the government of PNG to
27 reopen the mine "by whatever means necessary." It was thus my
28 understanding (and the common understanding) that BCL supported and

1 ordered PNG's military involvement, including the inception and
2 continuation of the blockade, to achieve the desired result of
3 reopening the mine and restarting this highly profitable commercial
4 venture.

5 17. Over the years, I had several meetings with BCL officials
6 about Bougainville and the Panguna mine. At one meeting between a
7 senior representative from Rio Tinto, BCL's manager, myself and
8 others, we discussed the killings and injuries that had occurred in
9 the fighting to reopen the Panguna mine. During the course of the
10 discussions, the representative from Rio Tinto instructed us as the
11 government of PNG to continue the blockade and fight
12 Bougainvilleans until the mine was reopened.

13 18. Ultimately, it is my opinion that absent Rio Tinto's
14 mining activity on Bougainville or its insistence that the Panguna
15 mine be reopened, the government would not have engaged in
16 hostilities or taken military action on the island. Although there
17 is a historic tension between Bougainvilleans and the government of
18 PNG, the tension would never have lead to a civil war without Rio
19 Tinto and its command that the government take all necessary action
20 to reopen the mine.

21 **The Peace Process and this Litigation**

22 19. As the Court is aware, a peace agreement has been
23 reached over the Bougainville conflict. Negotiations between
24 representatives of the PNG government and the people of
25 Bougainville began in earnest in July 1997, and concluded with the
26 signing of the Bougainville Peace Agreement at Arawa, Bougainville
27 on August 30, 2001. These negotiations were not affected (and have
28 never been affected) by the existence of the litigation before this

1 Court, which was brought by residents of Bougainville against Rio
2 Tinto and its affiliate in September 2000. At no time did Rio
3 Tinto or its affiliates participate in the negotiations. Further,
4 Rio Tinto and its affiliates have not been an active participant in
5 the negotiations and, to my knowledge, they have no legal interest
6 in the subjects negotiated. To be sure, Rio Tinto and its officers
7 (just as all people who conduct business on Bougainville) will
8 benefit from the peace agreement, including they might receive
9 amnesty from criminal prosecution under PNG's criminal laws for
10 their participation in the atrocities. However, no provision in
11 the peace agreement addresses or resolves any civil liability or
12 international law claim, which I understand are the issues in this
13 litigation.

14 20. Furthermore, the steps remaining to implement the peace
15 agreement will not be affected by this litigation. The steps that
16 remain for implementation of the Peace Agreement involve changes to
17 the PNG Constitution, which will provide for a referendum on
18 Bougainville Independence in 10-15 years time, the disposal of
19 weapons, and taking necessary steps for the establishment of
20 certain autonomous political structures between now and the
21 referendum. These are steps that will occur at political levels
22 and involve marshalling public support for the Peace Agreement.
23 Rio Tinto and its affiliates will not be involved in these
24 activities, and such activities will not be affected by the
25 continuation of this litigation.

26
27 I was recently made aware of the PNG government's
28 representations to the US State Department about this litigation. I

1 find these representations offensive and inaccurate. I believe that
 2 these recent turn of events would not have taken place without Rio
 3 Tinto's application of some influence upon government
 4 representatives. I form this view given the experience I have had
 5 with Rio Tinto and BCL's representatives in the past, in addition,
 6 I have been reliably informed that Rio Tinto did send their
 7 representatives to make representations at the highest political
 8 and administrative levels.

9
 10 I, Sir Michael Somare, declare under penalties of perjury
 11 under the laws of the United States that the foregoing is true and
 12 correct.

13 DATED: November 23rd, 2001, and signed at Wargau.



14 _____
 15 SIR MICHAEL SOMARE