

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL
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COMMISSION OF INQUIRY INTO SABL

MR ALOIS JEREWAI

COMMISSIONER

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TOP FLOOR, MURUK HAUS, WAIGANI, FRIDAY 7 OCTOBER 2011 AT
10.35 A.M.
(Continued from Thursday 6 October 2011)

COMMISSIONER JEREWAI: Yes, Counsels what have we this morning?

MR KETAN: Morning Commissioner. This morning we had two matters initially set for today or adjourned from the previous week, but there are two other matters set also for today. The first one is the matter of Roselaw and the second one is Purari Development Association Incorporated.

COMMISSIONER JEREWAI: And the adjourned matters?

10 MR KETAN: The adjourned matters, one is Urasir Resources Limited.

COMMISSIONER JEREWAI: That is the one adjourned from Wednesday.

MR KETAN: Yes. We are not- - -

COMMISSIONER JEREWAI: I also have Abeda Agro Forestry.

MR KETAN: Abeda Agro.

20 COMMISSIONER JEREWAI: Adjourned for Wednesday?

MR KETAN: Yes. Abeda Agro and Urasir Resources Limited, if those matters can be stood down to the afternoon. We are not quite ready with the statements to be dealt with the other matters that are scheduled for the afternoon.

COMMISSIONER JEREWAI: All right, those two matters are stood down to 1.30.

30 MR KETAN: Yes. With the matter of Roselaw and Purari we are ready with the opening statement on Purari Development Association and we should also be able to open Roselaw as well this morning.

COMMISSIONER JEREWAI: All right, Counsel you can proceed.

40 MR KETAN: On the Purari Development Association matter Mr Commissioner I appear with Mr Wemen Boi the lawyer-cum-technical adviser having carriage of the matter. This SABL file – the file that we have opened, the Commission of Inquiry opened is No 45. This SABL was granted by a notice of direct grant under the hand of the former Acting Secretary Mr Romilly Kilapat of the Department of Lands and Physical Planning exercising powers as a delegate of the minister under section 102 of the Land Act [1996]. The lease was for a period of 99 years and it was over land commonly known as Purari being portion 8C milinch Auri fourmil Kikori and Karamui in the Baimuru

District of the Gulf Province. The notice of that grant was published in the National Gazette No G19 dated 25 January 2011. This is therefore a relatively recent SABL. The land area is however very big comprising of about 656,034 hectares and is said to canvass a parcel of land from the border of the Chimbu Province down to the Gulf of Papua. This SABL also includes within its boundaries petroleum prospective license No 237 and 238 said to be owned by Inter-oil Corporation in which substantial reserves of gas had been found at two drilling sites being Elk and Antelope. This discovery is commonly referred to as the second LNG project.

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10.40 am] The issue of the co-existence of the SABL and the petroleum prospective licence in the same piece of land is a matter which will need to be further researched and investigated as to the legality of that, but that will be a matter for the further inquiry. At this stage we just mention the existence of the petroleum prospecting licence. But what needs to be noted is that the issue of the grant of the petroleum prospecting licence rather over parts of the land covered by the SABL and the legal issues surrounding as to which of the two instruments take precedence over the other.

20 Being that as it may, the core business of this Commission of Inquiry or the core responsibility with which this Commission is in charge is to simply inquire into the legality or otherwise of the grant of the SABL and as to the granting of the SABL and as to the circumstances surrounding that including the development of the project or the business related to the SABL. In relation to the grant of the SABL guidance – some guidance has been received from information we have received from the Department of Lands and Physical Planning- - -

COMMISSIONER JEREWAI: Yes, one moment Counsel. If the audience can kindly note that you will put off your mobile phones and if you do not, we are
30 going to have to ask you to leave the Inquiry room.

Go on Counsel, thank you.

MR KETAN: Yes, thank you. There are some information provided by the Lands Department relating to the grant of the SABL. There has also been some information from the company's office or the Registrar of Companies, but other than that the other relevant government agencies of the Department of Environment and Conservation and Department of Agriculture and Livestock and the Papua New Guinea Forest Authority have not provided any documents
40 in relation to the SABL.

COMMISSIONER JEREWAI: Does this SABL contain large forest extracts?

MR KETAN: Yes.

COMMISSIONER JEREWAI: I suppose it will show in the latter part of the statement. Just proceed.

MR KETAN: Yes. In relation to the sequence of events or the chronology relating to the issuance of SABL, we note no lease–leaseback document on the Lands file. There is, however, on file a letter from the lawyers representing the company – the granting of SABL Messer’s Patterson Lawyers to the then
10 Minister for Lands Dr Puka Temu requesting that the land be made available for lease–leaseback and for the SABL to be granted to Purari Development Incorporated. There is also no land investigation report on file. We do not know at this stage it will be subject to further inquiries, but it may or may not have been done. The first document of note on the file is the instrument of lease for customary land. This is the lease-leaseback agreement under section 11 of the Land Act and it is dated 12 November 2011, whilst that has been signed by 48 landowner chiefs, it has not been signed or witnessed by any other of the normal parties being the persons involved in the investigations, land investigation process and the Minister for Lands.

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10.45 am] This would mean that this particular land may not have been properly acquired and leased to Purari Development Incorporated.

The haste with which the SABL has been granted is demonstrated by a brief from a Mr Lazarus P Malesa, Manager Acquisitions of the Department of Lands and Physical Planning to the acting Secretary of the Department of Lands and Physical Planning dated 17 May 2011 this year and titled “Approval of Lease-leaseback Instruments over Portion 8C, Milinch of Auri, Fourmil of Kikori and Karimui, Gulf Province”, which says in part, “Due to the Imminent Elk and
30 Antelope Gas Project, Purari Development Association Incorporated has now pushed for the whole registration of the area indicated by Department of Mining and Petroleum for the project and for integrated agro-forestry projects.”

Other than the notice in the National Gazette No 19 of 25 January 2011 granting the lease to Purari Development Association, there is no lease instrument on file executed by the minister or his delegate leasing the subject land as mentioned earlier to the grantee. However, notwithstanding, following the gazettal of the grant of the SABL on 25 January 2011, the title to this particular SABL was issued on 15 February 2011 to the grantee.

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The Grantee, Purari Development Association is, according IPA records, an association incorporated in 1982 and its registration is current. The public officer is a Mr Eria Vaih of section 506 allotment 27, Rainbow Estate, Gerehu,

National Capital District. The IPA records do not indicate as to who the current office bearers of this association are. There are also no minutes of meetings and resolutions or any information as to the assets or liabilities of that particular association.

10 Although we note that one Mr Roy Evara has submitted an affidavit to the Commission of Inquiry claiming to be the President of this Association, there is no record of his election with the IPA documents. This fact is important in our submission because the Constitution of the Association states at Clause 27 that,
10 “The President, Vice President, Secretary and the Treasurer of the Association shall be elected bi-annually at an annual general meeting of the Association held at the end of every second year.” There is no record of any elections being held for the election of the office-bearers since incorporation in 1982, and therefore, it is not possible to ascertain the executives of the Association with any degree of certainty.

20 In relation to submissions from interested persons and as stated at this stage that of the volumes of documents that we have received on this particular matter, almost 90 per cent of that has been from interested persons, the significant ones of which we mention as follows:

(i) From the grantee, Purari Development Association. They have made submissions through their lawyers of Mr Zachery Gelu of Gelu Lawyers. This is formerly Patterson Lawyers. Their submission is in the form of an affidavit from the President of the Association, Mr Roy Evara.

10.50 am] He deposes basically to his struggles to develop the Purari Basin using Purari Development Association as the vehicle and justifications for the grant of this SABL to his association – rather, justifies the grant of this
30 SABL to his association. Mr Zachery Gelu of Gelu Lawyers is representing that association.

(ii) Second interest group is Elk Antelope Gas Project Landowners Association. This landowner association lodged their application through their lawyers Kundu Legal Services to make representations to the Commission and that basically express their objection to the grant of this SABL. Their reason appears to be general in that, in view of the LNG project.

40 (iii) Arema Mari Marikari Clan of Ara’ava village, Koriki tribe, Baimuru. This is a landowner clan in the area covered by the SABL and it is represented by the Chairman, a Mr Jimmy Kari. They have made written objections to the grant of the SABL on the basis of non-consultation and

there being no land investigation carried out and public hearings conducted.

- (iv) The fourth group is interested person, Mr Manoah Karara of Maipeanaru/Onopolavi Village, Gulf Province. Mr Manoah claims to be the principal complainant who took the issues of land title and boundaries to the Land Mediation or Land Court and he objects to lease being granted to this grantee.
- 10 (v) The fifth interested person is Kaimere Association Incorporated. This association claims to represent one of the tribes of the landowning tribes, the Kaimere tribe, and claims to be the major landowning tribe. They have made submissions through their Chairman, Mr Joseph Kena'a Kau'u, and other officials who say their tribe was never consulted for the grant of the lease to the State for lease-leaseback purposes and the signatures on the lease instrument were fraudulent, or forged or whatever, according to them.
- 20 (vi) The last interest persons, Baimuru District Resources Owners Association; this association has made submissions claiming to be the rightful umbrella association for all other ILGs and associations in Baimuru sub district and not Purari Development Association ought to have been granted the lease. They claim that the grant of the lease was obtained by fraud and have registered a caveat on the title of the SABL on 15 March 2011. At this stage, the caveat has not been discharged. These are matters that need to be further investigated and checked.

This submission is said to be a joint submission and apparently has the support of their local member and they allege that it has actually been – there has been a
30 petition presented to the Prime Minister in a letter dated 21 March 2011, requesting for the lease to be revoked. Their objections appear to be based on non-compliance with statutory requirements and failure to obtain landowner consent and obtaining the lease by fraud, as they allege. Again, these matters need to be further investigated and ascertained during the hearing proper or substantive hearings; and for which purpose that we suggest that the following people be called or summoned, if necessary, to give evidence at the substantive hearings:

- 40 1. The Provincial Lands Officer, Gulf Province, in respect of the land investigation report;

2. The Provincial Administrator, Gulf Province, in respect of the – as to whether or not a certificate of alienability or recommendation for alienability exists;
3. Third person is Mr Romily Kila Pat, the delegate of the Minister for Lands as to the grant and the circumstances leading up to the grant of the lease;
- 10.55 am] 4. Mr Roy Evara, the President of the grantee association;
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5. The Managing Director of the PNG Forest Authority given that this is an area where there is forest;
6. The Secretary of the Department of Agriculture and Livestock in relation to their input into this process;
7. The Executive Director, Environmental Protection Wing of the Department of Environment and Conservation, as to their role in the permitting process; and
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8. Finally, any other interested persons who may shed some light on the issues surrounding this particular SABL.

Mr Commissioner, that is basically the submission. But over the page, just noting that for the record, that most of the relevant government agencies have not produced files and this may be as a result of the haste with which this particular SABL appears to have been granted.

30 COMMISSIONER JEREWAI: Nonetheless, the fact of the matter is that title under the Special Agriculture and Business Lease had been issued.

MR KETAN: Yes.

COMMISSIONER JEREWAI: And that is, therefore, no excuse that files should not be produced by the relevant authority which is the Department of Lands and Physical Planning.

40 MR KETAN: Yes. Much of the material that are relevant and on which we have made this opening statement are from submissions by interested persons. The Department of Lands file is sketchy and only contains the head lease purportedly signed by the parties but only bearing signatures of the landowners and not the State Minister responsible for---

COMMISSIONER JEREWAI: Correct. Those are matters for the substantive - when this particular SABL is given its substantive hearing.

MR KETAN: Yes.

COMMISSIONER JEREWAI: What we need to establish at this stage and I note that the issues have been made clear, although I must caution Counsel that do refrain from drawing any conclusions at this stage.

10 MR KETAN: Yes.

COMMISSIONER JEREWAI: This appears to me to be a rather controversial SABL compared to many that we – in relation to which the files have been opened and Counsels will, if you may, take note as to an appropriate action to ensure that the file on this SABL is produced notwithstanding the excuses advanced by the Department of Lands and also the Registrar of Titles so far.

MR KETAN: Yes.

20 COMMISSIONER JEREWAI: So consider an appropriate exercise of the power to subpoena this particular document.

MR KETAN: Yes.

COMMISSIONER JEREWAI: Prior to the substantive hearing of this matter, or inquiry rather into this matter.

MR KETAN: Yes.

30 COMMISSIONER JEREWAI: Noting from the submissions, there are quite a number of interested parties and it may be appropriate to consider indicating at this time where the substantive hearing of this – inquiry into this particular SABL will be dealt with. Whether it will be in Kikori or whether it will be in Kerema, or Baimuru.

11.00 am] MR KETAN: Yes, Commissioner. As we have informed the members of the public with further hearing venues, the Commission will advertise---

40 COMMISSIONER JEREWAI: I understand that, Counsel. That is what we have been consistently informing the interested persons who have appeared in the course of this Inquiry. But with this particular one, I am just suggesting that it may be necessary to consider indicating at a very early stage, at least not the date, but the location of hearing.

MR KETAN: Yes. Purari government station might actually be – sorry, Baimuru might actually be a better or the appropriate location.

COMMISSIONER JEREWAI: So that will be your preliminary indication as to the appropriate location?

MR KETAN: Yes.

10 COMMISSIONER JEREWAI: Are you done with the opening of the statement on this?

MR KETAN: Yes, and if this matter can be adjourned generally until the hearing or substantive hearing on site?

COMMISSIONER JEREWAI: All right.

MR KETAN: Most likely Purari – Baimuru, rather.

20 COMMISSIONER JEREWAI: Before I stand this matter or adjourn it generally, rather, because of the great amount of interest shown in this particularly SABL, it is necessary to inform those who are in the Inquiry room interested in the matter that, firstly, this matter will be adjourned generally and the date for the substantive hearing will be notified through various means, including the Media and through the local notice boards. Secondly, we will confirm the location of hearing; and thirdly, that at this stage, we are not going to receive any representations including submissions from any interested persons until the substantive hearing.

30 Those are the aspects at this preliminary point that I must indicate to you so that you understand that this morning is not for the purpose of receiving any representations, although you will be allowed ample opportunity to make representations at the appropriate time. Thank you. I think because of the number of lawyers involved too, it is important I inform you that you will have to make an application at the substantive hearing for leave to appear which leave, I doubt, will be refused. It is just a formality required under the provisions of the Commission of Inquiry Act. Thank you, Counsel.

MR KETAN: Thank you.

40 COMMISSIONER JEREWAI: Counsel, what is the other matter before us this morning?

MR KETAN: The other matter is the matter of Roselaw. The lawyer, Ms Koisen, who has carriage of the matter is, I understand, will be here very shortly, Commissioner, if you can just pardon me for a while.

COMMISSIONER JEREWAI: Please, take your time.

MR KETAN: Commissioner, Ms Koisen was ready with the statement but I understand from Mr Boi who has gone to inform her that the printer has stopped working or something.

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COMMISSIONER JEREWAI: Broken down? The printer has broken down?

MR KETAN: Yes, so---

COMMISSIONER JEREWAI: Are you sure it had not run out of ink?

MR KETAN: I am not sure what the problem is but if we can have a short---

COMMISSIONER JEREWAI: Sure.

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MR KETAN: Five minutes adjournment.

COMMISSIONER JEREWAI: We will adjourn temporarily and you inform me when we can resume.

MR KETAN: Yes.

COMMISSIONER JEREWAI: Adjourn.

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SHORT ADJOURNMENT

[11.13 am] MR KETAN: Commissioner, we---

COMMISSIONER JEREWAI: Yes.

MR KETAN: We will now proceed with the matter of Roselaw.

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COMMISSIONER JEREWAI: Roselaw.

MR KETAN: Ms Koisen will make the opening address.

COMMISSIONER JEREWAI: Ms Koisen?

MS KOISEN: Thank you, Mr Commissioner. The Commission of Inquiry file on Roselaw Limited is open in relation to the SABL portion of 2541. The file number 6 is open in relation to that. The area contained in that SABL is 25.118 hectares on a piece of land called Iduvaivai at Idumava Point in the outskirts of Port Moresby. The closest proximity to that being Napanapa, the LNG site. The name of the developer in this – sorry, the name of the landowner company – alleged landowner company is Roselaw Limited.

With regard to the IPA, Investment Promotion Authority file, on that file it shows that the developer – sorry, Roselaw Limited is a duly incorporated company with the Registrar of Companies, its Certification of Incorporation being number 1-52603 and incorporated on 22 November 2004.

The registered office of Roselaw Limited is section 1 allotment 479, Kennedy Road, Gordons, NCD. This address also serves as its address for service and its postal address. On the company extract, the total number of shares issued is one share, the sole shareholder being named in the extract as Rose Haraka, a female aged 36 of national origin.

The directors of Roselaw Limited are Rose Haraka, and the other shareholder being Andrew Law, a Malaysian by descent and incidentally notably on the extract; both shareholders share the same postal address.

Since the registration of this company was filed up until 2005 – since 2005 up until 2008, no annual returns have been filed. The annual returns filed earlier indicate that no business has been conducted since the incorporation of Roselaw Limited. Since there are no annual returns from 2008 to 2011, we cannot make an assessment as to whether Roselaw Limited has been engaged in any business activity. In this regard, the Commission of Inquiry may need to call both directors of Roselaw to clarify what activities have been taking place since the SABL was issued.

With regard to the Department of Lands file, the perusal of that file shows that a land investigation report or a number of land investigation reports, actually, incomplete ones were filed – were on that file. There is basically no evidence of public hearings to confirm whether or not they were disputes. There is an absence of genealogical and sociological information on the LIR. ILG information is also absent. The fulfilment of those aforementioned actions would have fulfilled the requirements of section 9 to 11 of the Land Act. Mr

Commissioner, I will skip the requirements because I am sure you are already well versed with them.

COMMISSIONER JEREWAI: Certainly. Certainly, Counsel, you can skip that or those.

MS KOISEN: Without having fulfilled those requirements, nevertheless on the – there is evidence on file that a section 11 notice has been issued and that section 11 notice was issued on 12 December 2005 – sorry, on 8 December
10 2005. In addition, there is also a section 102 notice which was executed by the former Secretary, Romily Kila Pat and gazetted, gazette number G184 on 12 December.

With regard to the land investigation report as previously stated, the perusal of those documents indicate that there are two separate reports.

11.18 am] There was one prepared by Mr Malesa, a Lands Officer. It is handwritten and it is dated 10 August 2005. The second report, also by Mr Malesa, is also – it is handwritten and it is dated 10 August 2005. The second report also by Mr
20 Malesa is typed, it is unexecuted and it is also incomplete. That report is dated 10 August as well. There is also a third undated and unexecuted land report on the same file. This report was also typed out. It appears to have been prepared by Mr Kevin Sabadi who is also a senior Lands Officer, but this report is also – appears incomplete.

What is most notable on this report is the failure to provide genealogical evidence as I mentioned earlier; failure to provide a list of names of landowners, their status, their comments on the lease-lease back arrangement and to ascertain whether or not there may have been any disputes.
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So in summary, the Commission of Inquiry can make or I understand, sorry, Mr Commissioner, that we cannot make – come to any factual findings but I am just going to say that the Commission of Inquiry can come to an opinion that the Land Investigation Report is not complete – was never completed as per the---

COMMISSIONER JEREWAI: Or perhaps, you could say that that will become a central issue.

MS KOISEN: Yes, it is a preliminary observation.
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COMMISSIONER JEREWAI: Which it can be pursued in the substantive inquiry into this particular SABL.

MS KOISEN: Yes, so it is just a preliminary observation that the Commission can make – the Commission of Inquiry can make.

COMMISSIONER JEREWAI: My earlier comment in the matter preceding this one, I said, I cautioned Counsels to avoid making any statements that suggest any findings at this point. But you can draw attention to matters that may become issues to be dealt with in the substantive hearing of the Inquiry into this particular SABLs as will be in relation to other SABLs which we will be looking into. Proceed, Counsel, thank you.

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MS KOISEN: Thank you, Mr Commissioner. In general, the all three Land Investigation Reports seem to show a lack of commitment by the Lands Department officials. It seems there was no real effort put into completing those---

COMMISSIONER JEREWAI: But they did go ahead and issued the lease, nonetheless.

MS KOISEN: Correct.

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COMMISSIONER JEREWAI: Okay.

MS KOISEN: There is also one very significant thing that is noted on this particular file is the absence of a duly executed lease-lease back agreement. In view of that---

COMMISSIONER JEREWAI: Is it suggested in any way that there could have been a lease-lease back agreement with the State?

30 MS KOISEN: With the documents that are on file?

COMMISSIONER JEREWAI: On file.

MS KOISEN: We do not have a lease-lease back agreement.

COMMISSIONER JEREWAI: You do not note any of that.

MS KOISEN: That is correct.

40 COMMISSIONER JEREWAI: Although there remains a possibility that there could be.

MS KOISEN: There could be one, and in this regard, the Commission of Inquiry may need to call Lands officers, perhaps Michael Wau, Daniel Katakumb – sorry, Daniel Katakumb, Kevin Sabadi – of course, the late Wafinduo will not be possible; perhaps Rose Haraka herself, Andrew Law or the Secretary to perhaps advise us on whether there might be a lease-lease back agreement.

COMMISSIONER JEREWAI: Yes, it is essential because if there is none, there cannot be any SABL.

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MS KOISEN: Correct, but---

COMMISSIONER JEREWAI: However, that will be, of course, a major issue to be dealt with in the substantive, thank you.

MS KOISEN: Yes.

COMMISSIONER JEREWAI: Proceed, Counsel.

20 MS KOISEN: On the next proceeding page are just notations that I have made to show that there was concern about that lease-lease back agreement not being executed.

11.23 am] Several people such as Mr Resena---

COMMISSIONER JEREWAI: Mr Madaha Resena.

30 MS KOISEN: Madaha Resena, yes. Who, through a letter to the – through an undated letter to the then Secretary for Lands on behalf of the Tubumaga Land Group, is asking that a lease-lease back agreement be executed. But what is most interesting that I have quoted in here is that he has made an offer of financial assistance to get that hurried up.

COMMISSIONER JEREWAI: All right, Counsel, we can leave that to the substantive. You need not announce it in detail.

MS KOISEN: Yes.

COMMISSIONER JEREWAI: That is for further investigation.

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MS KOISEN: Yes. There is also a letter dated 11 February from Tubumaga Incorporated Land Group, also Madaha Resena to Roselaw Limited making an offer to sell Idumava land known as Tuari Seriseri to Roselaw Limited for the

sum of K125,000. That is on file. I will – as per your directions, Mr Commissioner, we will not come to any findings on that until the substantive hearing.

COMMISSIONER JEREWAI: No, there cannot be any findings at this stage.

MS KOISEN: There is also an undated letter from Roselaw Limited to Tubumaga ILG to Madaha Resena stating that the developer is – sorry, Roselaw Limited shareholder, Rose Haraka, is actually the wife of the other shareholder,
10 Andrew Law.

COMMISSIONER JEREWAI: This Andrew Law, you said earlier, is of Malaysian origin?

MS KOISEN: Descent, yes.

COMMISSIONER JEREWAI: Does that suggest that he has since obtained PNG Citizenship?

20 MS KOISEN: I do not have evidence to that effect.

COMMISSIONER JEREWAI: But that can be drawn out in the substantive inquiry?

MS KOISEN: Yes. There is another letter dated 3 March 2009 from Tubumaga Land Group, Madaha Resena to Roselaw Limited complaining that although a lease-lease back agreement was in existence, no benefits have been coming through. There is another letter of 25 January 2010 from Tubumaga Land Group Inc. to Roselaw Limited confirming that the land lease was to be
30 leased and not for sale. There is also a letter dated 23 August 2011 from Rei Bagu to the Managing Director – sorry, from Rei Bagu alleging a number of things confirming which---

COMMISSIONER JEREWAI: Which will come out in the substantive---

MS KOISEN: Which will come out in the substantive hearing. They are very serious allegations, Mr Commissioner, so we will leave them to the substantive hearing. But what is coming out of the Lands file, Mr Commissioner, requires a lot of clarification in the substantive hearing. That is all that we can say right
40 now.

COMMISSIONER JEREWAI: Yes.

MS KOISEN: With regard to the Environment and Conservation file, that file is very brief and it just indicates that Dynasty Estate Limited, purportedly a subsidiary of Rimbuan Hijau, RH, is the developer; but there is only one document on file. So, I guess, the Commissioner of Inquiry will also need to clarify that further; yes, call witnesses in that regard to clarify who Dynasty Estate Limited is.

COMMISSIONER JEREWAI: No IPA search has been concluded?

10 MS KOISEN: No IPA---

COMMISSIONER JEREWAI: You will undertake that prior to the substantive hearing?

MS KOISEN: Yes.

COMMISSIONER JEREWAI: Thank you.

20 MS KOISEN: Other than that, the above, there is no other evidence to show that the requirements under the Environment Act have been followed. Mr Commissioner, I will not go through the steps because Mr Commissioner is aware of the---

COMMISSIONER JEREWAI: Yes.

MS KOISEN: Requirements under that particular Act. Mr Commissioner, I have titled my last page “preliminary findings”, but I will change that to “observations” that are being made.

30 COMMISSIONER JEREWAI: Good, I think that is the way – particularly, Mr Ketan, Counsel Assisting, if you could take note that all opening statements be appropriately re-worded to ensure that there is no suggestion that this Commission of Inquiry had reached any findings at this stage until substantive inquiry into each individual SABL involving this one and every other SABLs. Proceed, Counsel.

11.28 am] MS KOISEN: Mr Commissioner, the following observations are made that the land investigation report may not be complete. There was not possibly some evidence to show that there was concerted effort by Lands officials and the
40 Provincial Land Administration to complete the land investigation report.

It is observed that there is no evidence of a public hearing to exclude possible disputes that were held between landowners. It is also observed that there is no

evidence on file of a lease-lease back agreement. It is observed that a State Lease may have been issued without proper due diligence, and it is observed that the failure to execute a lease-lease back agreement may mean prima facie, that the lease is invalid and is fatal to this particular SABL.

COMMISSIONER JEREWAI: Those are your observations.

MS KOISEN: Yes, Mr Commissioner.

10 COMMISSIONER JEREWAI: From the examination of the Department of Lands and Physical Planning files?

MS KOISEN: Yes, Mr Commissioner.

COMMISSIONER JEREWAI: As well as the IPA records?

MS KOISEN: Yes, Mr Commissioner.

20 COMMISSIONER JEREWAI: And the Environment and Conservation records, so at this stage?

MS KOISEN: Yes, Mr Commissioner.

COMMISSIONER JEREWAI: Thank you, Counsel.

MS KOISEN: That is generally our opening statement.

30 COMMISSIONER JEREWAI: Thank you, Counsel. I note that you have not indicated by way of suggestion as to further witnesses who may be required, particularly from the State authorities who may cast light on matters relating to the land investigation report genealogy, consents, agency, but you did mention the two – or rather one Lands official. But I wonder if that Lands official is the one who purportedly conducted a partially concluded land investigation report. I wonder if he is from the National Capital District Government, or Motu Koita Government, or the Central Provincial Government, or the Department of Lands and Physical Planning.

40 MS KOISEN: I think earlier on I named a number of people. From Daniel Katakumb, he would be from the Department of Lands. Kevin Sabadi would be from the Provincial Lands Administration.

COMMISSIONER JEREWAI: All right. They could be the further witnesses from the State agencies.

MS KOISEN: Yes.

COMMISSIONER JEREWAI: But this Malesa.

MS KOISEN: Kevin Malesa.

COMMISSIONER JEREWAI: Yes.

10 MS KOISEN: I am not sure at this stage but I presume or I assume he may be a Provincial Lands Officer.

COMMISSIONER JEREWAI: For the Motu Koita.

MS KOISEN: Yes.

COMMISSIONER JEREWAI: Anyway, you can ascertain that, Counsel

MS KOISEN: Yes.

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COMMISSIONER JEREWAI: Thank you.

MS KOISEN: Otherwise, that recommendation is made at the end.

COMMISSIONER JEREWAI: All right.

MS KOISEN: Of the opening statement that all those officials are called for further clarification.

30 COMMISSIONER JEREWAI: Thank you, Counsel. I suppose this is also to be – yes, I see someone else at the table.

MR WAMP: Mr Commissioner---

COMMISSIONER JEREWAI: Please. Your name, please?

MR WAMP: Mr Commissioner, Counsel's name is Wamp, spelt W-a-m-p; first initial K. I note that – I am appearing for Roselaw Limited.

40 COMMISSIONER JEREWAI: All right.

MR WAMP: I note that at this stage, the Inquiry is only receiving observations from the Counsel Assisting the Inquiry.

COMMISSIONER JEREWAI: We call it Opening Statements, Counsel.

MR WAMP: Yes, Opening Statements, Commissioner. But I just thought I would like to mention that at the substantive hearing, that we would be making a number of submissions.

COMMISSIONER JEREWAI: Very well.

10 MR WAMP: As part of---

COMMISSIONER JEREWAI: It is noted.

MR WAMP: Basically, just to clarify a few issues that were brought up by Ms Koisen, I have a copy of a current extract.

COMMISSIONER JEREWAI: All right. Counsel, before you proceed any further, I note your appearance, one, and having done that, it is officially on record that Roselaw will be represented.

20

MR WAMP: Yes.

11.33 am] COMMISSIONER JEREWAI: But at this stage, we will not take any submissions or evidence for that matter. Those will all be dealt with in the substantive hearing to be fixed at a later date. What we will do this morning is adjourn this matter generally and then the matter will then be placed among the listing of substantive hearing of individual Special Agriculture and Business Leases. This will be among them, at which time you will then take note of the date, time and place fixed for the hearing of the – substantive hearing, rather, of
30 this particular SABL when you can appear with your client as will other interested parties. But at this stage, I also advise you that you examine the Commission of Inquiry Act, the relevant provision that requires that you apply for leave to appear and represent your client, and which leave will not necessarily be withheld – will not be unnecessarily, rather, unnecessarily withheld. We will afford every reasonable opportunity as much as possible for all interested parties with direct interest in the particular SABL to appear and make representations.

40 This morning, I will not take any submissions, apart from the opening statement, which is merely the exercise of opening the file on this particular SABL as we have been doing with regard to all the other SABLs and date, time and place fixed for hearing of individual SABLs will be advertised and will be notified to all the parties.

MR WAMP: Mr Commissioner, we would be submitting a number of documents in support of the submissions at the substantive hearing.

COMMISSIONER JEREWAI: Correct.

MR WAMP: I was wondering if you could clarify whether those documents can be served prior to the date?

10 COMMISSIONER JEREWAI: Most certainly. Is that right, Counsel Assisting?

MR KETAN: Yes, my friend actually enquired – made that enquiry with me and I indicated to him that he should submit those to us and does not need to be tendered into court at this stage. But given that this is an Inquiry, we do welcome any documents which will form part of the investigations, anyway.

COMMISSIONER JEREWAI: The Counsel Assisting with his team will, of course, draw all these material to the Inquiry's attention and so have no fear,
20 Counsel; you will be heard.

MR WAMP: Thank you, Mr Commissioner.

COMMISSIONER JEREWAI: There is someone else putting his hand up at the back there.

MR HENI: Mr Commissioner, with due respect, my name is Ray Heni. During my legal Counsel's absence, I would like to be recognized as one of the interested parties regarding the lease-lease back arrangement with the Lands
30 Department towards Roselaw. I have already filed my affidavits.

COMMISSIONER JEREWAI: You have?

MR HENI: Yes, I have. It should be before you.

COMMISSIONER JEREWAI: Then as I have indicated, you would be notified and you also keep a watch out for the advertisement of the time and place to be fixed at a later date for the substantive matter to be heard in the course of the Inquiry into this particular SABL.
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MR HENI: Thank you.

COMMISSIONER JEREWAI: The issues as raised are noted, but all parties will be given opportunity to present their positions with regard to these issues.

MR HENI: Thank you, Commissioner.

COMMISSIONER JEREWAI: That will be dealt with in the substantive, which leads me to say that other persons who may have direct interest in the matter, not only in relation to this SABL but other SABLs, if for some reason or other they have not complied with the timelines we have given in the various
10 advertisements we have put through the Media and other mediums, you have to approach – if you have not done so, you have to approach the Counsel Assisting, Mr Ketan, and his team.

MR HENI: Yes, thank you. Mr Commissioner, further, I would like to inform this respective Commission that I also have on hand with my legal Counsel that there is a letter from Kevau Sabadi, Lands Liaison Officer, denying any knowledge of the Land Investigation Report being compiled. That will be---

COMMISSIONER JEREWAI: All right, that will be a matter for the
20 substantive, thank you.

MR HENI: Thank you.

COMMISSIONER JEREWAI: You will be heard on these things.

MR HENI: Thank you.

COMMISSIONER JEREWAI: And that will be a matter for the substantive Inquiry into this particular SABL. Counsel, have we any other?
30

MR KETAN: Not this morning. The other two matters for this morning have been stood down to ---

COMMISSIONER JEREWAI: To 1.30?

11.38 am] MR KETAN: 1.30 to be dealt with the other matters. But we do have a number of matters in the afternoon so I ask that the hearing be adjourned to 1.30.

COMMISSIONER JEREWAI: All right. I will return at 1.30 with you on the
40 remaining matters.

MR KETAN: Yes.

COMMISSIONER JEREWAI: As we have discussed.

MR KETAN: Yes.

COMMISSIONER JEREWAI: In that case, adjourn the Inquiry please to 1.30 this afternoon.

LUNCHEON ADJOURNMENT

10

[2.37 am] COMMISSIONER JEREWAI: First of all, sorry about the lateness in starting this afternoon, all those who are attending as well. There is bit of a traffic these days down all the roads, but that is no excuse; my apologies. Thank you, Counsel?

MR KETAN: Commissioner, this afternoon, we have a number of matters. We will mention them – we will deal with all of them. There are eight matters. The first one, Commissioner, is the matter of Abeda Agro-Forestry.

20

COMMISSIONER JEREWAI: Yes.

MR KETAN: Ms Koisen has carriage of that matter and she will make an opening statement on it.

COMMISSIONER JEREWAI: Thank you. Ms Koisen?

MS KOISEN: Thank you, Mr Commissioner, if I may hand up a copy.

30 The Commission of Inquiry's file, that is - sorry, if I may refer you, Mr Commissioner, to the first sentence there. It is supposed to be file number 48.

COMMISSIONER JEREWAI: Yes.

MS KOISEN: It has been opened with relation to Special Agriculture and Business Purpose Lease over portion 409C, Volume 32, Folio 171, Milinch Epo and Kairuku, Yule Island, Central Province. The SABL is issued in the name of Abeda Agro-Forest Limited on 5 September 2008. This SABL is located adjacent to the SABL for Mekeo Hinterlands Holdings Limited and is situated about 130 kilometres by road via the Hiritano Highway, north west of Port Moresby within the Kairuku District of the Central Province.

40

The total area of this SABL is 11,700 hectares. Out of the 11,700 hectares, it is currently anticipated that the developer, Albright Limited will harvest timber and in its place plant oil palm on at 10,530 hectares for commercial export, while 1,170 hectares has been identified as unsuitable for oil palm planting and – sorry, that was supposed to be “harvest”.

COMMISSIONER JEREWAI: Yes.

10 MS KOISEN: The projected expected volume of timber exported over the period of four years from 2009 to 2030 from this SABL will total 123,332 cubic metres.

20 The IPA file, the Investment Promotion file contains a private extract of Abeda Agro-Forest Limited dated 2 August 2011. The information on this extract shows that Abeda was incorporated on 30 April 2008, having its registered office at section 255 allotment 10, Kunai Street, Hohola, National Capital District. A total number of five shares have been issued so far equally between Directors, Shareholders named as follows: Joseph Fanau of Dua village, Julian Inau of Dua village, Andrew Manau of Foio village, Joe Waede of Mone village, Brendan Waide of Aumala village.

Since the registration of this company, no annual returns have been filed. So the Commission of Inquiry is unable to make any assessment on the activities of this company since its registration.

On the face of the information on the current extract, the shareholders/directors of AAFL hold a position, not in trust for and on behalf of their ILG groups or landowner clans, but in fact they hold these shares in their personal capacities.

30 It is safe to say that for the – it is safe for the Commission of Inquiry to make a preliminary observation that the landowner company is not owned by landowners but by private individuals.

Also on file is a Certification of Incorporation dated 6 April 2000 and – that was supposed to be---

COMMISSIONER JEREWAI: Year 2000.

40 MS KOISEN: 2006; 6 April 2006. Company registration file number 1-63262. Although there is no evidence of the Certificate of Incorporation of Albright Limited, the National Forestry Authority file contains a copy of that certificate of registration for Albright Limited and shows that on 6 April on the same day as the day as the registration of the landowner company, Adeba Agro-Forest

Limited – exactly on the same day, the Albright Limited, the developer, also was issued with a certificate of incorporation number 1-56187.

2.42 pm] Also on the file is the certificate of a foreign enterprise to carry on business in an activity, company number 1- 6187 dated 20 October 2008.

The Commission is to note that Albright Limited appears, from information on the file of Mekeo Hinterlands Holdings Limited, to be the same developer. That is also holding – that is also the developer of this particular portion and Mekeo
10 Hinterlands Holdings Limited which sits adjacent to it.

With the Department of Lands and Physical Planning---

COMMISSIONER JEREWAI: Sorry, Counsel, that will be matter number 10 on the list, Mekeo Hinterlands Holdings?

MS KOISEN: Yes.

COMMISSIONER JEREWAI: Adeba is item number 7 while item number 10
20 is Mekeo Hinterlands. So you are saying from the IPA file, Albright is involved in both places?

MS KOISEN: Correct.

COMMISSIONER JEREWAI: Thank you.

MS KOISEN: From the Department of Lands and Physical Planning file, the file contains the following:

- 30
1. A Lands Title copy of the SABL dated 5 September 2008 for portion 409C, Volume 32, Folio 171, Milinch Epo and Kairuku, Fourmil Yule Island, Central Province.
 2. It is to be noted by the Commission of Inquiry the fact that the back cover which is usually the part where the entry of registration, or transfers, or subsequent activities is supposed to be entered in record is not copied. So the Commission of Inquiry cannot make any assessment as to whether or not any subsequent transactions have taken place. This is significant in---

40 COMMISSIONER JEREWAI: Transactions such as a sublease?

MS KOISEN: Such as the sublease whether it has been registered or not, whether there might be a caveat---

COMMISSIONER JEREWAI: Certainly.

MS KOISEN: Or other things.

COMMISSIONER JEREWAI: Thank you.

MS KOISEN: We cannot – whether the lease might have been lost and replaced, those are the information that are entered at the back journal of any title deed.

COMMISSIONER JEREWAI: Thank you, proceed, Counsel.

MS KOISEN: 3. In this regard, the Commission of Inquiry may have to request that the back page of this particular SABL is provided for its own clarity and satisfaction.

4. A copy of – besides that a copy of the gazettal of section 102, Direct Grant, dated 1 September 2008, G152 under the hand of Pepi Kimas.

5. We have a draft notice of a section 11 notice but we do not have a gazettal, so I have noted that down. There is no gazettal.

6. We have a Land Investigation Report dated 25 May.

7. The Land Investigation Report includes a certificate in relation to boundaries dated 25 July 2008.

8. A Certificate of Recommendation as to alienability, which is undated, but it is executed by Cliff Botau, Deputy Provincial Administrator.

9. In the Land Investigation Report, it records that there are five clans who claim ownership of this particular SABL land, and they are Kaboau, Inau Bonu, Afuku, Inau Oio and Abeda Fata clans.

10. What is of interest that is noted in that particular document is that the information regarding the total population amounts to about 1400 people; however, the Land Investigation Report states that less than seven people from each clan executed the Land Investigation report.

So that is something to be noted when we proceed to hearing; and so when we do proceed to substantive hearing, the Commissioner of Inquiry may

want to further clarify why so few people signed the land investigation report.

10 11. On the Department of Environment and Conservation file, we came across a sublease agreement which is the sublease agreement between Abeda Agro-Forest Limited and Albright Limited, developer. So this is the sublease agreement that is found on the Department of Environment file. It is dated 22 September 2008, and interestingly, the clauses – one of the clauses in that agreement talks about rent paid. Rent is paid in terms of the amount of timber that is exported which amounts to about 1.5 million per annum. That particular clause may be in breach of section 11 of the Land Act which clearly states that SABLs are not – I mean, land rent is not payable on a special purpose lease.

COMMISSIONER JEREWAI: Royalties payable per cubic metre of logs cannot be treated as rent.

MS KOISEN: Correct.

20 COMMISSIONER JEREWAI: That is a separate legal entitlement on the log itself that is harvested.

MS KOISEN: Correct, and---

COMMISSIONER JEREWAI: However, we will take note of that.

MS KOISEN: Yes.

30 COMMISSIONER JEREWAI: And that is a matter to be investigated.

MS KOISEN: Yes, that will be later, during hearing, we will go into that and try to clarify that because you cannot have a sublease agreement covering that for rent because you have got to have other requirements in the National Forest legal requirements for a TRP or other things in order to be able to make that kind of royalty payment.

COMMISSIONER JEREWAI: Absolutely. Proceed, Counsel.

40 MS KOISEN: But, for the moment, we will leave it. With regard to the Department of Environment and Conservation file, the following documents are sighted:

1. A notice for preparatory works dated 29 July 2009;

2. A notice to undertake Environment Impact Assessment dated 17 August 2009;
3. An Environment Inception Report dated 30 April 2008;
4. Approval of the EIR dated 6 October 2009;
5. Environment Impact Statement dated 21 May 2008;
6. A public review of the Environment Impact Statement to various stakeholders by DAL and acceptance of it on 20 October 2009;
7. A letter from National Forest Authority indicating non-attendance to late notification of the EIS public hearing;
- 10 8. minutes of the Environment Council meeting numbered ECO9 of 2000, and dated 10 December 2000;
9. the minister's approval in principle dated 23 December 2009,
10. An Environment Permit application dated 18 January 2010;
11. An Environment Permit pursuant to section 65 of the Environment Act 2000 number WDL3(236) issued on 22 January for 25 years commencing 9 February 2010 and expiring 9 February 2035;
12. A Waste Management Plan dated 10 February 2010; and
13. An Environment Monitoring and Management Program under Permit Condition number 28 dated 23 September 2010;
- 20 14. Approval of the Waste Management Plan dated 19 February 2010;
15. Notification of preparatory works for Kara log pond wharf and jetty dated 3 June 2010;
16. Application for an Environment Permit for Kara Log Pond Project dated 15 July 2010;
17. Environment Permit number WLDL3 (236) for Kara Pond dated 22 November. That particular permit is an amendment to the earlier one that I have numbered 11 – sorry, yes, 12 because in the earlier permit, they did not include the pond. So this is just an extension of the same permit and not a new permit.
- 30 18. We have a Waste Management Plan for Kara Logging dated September 2010. There is no particular day given on that document.

[2.52 pm] 19. On the face of the documents that I have listed and the contents of them, it appears on the face of those documents that the developer may have met all the requirements under the Environment Act. But of course, that is subject to when we get into hearing and make further findings.

40 The Department of Agriculture and Livestock file, this file is very thin and it only contains one document. It is the Lands Soil Assessment Report dated 13 September 2009, otherwise, the DEC file contains a letter. It appears to be on DAL letterhead dated 10 December 2009 from Anton Benjamin, Secretary DAL granting an approval, a Certificate of Compliance, for large scale conversion of

forest to agriculture or other land use; and that particular certificate is dated 15 December 2009. A copy of that is on file.

The Land Suitability Assessment Report is interesting. A quick perusal of that report indicates that there are no findings or recommendations except to say that the exercise came to a finality making a recommendation that there be a soil test conducted. So on the face of it, it looks like a futile report. There was nothing found; no assessment made. But I think in this regard, the Commission may want to call the officials – calling those officials from the DAL to explain whether or not there was a subsequent report that actually gave results on the suitability of the soil for oil palm.

With regard to the National Forest Authority file, that file contains the following;

1. The abovementioned IPA certificates;
2. A Field Trip Report. This Field Trip Report is of particular interest because it is held on 19 November 2010 in which National Forest Authority – one official, Gavis Visam, Project Supervisor Central, he ceased all operations after that field report and stated that the state of the logging base camp, nursery and seedling productions and the log pond was unsatisfactory and in very poor condition. So in that particular report, that is recorded;

There is also a letter from the Managing Director, Kanawi Poursu, to Albright reminding the developer that the project is an integrated agriculture project and that the developer should take note of it. That is just something of interest that I saw and thought I should mention because the letters, as we go into subsequent hearing, may be an implication of the fact that the agriculture aspect of this SABL has not been taken care of. So that is to be noted;

3. There is also an approval of a Forest Clearing Authority plan by Albright Limited;
4. Company profile of Albright;
5. Payment of fees;
6. Performance upon a project statement;

7. A letter dated 27 July 2010 granting a forest clearance authority for four years;
8. A public hearing report in which it is said that the landowners gave their full support for the project to immediately start;
9. The project is signed off on – sorry, the report is signed off on by Mathew Poia, Member for Goilala; Gabutu Hariki, representing Albright Limited; and Ludwick Paiadu, representing the Inau Bonu clan.

10

10. It is interesting to note from the signatures on that particular report. As I stated earlier, there are five clans but in that public hearing, only one clan is in attendance. So COI may want to further clarify as to how come only one clan when five clans are supposed to own that land and should have the right to be heard.

With regard to persons of interest, there are no documents filed so far with persons of interest. So, there is basically nothing there to submit to the Commission of Inquiry in the opening statement.

20

Recommendations. In view of what was earlier - transpired this morning with regard to preliminary findings, Mr Commissioner, I am just going straight into recommendations now.

COMMISSIONER JEREWAI: Yes.

MS KOISEN: And the recommendations that are that:

30

1. The Commission of Inquiry call in Francis Daink or Anton Benjamin to explain his department's failure to produce a file.

2.57 pm]

2. That the Commission of Inquiry call in Frank Daink, Mai Baiga, or Goru Babona, or Wame Iange to clarify who may have conducted the Soil Suitability Report. By the way, that Soil Suitability Report also is not signed off on, so we do not know who conducted it but those people are mentioned as being approved to go and do that particular report. There is a letter in there that lists them but nobody signed the assessment report. So we are not sure who may have conducted that and why the report is not conclusive.

40

3. The Commission of Inquiry may also call in the Secretary for DLPP and Mr Cliff Boutai, former Provincial Lands Administrator to explain the

lack of signatories on the Land Investigation Report and clarify how the report was conducted and how come it was not signed.

That just about brings me to the end of this particular opening statement. If I can ask that the matter be generally adjourned.

10 COMMISSIONER JEREWAI: I know that you observed that no one had approached the Commission of Inquiry with any position to be submitted. We will take note of the statement in opening this file and have it adjourned generally similar to the others and perhaps by the time we have the time, date and places or rather place for the hearing of this particular SABL, someone might show some interest in it. If they do not, then naturally we will deal with it by the involvement of the officials which, who you have indicated may be able to clarify the irregularities that has already been observed in the files that you have inspected. So this matter is adjourned generally.

MS KOISEN: Very well, Mr Commissioner.

20 COMMISSIONER JEREWAI: You may proceed to the next matter.

MR KETAN: Commissioner, the next matter is one of the matters adjourned to this afternoon or stood down to the afternoon from the morning.

COMMISSIONER JEREWAI: Yes.

MR KETAN: It is the matter of Urasir Resources Limited.

COMMISSIONER JEREWAI: Yes, you may proceed.

30 MR KETAN: This SABL is over portion 16C Milinch Savai and Annan Berg north east and south east, Fourmil Bogia and Ramu, Madang Province. This is SABL for 99 years over all that piece of land known as Urasirk being portion 16C, Milinch Savai and Annan Berg, as I have mentioned above. It covers a total area size of 112,400 hectares and is shown on survey plan catalogue number 7/230. It was granted by Direct Grant under section 102 by Mr Romilly Kila Pat, the former acting Secretary or Deputy Secretary, as the case may have been, exercising powers as a delegate of the Minister for Lands to Urasir Resources Limited, in short, URL, notice of which was published in National Gazette number 967 dated 14 March 2011.

40 A copy of the actual lease or title is not on the Lands Department files nor the Registrar of Titles files that were given to us.

[3.02 pm] The Registrar of Titles has provided an unsigned title in response to direction and summons issued to him by the Commission based on the direct notice source documents on file dated 16 March 2011. This is consistent with the contention of the Chairman of Urasir Resources Limited, Mr Serenus Sokrim by a stat dec and a letter to the Commission dated 23 August 2011, that the title is yet to be issued to URL, the grantee company.

10 The area covered by the SABL of 112,400 hectares proposed for agro-forestry oil palm development is leased to URL, a landowner company and is located within Josephstaal Rural Local Level Government area of Middle Ramu District in the Madang Province. The developer is Continental Venture Limited, Company registration number 1-75153, or short, CVL, and will undertake salvage logging and agricultural development of oil palm on 75,520 hectares of the area covered by the SABL. That is the 112,400 hectares in development of rubber trees on 18,880 hectares of the land and other agricultural development. The area is mainly described as lowland rainforest of which 36 per cent is secondary forest and grassland. Forest clearance will be required for oil palm planting.

20 URL was incorporated on 24 September 2011, company registration number 1-75759. According to the Certificate of Incorporation and its registered office is at section 215 allotment 2, Unit 1, Mage-mage Street, Gordons, National Capital District, and its postal address is PO Box 567, Waigani, National Capital District. This information is from current company's extract as at 30 June 2011.

30 URL has issued 10 ordinary shares which are issued to the following people: Michael Ambidua of Pamin village; Mathew Auri of Ulis village; Dominic Aguhai of Ulis village; Stanley Kari Herringgu of Maumiku village; Leslie Kasuran of Katiati village; Pias Kubuguli of Kamambu village; Lukas Sakam of Niksapai village; Kivens Sakua of Sereven village; Joe Sikum of Sereven village; and Serenus Sokrim of Ulis village. That is a total of 10 shareholders.

All of the shareholders are from Middle Ramu District. Their postal address is PO Box 1336 Madang. These men or women, as they may be, are also Directors of the company. Mr Serenus Sokrim appears to be the Chairman. The company's returns are made up to 15 September 2010.

40 From the Land file – from the Land Investigation Report on the file, we note that the proposed project area is located north west of Madang near Aiome and Josephstaal government station in the Middle Ramu District of Madang Province. The proposed project area is about 50 kilometres from Josephstaal government station but is inaccessible except by foot or chopper.

[3.07 pm] The project area covered by the SABL portion 16C is said to be owned by 11 landowning groups consisting of about 500 members and those clans are namely; Wamer clan, Ambos clan, Karait Igir clan, Mou clan, Kupaikir clan, Karait-Maipot clan, Muan clan, Seiwaki clan, Berwet clan, Waen clan and Lou clan.

These clans own the said 112,400 hectares of customary land on which an agro-forest project is proposed and according to the LIR, the land is generally undulating in nature with some level lands at random locations. But most of the
10 land is covered with tropical rainforest containing rich brown soil that is suitable for agriculture.

The LIR stated that the landowners were willing to lease the land for 99 years to the State so that it can then be leased back to them under a SABL in the name of their landowner company being URL or Urasir Resources Limited who can then sublease to potential developers as partners of the landowners.

The LIR or Land Investigation Report is unsigned but has attached to it a schedule of owners which has not been signed either. The only documents that
20 have been signed, although not by everyone, are the agency agreement and the declaration as to custom in relation to land tenure signed by about 52 ILG members or executives. Instantly, there are said to be about 52 incorporated land groups representing the clans in the project area.

The other documents that have been signed are the Declaration of Recognition of Custom and Certificate in relation to boundaries for each of the 52 clans in the proposed project area.

On 13 December 2010, a Lease-Lease Back Agreement under section 11 –
30 Commissioner, there is a typo error there.

COMMISSIONER JEREWAI: Yes.

MR KETAN: That section should be 11 of the Land Act was signed and witnessed by Suman Holis, Manager Leases. Simon Malu, the Director Acquisition and Micah Yer, Provincial Lands Officer in which URL was nominated in this schedule to the agreement as the Lessee or the preferred Lessee of the landowners, and the purpose of the lease was stated in the
40 schedule as agricultural business purpose with the potential of commercially cultivating oil palm development and other agricultural crops and their products for export purposes. The agreement was executed by the various ILG chairmen – 52 in total – and Romilly Kila Pat as a delegate of the Minister for Lands.

On the Land file is a minute of URL Annual General Meeting dated 5 February 2011 in which they discuss a number of issues including the makeup of the company and the project development.

From documents on file, the LIR was undertaken by Simon Malu, acting Manager Customary Land Acquisition; Mr Simon Holis, acting Manager Customary Land Acquisition; and Christabel Maino, Lands Officer. The investigation was carried out in the name of Urasirk Resources Development Limited which is the grantee company or URD.

10

A schedule of owners-agency agreement, declaration of custom in relation to land tenure, declaration of recognition of custom and the certificate in relation to boundaries were done for each of the clans as mentioned earlier in the proposed area. That information is on a letter dated 8 March 2011 from the Madang Provincial Government from Micah Yer, acting Provincial Customary Lands Officer to the Assistant Director Customary Land Acquisition at the National Department of Lands.

[3.12 pm] On 10 March 2011, the Provincial Administrator of Madang, Mr Bernard Lange, issued a recommendation as to alienability recommending a 99 year lease. The SABL title is dated 16 March 2011. What is missing from those documents – and I will mention at the conclusion of this statement – is a certificate of alienability issued by the Custodian of Trust Land, that is missing. There may be one, there may not be one, but that is missing from the records that we have been given.

20

30

In relation to other documents whilst no Department of Agriculture Livestock office file has been submitted to the Commission of Inquiry, we have received from them a bound volume of documents titled “Detailed Agricultural Development for Urasirk Rural Development Project” with Continental Venture Limited’s name and address on it, apparently submitted to DAL by Continental Venture Limited. Continental Venture Limited, we note and understand is the developer or development partner of Urasirk Resources Company.

40

The only other information we have received from DAL is a copy letter dated 25 September 2010 to a Mr Wong H M. His full name is Mr Hieng, spelt H-i-e-n-g M-i-n-g, Wong, W-o-n-g. He is the General Manager of Continental Venture Limited of postal address 1226, Boroko, National Capital District. That letter was addressed to him from Mr Francis Daink, as Caretaker Secretary of the Department of Agriculture and Livestock which letter was copied to Mr Kanawi Pouru of the Papua New Guinea Forest Authority or PNGFA.

In that letter Mr Daink acknowledged receipt of the detailed Agricultural Development Plan for the project submitted by CVL under cover of a letter dated 20 September 2010 and advised CVL of the following:

1. As requested by CVL, DAL will engage staff to assist URL conduct assessment which process Mr Daink estimated would take more than four weeks to complete.
2. CVL needed to do a detailed project development plan supported by the maps.
3. CVL needed to submit an implementation schedule for six years.
4. CVL was to be prepared for landowners consent and public hearing to be formally conducted by DAL, PNGFA, DEC and other key government agencies.

From the above, we deduce that the detailed Agricultural Development Plan for Urasirk Rural Development Project submitted to DAL on 28 September 2010 was insufficient for DAL purposes given that the project was oil palm plantation and rubber development and also involved forest clearing.

According to the documents submitted by CVL to DAL, CVL was incorporated on 13 August 2010; Certificate of Incorporation number 75153 is noted - there is a copy on the file - and certified as foreign enterprise by IPA, Certificate number 00012807158 as it is owned by Malaysians.

Currently undertaking preliminary ground work for three major activities being:

- [3.17 pm]
1. Road and basic community infrastructure to harvesting of commercial trees to pave the way for the development; and
 2. Oil palm and rubber tree plantation (nucleus estate);
 3. On the initial scoping by the company – this is Continental Venture Limited – such project was feasible but needed confirmation from DAL for which purpose the detailed agricultural development plan being oil palm and rubber tree plantation was submitted to DAL for its assessment and evaluation with a request for site suitability assessment as to the oil palm and rubber tree agronomic requirements.
 4. The agriculture development plan for Urasirk Development Project involves:

- 10
- (i) application for Forest Clearing Authority or FCA;
 - (ii) conversion of logged-over and cleared areas to agriculture plantation development;
 - (iii) establishing nucleus type oil palm and rubber plantations mixed with other suitable agro-industrial crops that are economically viable planted as buffer and livelihood of the local communities;
 - (iv) Continental Ventures Limited as project proponent development;
 - (v) Customary landowners through landowner company Urasir Resources Limited;
 - (vi) Gross area of 112,400 hectares over which the SABL was granted of which 20,570 as unproductive, 91,830 hectares as productive forested area with 94,400 hectares available for planting.
- 20
- (vii) 20 years duration of project;
 - (viii) Project site located in the Josephstaal LLG, Middle Ramu District, Madang Province
 - (ix) Mr Hieng Ming Wong, General Manager, for Project Proponent; and Mr Serenus Sokrim as Chairman and Resource Director of Urasir Resources Limited; and
 - (x) Of the 94,400 hectares net plantation area, 75,520 hectares will be for oil palm and 18,580 will be rubber tree growing.
- 30

From the Department of Environment and Conservation file, which is an arch-lever file that we have received from that department, the file is labelled Urasirk Rural Development Project, Middle Ramu District, Madang Province, and their file number is file number 34.

From that file, the following documents, amongst others, are contained:

- 40
- (i) notification of preparatory works submitted by Continental Venture Limited pursuant to section 48 of the Environment Act 2008 dated 26 October 2010;

- (ii) notice to undertake Environmental Impact Assessment issued by Department of Environment and Conservation under section 50 of the Act dated 26 October 2010;
- (iii) Environment Inception Report or EIR dated 4 March 2011 submitted by CVL under section 52 of the Act;
- (iv) letter from DEC to CVL dated 8 April 2011 approving the EIR;
- 10 (v) Environmental Impact Statement submitted on 24 June 2011 by CVL under section 53 of the Act;
- (vi) copy of public notice for public review and submissions on an Environmental Impact Statement as published in the Port Courier issue of 20 September 2011 which notice gives 20 days which period lapses on 7 October 2011, that is today.

In the DEC file are other copies of other documents and some of which we note

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20

- (i) The first one is a letter of invitation as development partner from URL Chairman Mr Serenus Sokrim, to a Robin Buck, General Manager of Continental Venture Limited.
- (ii) To project agreement between resource owners' company being URL and developer CVL dated 12 September 2011 covering in, amongst others, the following:

3.22 pm]

30

- logging and log marketing;
- road construction and commercial agriculture provided for, amongst others,
- oil palm project or any other commercial development will be the final development project after the salvaging of the timber;
- all monies advanced to URL shall be reimbursed gradually out of the eventual proceeds from the sales of timber harvested from the land or area;
- upon successful completion of the initial feasibility study of the Urasirk Rural Development Project which includes logging operations, road construction and commercial agriculture project, URL shall grant to CVL exclusive rights for logging and marketing of timber and development of agriculture plantation in the land;

40

- URL to allow entering onto the land by CVL officers and employees;
- URL to assist CVL in the LIR process or Land Investigation Process;
- URL agrees that the lease title be granted to the joint venture company which will be formed later;
- CVL to pay royalty fee in the manner prescribed by section 120 of the Forestry Act 1991;
- to pay levies;
- road and agriculture project development;
- URL to assist CVL to obtain the necessary permits, approvals and licences;
- CVL to provide one Lucas Sawmill;
- the agreement also provides for variation of the Terms of the Agreement;
- dispute resolution;
- termination;
- Governing Law; and
- also provides that any variation of the terms shall be by mutual consent and any dispute is to be resolved by mediation.

20 The Project Development Agreement was signed on behalf of URL by Serenus Sokrim, the Chairman, and Lukas Sakam, the Vice Chairman, and Director Stanley Hiringgu and representatives of the various villages or ILGs.

The DEC file also has a current required forestry project payment, or project monetary benefits of royalty project development benefits on log export, cash premium, project area development fund and domestic processing benefit, log expert development levies, mandatory levies based on production, non-monetary levies based on log exports; project bio-diversity assessment report, check-list of birds, mammals, aquatic flora and reptiles; and also, worthy of
30 note, is a copy of an Agriculture Sublease between Urasir Resources Limited and Continental Venture Limited.

(a) On that document, the sublease, we note the following. In the sublease, rent and royalties are to be paid. It also provides a holding over clause, the use of land, land rights, statutory approval, default and termination. An interesting clause is clause 20 which provides for assignments and mortgages and for subleases to be given by the lessee being Continental Venture Limited without prior written consent of the landlord being Urasir Resources Limited.

40 (b) Next is that is worthy of note is clause 24, Special Conditions which states, amongst others, that within 360 days of the execution

of the sublease, plantation activities shall commence and the tenants are allowed exclusive rights to harvest, transport, market and sell all forest produce, inclusive of industrial timber currently on the land and shall collect, own and use all revenues for the sales of this forest produce under its own discretion under the sublease.

[3.27 pm]

- 10
- (c) It also has a photocopy of the owner's sublease stamp by IRC and Lands. It is dated 14 March 2011 and was signed by Serenus Sokrim and Stanley Hurringgu, chairman and secretary respectively of URL and CVL under respective company common seal. It appears that directors Mathew Auvri, Michael Ambindya and Lesley Kasuran also signed the deed.
- (d) The lease is for 66 years, that is the sublease commencing on 17 March 2011 at a rent of K2 per hectare per annum payable annually with the first payment being due on 1 January 2012. It provides for payment of royalty and is subject to the tenants obtaining environmental approvals.
- 20
- (e) Approval letter from Department of Agriculture and Livestock under the hand of Francis Daink, Deputy Secretary to Mr Hieng Ming Wong, General Manager, Continental Ventures Limited dated 31 March 2011 in which he made reference to his previous letter of 28 September 2011 which I refer to earlier in this statement and which states stating that, "The department is grateful that you have responded promptly to this request. We have undertaken a thorough assessment of the agriculture project proposal and are quite satisfied with the details of the project proposal. Therefore, I am pleased to advise that Urasirk Agriculture Development plan is approved. I guess the matter still outstanding is the public hearing to be conducted at or near the project site. This should complete the entire process prior to issuing of the certificate of compliance for a forest clearance for large scale conversion of forest to agriculture. Please contact this office to prepare arrangement for public hearing." This letter was
- 30
- copied to Kanawi Poursu, the Managing Director of the PNG Forest Authority.

- (f) The detailed agriculture development plan was not produced by the Department of Agriculture and Livestock nor by DEC. But the DEC file has one of its attachment, attachment 8, an agriculture development plan and map which we note and assume and as it appears to be the detailed agriculture development plan that is referred to by Mr Daink in the letter that I have referred to above.
- (g) Attachment 9 is the agricultural sublease of the project area to the developer Continental Venture Limited. The DEC file has a photocopy of the owner's copy of the SABL to URL for 99 years dated 14 March 2007 signed off by Romilly Kila Pat as the delegate of the Minister.
- (h) There is a photocopy of project development agreement dated 27 September 2010 but that appears to be a replica of the one that is dated 12 September 2010.
- (i) There is also a copy of the letter of invitation dated 28 August 2010, URL to CVL.

Mr Commissioner, the DEC file appears to be quite comprehensive, almost complete. Unfortunately, the Lands Department and other Department of Agriculture and Livestock do not have those records but somehow the Department of Environment and Conservation has copies of some of the very vital documents that actually should be in the possession of the Department of Agriculture and Livestock and the Department of Lands and Physical Planning which, if I may say, goes to show that this document security is an issue that ---

COMMISSIONER JEREWAI: Yes, compromise their title files within the Office of the Registrar of Titles and the Department of Lands and Physical Planning. Yes, proceed, Counsel.

MR KETAN: In relation to submissions and evidence from persons of interest, the Chairman of Urasir Resources Limited Mr Serenus Sokrim has made submissions by way of letters and has also put on a statutory declaration saying basically;

- (i) that URL is a landowner company incorporating the landowner based 52 ILGs.
- (ii) that URL no longer has any relationship with any other entities, agents or otherwise, let alone foreign investors.

- [3.32 pm)
- (iii) That URL has not received the SABL title over Portion 16C.
 - (iv) That it wants the Commission of Inquiry to instruct the Department of Lands and Physical Planning to release the title to it as the legitimate grantee of it.
 - (v) The Department of Lands and Physical Planning had wrongly given the SABL title to the developer CVL and Singaporean Investor without URL's consent and authority.
- 10
- (vi) That the 52 ILG certificates are also being illegally kept by CVL.
 - (vii) There is no cooperation or transparency in the dealings and activities between the parties. This is what Mr Sokrim says.

From the other information supplied by URL, copies of the various ILG certificates are noted and letters to the Provincial Forest Management Committee and PNG Forest Authority requesting for a FCA but the status is sketchy and given the lack of production of a PNG Forest Authority file, we are basically in the dark as to the status of that.

20

Given the lack of relevant state agency cooperation and production of information pertaining to this project we are unable to ascertain the current state of affairs other than to note and rely on information provided by Department of Environment and Conservation.

Apart from the Chairman for JRL's complaint, no one else has made any submissions; and therefore we cannot confirm those allegations. At this stage, they remain mere allegations and I say this, given that Mr Sokrim is a signatory to all of these agreements that I referred to in my statement including the project development agreement.

30

What does appear to be the case is that CVL or Continental Venture Limited has collected the SABL title and ILG certificate from the Department of Lands and Physical Planning and is actively pursuing the necessary approvals from the DAL, DEC and PNGFA. This is consistent with public review advertisement by DEC the time period in respect of which expires today as I have mentioned earlier.

10 It appears that the project is a genuine project and the SABL grantee is a genuine landowner company but the twist appears to have occurred when the sub lease was issued or granted whereby CVL was given absolute power and rights to the exclusion of the landowner company except for the benefits from the business opportunities in dividends, royalties and levies or what have you. Control of operations was vested in CVL by virtue of both the project development agreement and the sublease agreement of the SABL. As to the nature of the conflict or the extent of it, we do not know. At this stage Mr Sokrim, the Chairman of the Urasir Resource Limited is the only person that put on submissions and no one else. So these are matters to be confirmed and ascertained during the hearing substantive.

From the foregoing, Mr Commissioner, the Commission of Inquiry - my submission - can make the following preliminary observations:

- (i) That URL, the grantee company, the land owner company is a project landowning clan or ILG owned company.
- 20 (ii) That URL is the landowner nominated holder of the SABL.
- (iii) That CVL is a foreign company invited by URL as a development partner who has been given a 66 year sublease of the SABL by URL.
- (iv) That a Agriculture Development plan exists, though not sighted, which has been approved by DAL.
- (v) That the Environmental Permit has been applied for, the size of which we do not know at this stage.
- 30 (vi) That the FCA is yet to be granted but as to whether one has been applied for and as to the status of that again we do not know at this stage and that would be the subject of further inquiry.
- [3.37 pm] (vii) That there appears to be some friction or dispute between the SABL holder and the Developer. Again that needs to be further investigated as to the truth or otherwise of it.

In its further investigations and inquiry the Commission of Inquiry need to call the following witnesses:

- (i) The Customary Leases Officers of the Department of Lands and Physical Planning.
- (ii) The Registrar of Titles
- (iii) Mr Hieng Ming Wong, another officer of CVL
- (iv) Mr Serenus Sokrim Executive Chairman of URL and other directors.
- (v) Mr Francis Daink, Deputy Secretary, Department of Agriculture and Livestock, Technical Services Division.
- (vi) Mr Kanawi Pours and a senior officer from Papua New Guinea Forest Authority.

10

Before I conclude, I mentioned earlier on that there was no certificate of alienability and that I do make observations as preliminary observations, there may or may not be one existing.

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Mr Commissioner, this then concludes the opening statement on this particular SABL and I ask that this matter be adjourned generally.

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COMMISSIONER JEREWAI: Thank you Counsel. Yes, this matter will be adjourned generally. But this particular matter also highlights an aspect of involvement of a developer who has in his possession documents which otherwise should be ordinarily in possession of the landowner company who is the title holder to this particular SABL and I mention it as an observation to highlight for the purposes of further substantive inquiry into this particular SABL. And that is inappropriate that these documents are properties of the title holder and in the ordinary course of business they should be in possession of the title holder.

The other matter that I would like to highlight with particular regard to this SABL is the developer's – I think with particular regard to the commencement of forest clearances to precede any agriculture development - just for noting - so that this is pursued substantively.

By the way, Mr Daink, could this not possibly be an SABL that is located within an area where he comes from? When he was called in the preliminary hearings ---

MR KETAN: Possibly. I recall he may – this is in middle Ramu.

COMMISSIONER JEREWAI: Yes.

10 MR KETAN: I am not sure.

COMMISSIONER JEREWAI: Counsel, I just noticed the immaculate preparation, particularly with regard to the agricultural aspect.

MR KETAN: Yes.

COMMISSINER JEREWAI: And you could take note and take it up with Mr Daink.

20 MR KETAN: Yes.

COMMISSIONER JEREWAI: If he could indicate if he is in any way from the area and he is involved with this particular SABL, he may well be able to assist the Inquiry.

MR KETAN: Yes. I think he said he was from the area but he might be from Bogia which is ---

COMMISSIONER JEREWAI: Which is near is Annan Berg or Ramu.

30

MR KETAN: Yes, we certainly will take that up.

COMMISSIONER JEREWAI: Thank you. Otherwise this matter stands adjourned and if anyone interested in it and is present in the Inquiry room, we advise that when this matter stands adjourned, there will be advertised notification of place, date and time of hearing of the substantive Inquiry into

this particular SABL. This matter now stands adjourned generally. We may proceed with the next one. Thank you Counsel.

[3.42 am] MR KETAN: Commissioner, the next matters are matters that are being handled by Senior Lawyer Assisting the Commissioner, Mr Tusais and Mr Jimmy Bokomi. They sent a note if the hearing can be adjourned may be for a couple of minutes or so and then recommence with them.

COMMISSIONER JEREWAI: Most certainly. Which matters will they be on the list?

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MR KETAN: Those are the matters of Tumu Timbers.

COMMISSIONER JEREWAI: Yes.

MR KETAN: La-Ali Investments, Mudau Investments.

COMMISSIONER JEREWAI: Yes.

MR KETAN: Godae Land Group Incorporated.

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COMMISSIONER JEREWAI: Yes.

MR KETAN: Haubawe Holdings Limited and Foifoi Limited.

COMMISSIONER JEREWAI: Yes.

MR KETAN: Basically, they are Western Province SABLs.

30 COMMISSIONER JEREWAI: Yes, items 2 to 7. What about Wammy Limited?

MR KETAN: Wammy was dealt with.

COMMISSIONER JEREWAI: Already?

MR KETAN: I think it was yesterday or the other day.

40 COMMISSIONER JEREWAI: Thank you, that is fine. We will adjourn temporarily and resume when you are ready or rather when Mr Tusais and Mr Bokomi are ready.

MR KETAN: Yes.

COMMISSIONER JEREWAI: Thank you, adjourn. The Commission adjourns temporarily.

SHORT ADJOURNMENT

[4.00 pm] COMMISSIONER JEREWAI: Good afternoon Counsels.

10 MR TUSAIS: Good afternoon, Commissioner, we have the final remaining six matters to deal with this afternoon. They are Tumu Timbers, it is listed 48 on the original COI list or list of SABLs, La-Ali Investments Limited, numbered 49, Mudau Investment Limited, number 50, Godae Land Group Incorporated number 51, Haubawe Holdings Limited, it is 52 and the final matter of Foifoi Limited is 53. Mr Bokomi, lawyer assisting will be dealing with all the matters. He proposes to start off as they are listed and he will commence with the matter of Tumu Timbers.

COMMISSIONER JEREWAI: All right, thank you Mr Tusais. I just want to indicate at the outset that if I am unable to take all of the six this afternoon,
20 Commissioner Mirou had indicated if it is all right with you to complete whatever is left for tomorrow morning.

MR TUSAIS: I think Mr Bokomi says he will be able to fit them in with the time left, thank you.

COMMISSIONER JEREWAI: Proceed Mr Bokomi, thank you.

MR BOKOMI: Good afternoon, Commissioner.

COMMISSIONER JEREWAI: Good afternoon.

MR BOKOMI: Counsel's name for the record purposes is Bokomi, initial J for Jimmy, Bokomi is spelt B-o-k-o-m-i. I will be making opening statements in respect of all those matters which have been mentioned by Mr Tusais, Senior
30 Counsel to the Commission of Inquiry. I have for the benefit of the Commission as well as for yourself and Commissioner have prepared a brief opening statement in respect of all those matters. As indicated I will start with Tumu Timbers Development Limited. I seek to tender the opening statement on Tumu Timbers Development Limited.

COMMISSIONER JEREWAI: Thank you Mr Bokomi, you may hand it up.

MR BOKOMI: Commissioner, if it may please you, I will take you basically through the opening statement as I have set out, copy of which I have just handed up. At the introductory part of the opening statement, I set out as you are pretty much aware and know the legal premises basically for the grant of the SABLs which is basically the first term of the Terms of Reference of the Commission of Inquiry into Special Agriculture and Business Leases.

You would know that a Special Agriculture and Business Lease is granted by the Minister for Lands or his delegated under section 102 of the Land Act 1996. It is Act number 45 of 1996 as amended to date. Essentially, a reading of both sections 10 and 11 would appear to disclose the following procedure in relation to the acquisition, registration and grant of an SABL. At paragraph two, I set out and say that, prior to the registration and grant of a particular piece of land as an SABL, the following must occur in the order as is set out below:

(i) A person or body corporate who has an interest to develop a particular piece of customary land for agriculture and or other business purposes, formally makes representations with the Department of Lands and Physical Planning. If it is to do with acquisition of customary land for agriculture and other business purposes, representation is normally made with the Customary Lands division of the DLPP which is the acronym for Department of Lands and Physical Planning, which then directs its officers to undertake land investigations on the ground where the proposed land is proposed to be acquired for purposes of subsequent grant as an SABL.

(ii) The land investigation should be carried out, amongst other things, essentially aimed at securing consent and/or approval of the landowners for the acquisition by the State under section 11 of the Land Act to proceed in respect of the customary land concerned. These investigations are essentially provided for in the Land Act, sections 10(3). Note that in the Act, the term 'reasonable inquiry' is used, which in our submission, essentially would also mean investigations.

(iii) After the land investigations are done as envisaged by section 10(3) a land investigation report is prepared and compiled by the Lands officer undertaking the investigations, and a certificate recommending

alienability of the subject customary land is issued and executed by the provincial administrator of both the province concerned in which the proposed land acquisition is concerned and/or the district administrator presumably - and I use the word 'presumably' because there is no evidence of such delegation given to us in terms of the material provided to the Commission - on delegation from the provincial administrator.

- 10 (iv) After the land investigation report is compiled a notice under section 11 of the Land Act is then issued by the Minister for Lands or his delegate, in most instances the person who becomes his delegate is the Secretary for Lands for the time being.
- (v) This is then followed by a Notice of Direct Grant of the Special Agriculture and Business Lease under section 102 of the Land Act which is also issued by the Minister or his delegate. Note that both notices under sections 10 and sections 11 and 102 which we have alluded to herein are published in the National Gazette and on such publication become legally effectual for all intents and purpose.
- 20 (vi) After the Notice of Direct Grant under section 102 is issued, a Lease-Lease Back Agreement is then prepared and executed between the customary landowners of the proposed SABL land and the State. Following the execution of the Lease-Lease Back Agreement, the State then proceeds to register the land as a State lease for agricultural and business purpose in the register of State leases which is maintained by the office of the Registrar of Titles at the Department of Lands and upon such registration, the subject land is given a volume number and a folio number and thereafter the State lease is then issued in the name of the grantee as stated in the Notice of Direct Grant issued under section 102 of the Land Act.
- 30 (3) It should be pointed out here at the outset that the consent and/or approval of and by the customary landowners must not be obtained by misrepresentation, fraud, undue influence or for that matter any factor that may vitiate such consent or approval. As any consent or approval obtained through such means would invalidate the acquisition and consequently render the SABL issued under such circumstances legally null and void, ab initio.

(4) It follows therefore, that for record purposes that the consent and/or approval of customary landowners must be real, genuine, all embracing and must be independently exercised by a majority of the landowners out of their own free will.

[4.10 pm] That in a nutshell, Commissioner is the basic legal framework under which an SABL would be granted and seem to be standing as such legally.

From that general opening I now take Commissioner, you to the specific aspects of this SABL under consideration, which is the Special Agriculture Business Lease issued to and held by Tumu Timbers.

10 COMMISSIONER JEREWAI: Before you go to that just revisiting your submission on alienability. Were you saying the provincial administrators can be by delegation, an appropriate instrument of delegation be appropriate officials to issue a Certificate of Alienability or are they rather, or their function is merely to recommend to the appropriate authority as we heard from Chief Secretary, Manasupe Zurenuoc, who currently is the Custodian of Trust Land. And if indeed all customary land fall into the category of trust land, then recommendation goes to him as the Custodian of Trust Land to issue the Certificate of Alienability. I did not get these things clearly as to the provincial administrators? ---

20 MR BOKOMI: Role.

COMMISSIONER JEREWAI: Role and whether they are empowered to issue such a certificate or they merely can recommend for a Certificate of Alienability to be issued by the appropriate authority, which as we have heard, is the Custodian of Trust Land. What is the ---

MR BOKOMI: Very well. The practice has essentially been that the provincial administrator or in these instances insofar as some of these Western Province acquisitions have been concerned or are concerned, the certificate recommending alienability of customary land has been issued by the administrator in one instance or has been issued by the district administrator.
30 Now, there is no evidence before the Commission insofar as my perusal of the files are concerned to show that there is an instrument of delegation. If it is then there must be such an instrument available so that for purposes of standardizing the practice and for purposes of ensuring certainty, such instrument of delegation must become available.

COMMISSIONER JEREWAI: Yes.

MR BOKOMI: And in terms of bestowing a particular responsibility to the Trustee of Customary Lands then he or she perhaps, holding that position for the time being may or should be the person empowered to issue such certificate or recommendation from provincial authority, be it from a relevant provincial authority, be it the provincial administrator or the district administrator.

COMMISSIONER JEREWAI: Yes, the provisions---

MR BOKOMI: Perhaps that is something that the Commission should explore and recommend on.

10 COMMISSIONER JEREWAI: Yes, the provisions do not - in any of the provisions we are concerned with, including sections 11 and 102 of the Land Act as well as sections 167 of, I believe, Land Registration Act, there is no mention of district administrators or provincial administrators insofar as their involvement regarding issue of certificate of alienability are concerned, in that administratively, perhaps they could recommend having been satisfied with, for instance land investigation actions that lead to proper land investigation report to be compiled as well as being satisfied that there have been authentic consent by the interested customary landowners and all of these matters, I believe administratively once they are satisfied of all of these matters primarily to
20 protect the interests of the customary landowners then they can recommend but purely administratively because these provisions do not mention them at all.

[4.15 pm] The provisions, particularly, section 167 of the Land Registration Act only mentions the Custodian of Trust Land to be the only one empowered to issue a certificate of alienability. But then we have to be satisfied that indeed customary land fall into the category of land that the Custodian of Trust Land is responsible over as well. Nonetheless, Counsel I am only raising it in relation to the opening segment of your submissions on the opening of this file that those are the issues, legal positions we must be very clear on before we embark on the substantive. Not only in relation to this SABL but in relation to all the
30 others in actual fact. But I appreciate that you have approached the opening of this particular file on this particular SABL by broaching the probable legal position. Because the provisions do not set out the full administrative processes to be followed that the practice as seen from the evidence in the preliminary stages involving our Terms of Reference (a) and (b), with evidence from the Department of Lands and Physical Planning and other State agencies, that has

been the administrative practice. I appreciate that this is an opportune time to broach the administrative processes that will determine if they were in compliance with the legal requirements so that the rest of the substantive matters can be dealt with accordingly. Having said that, please Counsel, you can proceed to the second segment of the opening of this particular file.

MR BOKOMI: Thank you Commissioner. I now deal with the particular aspects of this particular file, the SABL issued to and held by Tumul Timbers Development Limited in respect of Portion 1C which description I will come to a little later in my opening statement.

- 10 (5) But without further ado, I now proceed on paragraph five of my opening statement, in which I say that – Commissioner, before I proceed, I would seek leave to tender the Notice of Direct Grant relating to this particular SABL. It is published in National Gazette number G78 of Tuesday, 28 April 2009.

COMMISSIONER JEREWAI: Thank you Counsel. Have you got the COI file reference on this matter so that I can issue an appropriate exhibit number to it?

MR BOKOMI: Its COI file number?

COMMISSIONER JEREWAI: Yes.

MR BOKOMI: It is number 48.

- 20 COMMISSIONER JEREWAI: All right, I accept the National Gazette No G78 dated 28 April 2009, which comprises of a Notice of Direct Grant under section 102 of the Lands Act in relation to the grant of this Special Agriculture Business Lease.

[4.20 pm] And I relegate it as exhibit number 1 SABL, Counsel, could you assist me, SABL ---

MR BOKOMI: SABL ---

COMMISSIONER JEREWAI: Portion?

MR BOKOMI: Portion 1C.

COMMISSIONER JEREWAI: Yes.

- 30 MR BOKOMI: Held by Tumu Timbers Development Limited.

COMMISSIONER JEREWAI: So SABL 1C, Western Province.

MR BOKOMI: Western Province. Commissioner, you want me to give you the actual description of the land?

COMMISSIONER JEREWAI: No, just for the purposes of exhibit, we will call it exhibit number 1 SABL 1C, Western Province.

MR BOKOMI: Tumu Timbers, Western Province.

COMMISSIONER JEREWAI: Tumu Timbers, Western Province.

10 **[EXHIBIT 1- SABL 1C - TUMU TIMBERS, WESTERN PROVINCE –
COPY OF NATIONAL GAZETTE NO. G.78 - NOTICE OF DIRECT
GRANT OF 28 APRIL 2009]**

COMMISSIONER JEREWAI: Thank you, proceed, Counsel.

MR BOKOMI: Very well, Commissioner. At paragraph 5 of my opening statement I say that on 27 April 2009, by a Notice of Direct Grant under section 102 of the Land Act, 1996, number 45 of 1996, cause to be issued under the hand of the then Minister for Lands and Physical Planning, Honourable, now Sir Puka Temu, MP, Tumu Timbers Development Limited, a landowner company belonging to, as it appears customary landowners of the area in which the SABL is located, was granted an SABL over portion 1C above alluded.

- 20
- (6) The subject SABL was issued to Tumu Timbers Development Limited for a term of 99 years.
 - (7) The land covered by the SABL is formally and particularly described as “all that piece of land known as Aibolo, Aibolo is spelt A-i-b-o-l-o, being portion 1C, milinch Aramia, Bosavi, Miwa, Kaim, Soari, Avu, Kotale, Piareme and Samaki, fourmil Raggi, Murray, Kutubu and Aworra, Western Province, having an area of 790,800 hectares as shown on the survey plan catalogued as catalogue number 35/15. That essentially is the formal and legal description of the subject SABL.
 - 30 (8) The land investigation report relating to the subject SABL on our perusal of the documents provided by the DLPP; Department of Lands and Physical Planning is undated.

(9) However, the certificate in relation to boundaries was executed by the Lands officer undertaking the land investigations, one Mr Ipisa Biyama, a district Lands officer of Western Provincial Administration on 11 December 2008 at Balimo, Middle Fly District, Western Province. It is thus presumed that the land investigations may have been done prior to this date or perhaps on this date. But that is subject to confirmation by the Inquiry later.

[4.25 pm](10) In the LIR it is also established that the certificate in relation to boundaries contained in the LIR executed by Mr Ipisa Biyama says that he conducted the land boundary surveys of the subject SABL by walking physically and also by aerial survey as far as practicable. And that this was done in the company of the following owners, agents of the landowners. And they are Semai Aitowasu, Galisae Wasowe, Roger Iwaneke, Abilie Wape, Walama Painama, Wisa Susupie, Billy Toroti, Yamai Umtadie, Yaeye Bosaie and Iya Fami.

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(11) According to the land investigation report the Kamulua and Tumusa tribes own block 1 of Aibolo, the Doso tribe block 2 of Aibolo and the Kamula and Kalamo tribes own block 3 of Aibolo. Therefore, in essence, Commissioner, the Aibolo land encompassed by the SABL under consideration is divided into three major blocks as herein stated.

(12) The total population of the area covered by the SABL is about 5,000 to 6,000 people according to the LIR, land investigation report with a natural increase rate of about 3.9 percent, and a growth factor of 6.683 percent.

(13) As to the nature and the topography of the land, the land is basically comprised of tropical rainforest having a near six percent gradient topography and also flood plains and at the present time is minimally used by the landowners except for traditional gardening, hunting and gathering purposes.

30

(14) Further, according to the LIR, the landowners are willing to lease their land for 99 years.

(15) The villages from which the landowning clan groups of the SABL area come from are as follows; Wawoi Falls, Makapa, Pikiwa, Bamutsu, Somoleopa, Lake Cambell, Hasalipi and Wasope.

Commissioner, before I proceed further, I also seek to tender the survey plan which essentially sets out the map of the subject SABL, portion 1C, containing 790,800 hectares.

COMMISSIONER JEREWAI: Please tender. I accept this copy of the survey plan and treat it as exhibit SABL 1C.

MR BOKOMI: Exhibit B of SABL 1C.

COMMISSIONER JEREWAI: Exhibit B? The first one was A, was it not?

MR BOKOMI: That is correct.

COMMISSIONER JEREWAI: All right, thank you, Counsel.

10 MR BOKOMI: Exhibit B.

COMMISSIONER JEREWAI: Exhibit B of SABL 1C ---

MR BOKOMI: That is Tumu Timbers Development.

COMMISSIONER JEREWAI: Tumu Timbers, Western Province.

MR BOKOMI: Western Province.

[EXHIBIT B – SABL1C – TUMU TIMBERS, WESTERN PROVINCE – COPY OF SURVEY PLAN]

COMMISSIONER JEREWAI: Thank you. Proceed, Counsel.

20 MR BOKOMI: I am now at paragraph 16, Commissioner.

COMMISSIONER JEREWAI: Yes.

MR BOKOMI: (16) Basing on the schedule of owners status and rights to the land as set out in the land investigation report about 1132 persons of the total population of the subject area of about 5,000 to 6,000 people gave, as it appears, their consent and approval for the State to acquire the subject land and to later lease it back to Tumu Timbers Development Limited.

4.30 pm] (17) Commissioner, the figure of 1132 persons represents, according to our calculation based on the population figures provided – total population figures provided, represents all the above 30 percent to 40 percent of the

total population of the area who have apparently given their consent, and/or approval for the acquisition of such a vast area of customary land covering a total of 790,800 hectares as alluded.

- (18) Further, according to the land investigation report, the Valuer General's requirements, part of that land investigation report appear not or has not been completed also.
- (19) The certificate recommending alienability of the subject customary land was signed on 18 December 2008 at Kiunga by the then administrator of Western Province, Mr Nelson Hangrabros.
- 10 (20) Commissioner, based on the LIR above stated and section 11 Notice and Notice of Direct Grant under section 102, an instrument of lease for customary land - that is the Lease-Lease Back Agreement - was executed between the customary landowners and the State.
- (21) The copy of the instrument of lease for customary land provided to the Commission is undated. Perhaps there is a copy that is dated which we may have to get sometime later. But the copy that is on file ---

COMMISSIONER JEREWAI: Who provided that copy, the undated copy?

MR BOKOMI: It is the Tumu Timbers representative.

COMMISSIONER JEREWAI: Would that have been in response to the
20 advertisement by the Department of Lands and Physical Planning or was it by way of a submission from them?

MR BOKOMI: It was by way of a submission from them. They provided a copy which is undated. Unfortunately, I could not make a copy available to you, Commissioner at this point. Commissioner, if you so wish, I can always make that available later.

COMMISSIONER JEREWAI: Not necessarily, Counsel, it will be important but it can come up on the substantive Inquiry into this particular SABL.

MR BOKOMI: Very well.

COMMISSIONER JEREWAI: Proceed.

30 MR BOKOMI: I now take you Commissioner to page 4, top of page 4 of my opening statement.

(22) After the execution of the Instrument of Lease, which I have just made reference to, the State lease for Agricultural and Business Lease Purposes was issued to Tumu Timbers Limited and executed on 6 May 2009 with retrospective commencement date of 1 April 2009 for a period of 99 years.

(23) The subject SABL is registered and comprised in the register of State leases volume 34, folio 94.

[4.35 pm] It is not discernible clearly from the copy that I have, which I seek to hand up shortly, as to who actually was the or the delegate of the Minister who signed the lease. I seek to hand it up.

10

COMMISSIONER JEREWAI: You mean the signing of the Notice of Direct Grant?

MR BOKOMI: No, the lease itself.

COMMISSIONER JEREWAI: The least itself?

MR BOKOMI: Yes.

COMMISSIONER JEREWAI: Yes, please have it tendered.

MR BOKOMI: I have a copy of the State lease.

COMMISSIONER JEREWAI: Proceed to tender it, Counsel.

MR BOKOMI: I would ask that Commissioner, we mark that as exhibit C.

20 COMMISSIONER JEREWAI: Exhibit C to SABL 1C, Tumu Timbers, Western Province.

MR BOKOMI: Tumu Timbers Development Limited.

[EXHIBIT C – SABL1C - TUMU TIMBERS DEVELOPMENT LIMITED, WESTERN PROVINCE – COPY OF STATE LEASE]

COMMISSIONER JEREWAI: Proceed, Counsel.

MR BOKOMI: Thank you Commissioner.

(24) As I have stated portion 1C as covered by the subject SABL comprise of a very massive area of land, embracing a total of 790,800 hectares.

(25) The SABL is proposed as a major agro-forestry development project apart of course, from logging associated with the forest clearing for purposes of the agro-forestry development project and it is intended that a major oil palm development will occur on the subject land and also tree farming.

10 COMMISSIONER JEREWAI: Tree farming?

MR BOKOMI: That is correct.

COMMISSIONER JEREWAI: As if there are no major tracts of trees already there

MR BOKOMI: Perhaps they are looking at the flood plains.

(26) The area covered by the SABL also is under currently a forest management area. And that area is called Kamula Doso FMA.

COMMISSIONER JEREWAI: Is it an FMA or a TRP?

MR BOKOMI: According to the documentations that I have been provided with, I think it is Wawik Guavik TRP, Kamila Doso FMA. We will have to
20 verify that.

COMMISSIONER JEREWAI: Ascertain that?

MR BOKOMI: Yes.

COMMISSIONER JEREWAI: Specifically, yes.

MR BOKOMI: (27) And in respect of that FMA, it appears from correspondences received and are on file, certain landowners have actually given their notices on or about 7 December 2007 to withdraw the FMA. However, as to what has become of that; the notice, I cannot ascertain from the file, and this may also be a matter for further inquiry with relevant authorities to see what decision that they have come up with.

30 COMMISSIONER JEREWAI: Yes.

MR BOKOMI: (28) Commissioner, there apparently are two factions of people claiming to be directors of Tumu Timbers Development Limited. One faction is led by a person called Wisa Susupie and in his team you have also Mr Billy Toroti and both, respectively act as chairman and deputy chairman on the one part, and the other faction of the landowners is led by Mr George Deprosie, which are now the second faction led by Mr George Deprosie, hold themselves out as the legally registered directors of Tumu Timbers Development.

[4.40 pm](29) As a result of that, a substantive dispute has been registered and is
10 currently on foot at the National Court at Waigani by way of OS number 732 of 2011, and Lakakit and Associate Lawyers of Port Moresby has carriage of that matter for Wisa Susupie and his faction, who are the plaintiffs therein. Commissioner, if you please, I seek to hand up the back page of the affidavit of service.

COMMISSIONER JEREWAI: Is it necessary? I take note of the ---

MR BOKOMI: Very well.

COMMISSIONER JEREWAI: The National Court proceedings as filed and sealed by the Court are official documents we can take cognizance of. We can actually treat it as official documents.

20 MR BOKOMI: Very well.

COMMISSIONER JEREWAI: So do not tender that. What I would be interested to know is who are the lawyers for the defendants in that case? Any idea at this stage?

MR BOKOMI: I do not have any evidence in terms of court documents filed but presumably it would be Titus Lawyers, because Titus Lawyers act for Tumu Timbers Development Limited. Now, that has to be confirmed by Mr Michael Titus of Titus Lawyers.

COMMISSIONER JEREWAI: That is all right. Nonetheless, just take note at this juncture to carry out a National Court file search on this particular matter.
30 And as I have indicated in a number of other matters, number of other SABLs which I was involved in the opening of the files, where there are existing court actions that searches be carried out of all these court files and specifically to determine the cause of action so that we will know what issues are before the

Court in relation to those actions for the purposes of determining where we may be sub-judiced. Yes, apart from that Counsel, please carry on with your opening of the file.

MR BOKOMI: Thank you Commissioner.

10 (30) The proposed developer for the SABL is Independent Timbers and Stevedoring Limited which essentially is a company that is registered in Delaware, United States of America. From information provided and are on file, I could not ascertain whether or not they have section 29 certification to operate within the subject area covered by the SABL under the IPA Act.

COMMISSIONER JEREWAI: You have conducted IPA search of this company?

MR BOKOMI: We have. The only information provided by the IPA through the Office of the Registrar of Companies is historical extract.

COMMISSIONER JEREWAI: And what does the extract say about the composition of this company?

MR BOKOMI: The extract essentially says that, at the outset, it says the company was incorporated on 7 November 2003, the company registration number is 1-500930, company name is Independent Timbers and Stevedoring
20 Limited. The current status is, it is operating and incorporation location Papua New Guinea. But I have ---

COMMISSIONER JEREWAI: Composition of shareholders?

MR BOKOMI: Composition of shareholders, in terms of the share structure company has issued a total of 19,242,603 shares.

[4.45 pm] In terms of the shareholders, if I can quickly run through.

COMMISSIONER JEREWAI: Yes, do that. Because I note in your opening statement there is no information on the composition of shareholders.

MR BOKOMI: Independent Timbers and Stevedoring USA Incorporated, the start date of the shareholding of this particular company in Independent Timbers
30 and Stevedoring (PNG) Incorporated is 14 June 2006.

COMMISSIONER JEREWAI: What is the number of shares it holds and the class of shares?

MR BOKOMI: It holds, I will have to calculate that. It has been issued at different times, a number of ordinary shares. The first issuance date was ---

COMMISSIONER JEREWAI: It is very important you run through them each, each of the issue, you run through them.

MR BOKOMI: Very well.

COMMISSIONER JEREWAI: So that it is on record.

MR BOKOMI: For record purposes I will now read, Commissioner.

10 COMMISSIONER JEREWAI: Yes.

MR BOKOMI: Ordinary shares – 50 ordinary shares were issued on 5 April 2006 and then on that same date another 50 shares, ordinary class were issued also on 5 April 2006. On 31 December 2007, a total of 12,242,503 shares were issued. On 31 May 2011, a total of 7 million shares were issued to that company. The registered office of Independent Timbers and Stevedoring USA Incorporated is stated as 3500, south DuPont Highway, Dover, Detroit, 19901, United States of America. That registered office has a start date of 9 May 2006.

COMMISSIONER JEREWAI: Detroit?

20 MR BOKOMI: The postal address is unknown.

COMMISSIONER JEREWAI: Detroit, did you say?

MR BOKOMI: Detroit.

COMMISSIONER JEREWAI: Yes, that will be the State of Michigan?

MR BOKOMI: That is correct.

COMMISSIONER JEREWAI: Any registered office in Papua New Guinea?

MR BOKOMI: It does not indicate.

COMMISSIONER JEREWAI: All right.

MR BOKOMI: The next company is ---

COMMISSIONER JEREWAI: Shareholding company, you mean?

MR BOKOMI: That is correct.

COMMISSIONER JEREWAI: All right.

MR BOKOMI: Is Hilo Investments Pty Limited.

COMMISSIONER JEREWAI: How do you spell that name?

MR BOKOMI: H-i-l-o Investments Pty Limited. The said company started as a shareholder---

COMMISSIONER JEREWAI: Date of ---

MR BOKOMI: On 14 December 2010.

10 COMMISSIONER JEREWAI: You mean the date of issue of shares to that company?

MR BOKOMI: And the date of issue of shares is 9 April when it was issued seven million ordinary shares. Then on 31 May the seven million ordinary shares, it says redemptions, so the shares must have been redeemed but by whom it does not say. But the address ---

COMMISSIONER JEREWAI: Redemption automatically suggest that the issue of the shares, that will be the company, and you would have to assume that it is the Independent ---

MR BOKOMI: Timbers.

20 COMMISSIONER JEREWAI: Timbers and Stevedoring Limited would have bought back the shares.

MR BOKOMI: Yes.

COMMISSIONER JEREWAI: Or had them transferred back to them. Whenever you come across the terminology 'shares have been redeemed' you will just assume that the legal position is that the company had taken the shares back.

[4.50 pm] Go on Counsel, it is all right.

MR BOKOMI: Thank you, Commissioner for your assistance. The registered office of that particular company Hilo Investments Pty Limited is stated as c/-

WHKTCM Smith, 22 Walker Street, Townsville, Queensland, Australia. The start date for that registered office address is 6 August 2010. There is no end date so it is presumed that that is the official registered office of the said company. As to the postal address it is unknown. That essentially shows that there is only one shareholder in Independent Timbers and Stevedoring Limited and that is ---

COMMISSIONER JEREWAI: The American company?

MR BOKOMI: The American company. If I can proceed with my opening statement.

10 COMMISSIONER JEREWAI: Yes.

MR BOKOMI: At paragraph 31 of the opening statement, I say that,

(31) However, certain landowners led by Wisa Susupie are saying that the consent and approval for the major customary land acquisition automatically culminating in the SABL under consideration was obtained by fraud, if at all or there was or appeared to have been no consent at all by the landowners.

(32) Whether there was consent and/ or approval or not is a matter that can be the subject of further inquiry.

20 COMMISSIONER JEREWAI: That is to be noted as the contention by Mr – the group led by Mr Wisa Susupie?

MR BOKOMI: Wisa Susupie.

(33) By a letter dated 5 July 2011, Mr Wisa Susupie and other four signatories wrote to the Minister for Lands the, Honorable Mr Lucas Dekena, MP, requesting cancellation of the subject SABL. Commissioner, I seek leave to tender a copy of the said letter.

COMMISSIONER JEREWAI: You better retain that letter until the substantive hearing on the ---

MR BOKOMI: Very well then.

30 COMMISSIONER JEREWAI: On the further Inquiry into this particular SABL. I accepted the two earlier ones because they are official documents that are imperative to ensuring that the file has sufficient primary information to

proceed with the substantive at a later date. But matters such as the letter you have just alluded to, I imagine would have been presented by one of the disputant, Mr Susupie, and that can be produced at the substantive Inquiry on this particular SABL.

MR BOKOMI: Very well.

COMMISSIONER JEREWAI: Thank you.

COMMISSIONER BOKOMI: Thank you. If I may further proceed.

10 (34) By a letter dated 26 July 2011, the First Secretary for the Minister for Lands, aforesaid one Mr Dennis Mipa responded to Mr Susupie's letter advising that the Minister had directed cancellation of the SABL and the Department; that is DLPP was working on it. There is one more pertinent fact which I have not stated in the opening statement and that is that on or about 30 September 2011, there was a meeting at Wawi Fall, apparently organized by the Department of Lands and Physical Planning, certain officers of Department of Lands and Physical Planning apparent in conjunction with Tumu Timbers Development Limited, there was a request to this Commission by a letter for allocation of an officer from the Commission to attend. But that did not eventuate.

[4.55 pm] I believe I should, for purposes of this Inquiry, and further probing into this particular SABL state that for record purposes because the meeting was held in regard to the SABL under consideration but to date we have not been forwarded any minutes, et cetera. Perhaps that will be ---

COMMISSIONER JEREWAI: Well, Counsel, you need not labor on this.

MR BOKOMI: Very well.

COMMISSIONER JEREWAI: This Commission of Inquiry was not established for the purposes of engaging in meetings with whoever the interested persons or parties may be. They have had sufficient or ample notice of the hearings of this Commission of Inquiry in relation to all SABLs including theirs or this particular one, and they are entitled to make representations or wait
30 until such time as this Commission of Inquiry decides to convene on location to deal with the Inquiry into this particular SABL. So disregard their request for the meeting for the time being. That will be taken into account if it is of any relevance at all at the time when we are on location.

MR BOKOMI: Thank you. On the basis of what I basically set out in the opening statement, one issue that starkly arises is whether the landowners have actually given their consent and/ or approval for the acquisition of their land and subsequent grant as an SABL. Based on my perusal of the file, I intend to make some very tentative findings ---

COMMISSIONER JEREWAI: I have cautioned Counsels in the earlier file openings today not to use the phrase “preliminary” or “tentative findings” but if you could make “observations” based on your examination of all your official records to date for the purposes of opening each file and in regard to this particular one that you make similar “observations” as to what may constitute the issues---

MR BOKOMI: Very well.

COMMISSIONER JEREWAI: Which the substantive Inquiry will deal with when we deal with this particular SABL substantively.

MR BOKOMI: Thank you, then to put things into perspective, I would make the following observations upon my reading of the file and that is that, the subject SABL may appear to fall within an existing LMA, that is subject to confirmation a that LMA is

COMMISSIONER JEREWAI: FMA.

MR BOKOMI: FMA sorry, not the LMA but FMA, Forest Management Agreement area which is called Kamila Doso FMA. And number 2 observation is that, majority of the landowners may not have given their consent nor approval for the SABL. Those are basically tentative only subject to ascertainment of further facts, et cetera upon further inquiry.

COMMISSIONER JEREWAI: Yes, those are observations at this point.

MR BOKOMI: Commissioner, the list of witnesses that I have set out at paragraph 37 is not really exhaustive. But those are some of the relevant officers that can be called upon or summoned to give evidence insofar as this SABL is concerned. And those are the relevant government officers namely Romily Kila Pat, Deputy Secretary Customary Lands, Department of Lands and Physical Planning, Henry Wasa, Registrar of Titles, Office of the Registrar of Titles, Department of Lands and Physical Planning, Simon Malu, Director Customary Lands Acquisition division, DLPP and Mr Ipisa Biyama, the Dispute

Lands officer based in the Western Provincial Administration who conducted the land investigation; and all landowners affected one way or another insofar as this SABL is concerned.

[5.00 pm] That concludes the opening statement in respect of Tumu Timbers Development Limited, SABL, Portion 1C, Western Province. Unless, Commissioner you have further questions.

COMMISSIONER JEREWAI: I do not have any questions but you may sit down Counsel while I make some observations which will probably result with the opening of the file on this particular SABL, rather as being incomplete. I
10 want to say this so that I will explain a number of directions I will want to make. This SABL involves a very large area of land in excess of 790,000 hectares. As one can imagine it covers a very large tract of Papua New Guinean territory in the Western Province and comprises of very valuable stocks of forest. It is alarming to say the least that our own public officials, in particular, the Department of Lands and Physical Planning, as well as the Registrar of Titles, cannot maintain records that will sufficiently reflect effects of commercial interest relating to not only the land, which is a massive area but the commercial value of natural resources found on those land. It is also alarming to say the least that the Investment Promotion Authority and in particular, the
20 Companies Office does not maintain sufficient records to clearly keep track of what obviously is a foreign owned company which had acquired substantial interest in this very large tract of land that is owned by customary landowners of Western Province in this country.

So this file will not be strictly officially opened and I will request Counsels that we will re-list the opening of this file toward either the middle or the end of next week. So that a number of directions I will issue can be attended to, to have this Commission properly appraised of relevant information, including official documents that must be provided by whatever powers that this Commission of Inquiry has to ensure such production.

5.05 pm] So I make these directions pursuant to the powers of the Commission under section 6 of the Commission of Inquiry Act, I direct that summonses for production of documents be issued to the Registrar of Titles, Mr Henry Wasa, to produce the signed - what was the document again that was not signed, Counsel?

MR BOKOMI: That is the instrument of lease for customary land, Lease-Lease Back ---

COMMISSIONER JEREWAI: Instrument of lease of customary land?

MR BOKOMI: Yes, Lease-Lease Back Agreement.

COMMISSIONER JEREWAI: Yes. I direct that that document be produced. I beg your pardon, the summons requires him to produce that. Sorry?

MR BOKOMI: Perhaps, Commissioner, Mr Wasa may not be the appropriate officer. This matter can be appropriately dealt with by the Customary Lands Division.

10 COMMISSIONER JEREWAI: All right, I will amend that and direct that Mr Romily Kila Pat ---

MR BOKOMI: Very well.

COMMISSIONER JEREWAI: The head of the division responsible over customary land matters produce a copy of that instrument. I also direct that a summons for production of documents be issued requiring the Registrar of Companies - would that be Ivan Pomaleu at this ---

MR BOKOMI: Mr Alex Tongayu, who is presently the ---

COMMISSIONER JEREWAI: Alex Tongayu. This is a further direction that summons for production of documents be issued requiring Mr Alex - what is the
20 second name again?

MR BOKOMI: Mr Alex Tongayu, Tongayu is spelt T-o-n-g-a-y-u.

COMMISSIONER JEREWAI: Tongayu?

MR BOKOMI: Tongayu.

COMMISSIONER JEREWAI: Thank you Counsel. To produce all relevant company records in relation to Independent Timbers and Stevedoring Limited as well as Hilo Investments Limited.

MR BOKOMI: Hilo Investments Pty Limited.

COMMISSIONER JEREWAI: Pty Limited, well, Pty has been since omitted by the new Act so you can assume that it can be treated as Limited only.

MR BOKOMI: Commissioner, very well, for PNG purposes.

COMMISSIONER JEREWAI: Correct. Even if it is registered as a foreign company. A further direction that they be summoned to appear - could you suggest a date, Counsels? Mr Tusais, you may be able to assist in this regard.

MR TUSAIS: Thursday, next week.

COMMISSIONER JEREWAI: Thursday next week will be, what will be the date?

MR TUSAIS: 13th.

COMMISSIONER JEREWAI: All right, they appear on Thursday, 13 October
10 2011 with the required documents to be produced. Those will be the directions pursuant to the powers exercised under section 6 of the Commission of Inquiry Act. Thank you Counsels. That is all I need to do in relation to this matter. And the file does ---

MR BOKOMI: Thank you Commissioner, based on your directions, I now ask that the matter be adjourned to Thursday, the 13th ---

COMMISSIONER JEREWAI: At 9.30 am?

MR BOKOMI: October 2011 at 9.30 am.

COMMISSIONER JEREWAI: Thank you.

MR BOKOMI: Thank you.

[5.10 pm] COMMISSIONER JEREWAI: We have done two of the six matters.

MR BOKOMI: We have done one of the six matters.

COMMISSIONER JEREWAI: I beg your pardon, one of the six matters.

MR BOKOMI: Commissioner, I note the time on the wall, wall clock now reads 5 o'clock. These matters are basically interrelated one way or another insofar as the relevant grants are concerned and the dates. They are basically within one particular area; they are adjoining blocks of land. I suggest if Commissioner, if you please that we deal with them basically together.

COMMISSIONER JEREWAI: Together tomorrow morning?

MR BOKOMI: Perhaps.

COMMISSIONER JEREWAI: We can proceed now if you, we can go ahead and deal with them now.

MR BOKOMI: Yes.

COMMISSIONER JEREWAI: I am only mindful of your own ---

MR BOKOMI: I have prepared basically the opening statements which will assist you Commissioner as I ---

COMMISSIONER JEREWAI: Very well, let us proceed with them.

MR BOKOMI: Thank you Commissioner. If I may proceed. The next five matters before the Commission this afternoon are La-Ali Investments Limited, that is the matter relating to COI file number 49. The next matter is Mudau Investments, COI file number 50 and the third matter is Godae Land Group Incorporated, COI file number 51. The fourth matter is Haubawe Holdings Limited, COI file number 52 and the fifth and final matter is Foifoi Limited, COI file number 53.

Commissioner, my perusal of all these files indicate a number of similarities in terms of the date of the Notice of Direct Grant. All of them have been caused to be issued on 30 October 2009.

The land investigation report has been conducted within the subject areas either one or two days prior or later but all within the same time. And then the certificate in relation to land boundary walk was also done about one or two days---

[5.15 pm] COMMISSIONER JEREWAI: Apart.

MR BOKOMI: Depending on which particular matter that you look at. In terms of their location including the certificate recommending alienability of the subject land, there have been more or less caused to be signed almost on one and the same date. The location from the township of Balimo of the subject land is just about between 65 to 80 kilometres northerly; hence, my proposition to deal with them together this afternoon.

COMMISSIONER JEREWAI: Yes.

MR BOKOMI: Perhaps my reading of one statement would suffice to ---

COMMISSIONER JEREWAI: Cover the others.

MR BOKOMI: Apply to or cover the others as well except for those, the differences of the landowners involved, et cetera.

COMMISSONER JEREWAI: Sure.

MR BOKOMI: I therefore, seek leave to tender the opening statements for each one of them.

COMMISSIONER JEREWAI: Thank you, please.

MR BOKOMI: For your benefit, Commissioner. At the outset I must state for record purposes that these are somewhat smaller SABLs insofar as the total land acreage is concerned. The SABL with the highest number of hectares insofar as these five SABLs are concerned is that, which is currently vested in and described as portion 9C to - vested in Foifo Limited, that is COI file number 53, it has 39,000 hectares.

COMMISSIONER JEREWAI: Did you say 9,000 hectares?

MR BOKOMI: 39,000.

COMMISSIONER JEREWAI: 39,000.

MR BOKOMI: Hectares.

COMMISSIONER JEREWAI: Did you say that is the smallest area or largest?

MR BOKOMI: No, that is the biggest out of the ---

COMMISSIONER JEREWAI: Out of the five.

MR BOKOMI: Out of the five.

COMMISSIONER JEREWAI: Five, yes.

MR BOKOMI: Godae Land Group Incorporated in respect of SABL over portion 7C has 15,153 hectares, that is the next highest in terms of land area covered by the subject SABL. Then the third highest from within this group of SABLs is that which has been granted to Haubawe Holdings Limited, Portion number 8C, encompassing an area of 11,110 hectares. That is followed by, in terms of land area, followed by portion 6C SABL which is vested in Mudau Investment Limited with a total land area of 10,450 hectares.

[5.20 pm] Finally, La-Ali Investments Limited, with the SABL over portion 5C which covers an area of 7121 hectares. Commissioner, if you may allow me to proceed with one of those.

COMMISSIONER JEREWAI: Yes, choose any one of them and proceed, Counsel.

MR BOKOMI: Thank you. Before I proceed I have got the copy of the relevant National Gazette which essentially sets out the relevant five notices of direct grant in respect of each of these.

COMMISSIONER JEREWAI: They are all contained ---

10 MR BOKOMI: They are all contained in ---

COMMISSIONER JEREWAI: All the gazettals are contained in one single gazette?

MR BOKOMI: One and the same gazette.

COMMISSIONER JEREWAI: You want to tender that up, yes.

MR BOKOMI: Thank you. For record purposes that, the notices of Direct Grant under section 102 in respect of all these five SABLs which I have alluded to have been published in National Gazette No G217 of Friday, 30 October 2009.

20 COMMISSIONER JEREWAI: Can it be safely assumed that the gazettal of that instrument, I beg your pardon, the gazettal relates to a single instrument with these grants done by a single instrument rather?

MR BOKOMI: Commissioner, I do not really feel safe that we should assume.

COMMISSIONER JEREWAI: Good, leave it at that for substantive clarification.

MR BOKOMI: That is correct because these are different land files.

COMMISSIONER JEREWAI: Sure. But for the purposes of opening up the files, we will take that instrument now.

MR BOKOMI: Thank you.

COMMISSIONER JEREWAI: That gazettal, that is.

MR BOKOMI: I seek leave to tender.

COMMISSIONER JEREWAI: All right. This would be exhibit A to – I will go down in the order of the COI files, exhibit A which comprises of National Gazette as you have stated number G217 dated 30 October 2009, giving Notice of Direct Grant under section 102 of the Land Act. In relation to La-Ali Investments Limited being issued with portion 5C, Mudau Investment Limited being issued with portion 6C, Godae Land Group being issued with portion 7C, Haubawe Holdings Limited being issued with portion 8C and Foifoi Limited being issued with portion 9C, all in - which province are they in?

10 MR BOKOMI: They have the same description ---

COMMISSIONER JEREWAI: Western Province?

MR BOKOMI: In Western Province. For record purposes they have very similar descriptions except for the portion numbers and the survey plan catalogue numbers.

COMMISSIONER JEREWAI: All right, I will apply this particular document you tendered; that is the National Gazette I have just referred to as exhibit A to each one of these SABLs I have just cited in favour of each of their individual names as I have cited, all located in Western Province.

[5.25 pm] For example, in relation to La-Ali Investments, the exhibit will be exhibit A,
20 Portion 5C, La-Ali Investments Limited, Western Province.

MR BOKOMI: Commissioner, they all bear the same ---

COMMISSIONER JEREWAI: And similarly they will – the exhibit A is adapted as exhibit A in relation to Mudau Investment Limited, portion 6C, Western Province.

MR BOKOMI: Yes.

COMMISSIONER JEREWAI: Godae Land Group, portion 7C, Western Province, Haubawe Holdings Limited, portion 8C, Western Province, Foifoi Limited in relation to portion 9C, Western Province. It is exhibit A to each one of these SABLs.

MR BOKOMI: Perhaps, in addition to that Commissioner, for record purposes, they all bear the same milinch name and fourmil name and that is milinch of Guavi, fourmil Awora, Middle Fly district of Western Province.

[EXHIBIT A – PORTION 5C – LA’ALI INVESTMENTS, WESTERN PROVINCE – COPY OF NATIONAL GAZETTE NUMBER G217 OF 30 OCTOBER 2009 – NOTICE OF DIRECT GRANT]

10 **[EXHIBIT A – PORTION 6C – MUDAU INVESTMENTS, WESTERN PROVINCE – COPY OF NATIONAL GAZETTE NUMBER G217 OF 30 OCTOBER 2009 – NOTICE OF DIRECT GRANT]**

[EXHIBIT A – PORTION 7C – GODAE LAND GROUP, WESTERN PROVINCE – COPY OF NATIONAL GAZETTE NUMBER G217 OF 30 OCTOBER 2009 – NOTICE OF DIRECT GRANT]

[EXHIBIT A – PORTION 8C – HAUBAWE HOLDINGS LIMITED, WESTERN PROVINCE – COPY OF NATIONAL GAZETTE NUMBER G217 OF 30 OCTOBER 2009 – NOTICE OF DIRECT GRANT]

[EXHIBIT A – PORTION 9C – FOIFOI LIMITED, WESTERN PROVINCE – COPY OF NATIONAL GAZETTE NUMBER G217 OF 30 OCTOBER 2009 – NOTICE OF DIRECT GRANT]

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COMMISSIONER JEREWAI: Thank you. All right, proceed.

MR BOKOMI: Commissioner, may I then proceed with opening statement on La-Investments Limited and I believe that should shed some light on what the other SABLs are. By Notice of Direct Grant under section 102 of the Land Act, chapter number 45 of 1990 – not chapter number, sorry. It should be Act number 45 of 1996, dated 30 October 2009 was caused to be issued under the hand of the then Secretary for Lands Mr Pepi S Kimas as the ministerial delegate and published in the National Gazette number G217 of 30 October 2009, a Special Agriculture and Business Lease granted to La-Ali Investments Limited for 70 years.

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The other stark commonality of these five SABLs is that all of them have been granted for a term of 70 years. That is based on the land investigations conducted by the District Lands officer Mr Ipisa Biyama.

In terms of the description and location of the land designated as portion 5C, I say that the SABL granted to La-Ali was over all that piece of land known as Miromu, surveyed and legally described as portion 5C, milinch of Guavi, fourmil, Aworra, Middle Fly District of Western Province, encompassing an area of 7,121 hectares as shown and registered on survey plan, catalogue number 36/21.

- 10 The SABL area is located approximately 65 kilometers northeast of Balimo in the Middle Fly District of Western Province and is accessible by a six hour dinghy ride or by light aircraft. That is about 45 minutes from Balimo.

The total population of the landowning group according to the land investigation report made by the District Lands officer, Mr Ipisa Biyama, on 26 November 2008 is 86 persons.

- Further, as it appears from a perusal of the land investigation report, the landowners of the La-Ali clan of Wariho village, Kamusie, Balimo, whose umbrella company, it is not Goada Land Group but it is La-Ali Investments Limited apparently gave their consent for the acquisition of their customary
20 land by the State and to later as it appears to have it registered as a State lease under section 102 of the Land Act for a period of 70 years. That is in terms of the consent for the term of the lease.

[5.30 pm] In terms of the population density of the area, population density is very low within the subject area and is estimated at about 250 hectares per person. It also appears to be demonstrated by the LIR that in terms of current usage of the land area covered by the SABL, there is an ongoing logging concession by the RH Group of Companies.

- According to the schedule of owners, status and rights to land contained in the LIR insofar as this SABL is concerned, only villages of Wareho village,
30 Kamusie signed or gave their consent and approval for the acquisition. In total 69 of them appeared to have given their consent. That is based on my counting of the persons who put their mark or signature in the records provided. The agency agreement set out in the LIR was signed only by four persons

representing respectively their respective clans. These are Kaiks Esami, Micha Esami and Banny Babeimei and Leslie Babunie.

On 5 December, the certificate in relation to 2008, the certificate in relation to boundaries was executed by Ipisa Biyama, the District Lands officer, evidencing apparently that he has walked along as far as practicable and indicated boundaries of the subject land.

Commissioner, the part in relation to the Valuer General's requirements at page 12 of the LIR is not completed at all. Based on the land investigations conducted, the recommendation as to alienability was executed and issued on 5
10 December 2008 at Kamusie by a Mr Sikabu Maika, he is the advisor according to the records provided for Lands and Physical Planning within the Western provincial administration.

There are also copies of documents which are called application and or tender for SABL. It is an application form provided which says that according to the application or tender form for SABL and Lease-Lease Back submitted by a Mr Gabe Gamili on 14 August 2008, the proposed improvements purpose, et cetera for the subject land is for large scale agriculture, oil palm plantation development and a number of other ancillary but necessary developments as set out there; establishments of power lines and electricity supply, domestic water
20 supply system, draining and sewerage reticulation systems, processing plant and road network.

A perusal also of the file shows that on 24 July 2008, a Lease-Lease Back Agreement, an Instrument of Lease was executed between the State and the landowners in respect of the subject land covered by the SABL. Further, a Special Agriculture and Business Lease was registered and vested in the said company over the subject land on 6 November 2009, and comprised in the Registrar of State lease as volume 35, folio 104.

[5.35 pm] At paragraph 16 I go onto say that a sub-lease arrangement appears to have been proposed by La-Ali to be entered into with a company called Sovereign Hill
30 PNG Limited. Now, according to all the files the company that they have made they intend to sign leases with, I believe is Sovereign Hill (PNG) Limited because I have found draft leases of Sovereign Hill PNG Limited together with each of those respective companies and titleholders on file. However, the proposed arrangement is only in draft form and an unexecuted copy thereof has been provided to the Commission and is on file.

A further reading of the file also demonstrates that by a letter dated 8 August 2011, a Mr Solomon Kosa, who appears to be a consultant and or spokesperson for La-Ali and all the other four SABL holders from the Balimo area, that is namely; Godae ILG, portion 7C, Mudau Investment Limited portion 6C, Haubawe Holdings Limited portion 8C and Foifoi Limited portion 9C had written to the Commission of Inquiry to give evidence on the herein mentioned SABLs. Mr Kosa, in his said correspondence, claims that all processors and procedures required for acquisition of customary land and subsequent registration and grant of SABL over the land so acquired had been followed.

10 Mr Kosa further says that only the processes involving the Department of Agriculture and Livestock which is to do with the preparation, submission and approval by the DL of an agricultural development plan and of the PNG Forest Authority as to the preparation and submission of an application for a forest clearance authority under section 90(c) of the Forestry Act [1991] still remained to be completed.

My reading of the file shows that there is no indication or appears to be no indication on file as to whether steps have been taken or are being taken to assess the above processes to facilitate for any concrete development activities to be initiated and or undertaken within the subject SABL. That applies equally

20 to all the other four mentioned SABLs as well.

Disputes or potential for disputes; although perusal of this land file does not reveal any dispute or potential situation for dispute between various interested parties particularly within and from the ranks of the landowners, that does not mean, in my opinion, there is no dispute over the acquisition and or subsequent grant of SABL to each and every one of those companies and the land group. This maybe, Commissioner, a matter for the Commission of Inquiry to ascertain and report on whilst on circuit on the ground in Western Province. As it is, most of these files, Commissioner, they are somewhat thin files compared to the others that I have had carriage of; hence the – given the foregoing, the primary

30 issue in respect of SABL would be whether section 10(3) and 11 of the Land Act [1996] as amended have been complied in terms of the acquisition by the State of the subject customary land now registered as a State lease under section 102 of the Land Act and has been granted to La-Ali and all the other respective entities whose SABLs are now under consideration.

Commissioner, based on your intimation earlier on, I would deviate from that subheading there (i) and say that certain observations- - -

[5.40 pm] COMMISSIONER JEREWAI: Preliminary observations.

MR BOKOMI: Yes, preliminary observations are that the land investigation report as it appears may not have been properly done for the simple reason that certain relevant and requisite parts are incomplete thereby casting doubts as to the veracity or truthfulness of whether the landowners have actually given their consent. This is again a matter that can be confirmed with further enquiries, driven by further done. At this stage in terms of the list of potential witnesses
10 that can be called to assist the Commission I set out customarily the relevant government officers at the Department of Lands. Those are Romilly Kilapat, Henry Wasa, Simon Malu and Ipisah Biyama the District Lands officer at Balimo Western Province and then although there are no – there is no evidence of any FCA applications or submission of agriculture development plans on each of those files, I basically name those for purposes of ensuring certainty in the kind of information that the Commission will be getting.

That is from the Environment and Conservation Department I name the Secretary as a potential witness, Dr Wari Iamo and then Mr Anthony Benjamin
20 the Secretary for DAL and Mr Kanawi Pours. And of course all chairmen of ILGs of the project areas and the landowners and directors of affected companies and villages within the subject SABLs. The list is not exhaustive; I say that other witnesses can be summoned upon further information being available.

COMMISSIONER JEREWAI: Suggesting further witnesses to be added, yes.

MR BOKOMI: Yes.

30 COMMISSIONER JEREWAI: I agree.

MR BOKOMI: And Commissioner that essentially concludes the opening statement in respect of this particular file, La-Ali Investment Limited portion 5C and if – Commissioner, if you please, perhaps the same can apply to all the other four files as well?

COMMISSIONER JEREWAI: Yes.

MR BOKOMI: There is not much of a difference here.

40 COMMISSIONER JEREWAI: Yes, this opening of one with predominately similar circumstances- - -

MR BOKOMI: That is correct.

COMMISSIONER JEREWAI: Presents the primary information that is applicable to all and I accept that that should comprise the opening of each one of these files based on this information because circumstances are almost similar in nature with only variation in the time any action that is alleged to have taken place may have taken place. Give or take a few days, either way. Thank you. That renders the submissions in relation to the opening of all of these files are concluded.

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In relation to all of them I have a query which I will raise with you Counsels and you can – see if you can provide further clarification before the substantive Inquiry into these five SABLs and that is the – any information in relation to the named titleholders with regard to each. If there are incorporated land groups or registered business groups or incorporated company that seems to be the only information missing from the statement you have provided in the opening of these files. So we just need further clarification. Those clarifications need not be provided immediately, they can be kept until the substantive inquiry into each one of these SABLs.

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MR BOKOMI: Very well, we will take note of that and we will endeavor to provide relevant extracts et cetera including for Godae Land Group Incorporated.

[5.45 pm] They have the certificate of registration of the land group which should indicate the ILG registration number.

COMMISSIONER JEREWAI: Yes. This is primarily so that we know who are the actual human beings who are members of each one of these groups by way of shareholding or landowner – composition of landowner individuals because among the matters to be inquired into and to be determined is whether these SABLs are – the title to these SABLs are held by the customary landowner groups and not someone else purporting or pretending to be such.

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All right, those will conclude all the matters for this afternoon?

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MR BOKOMI: That is correct and on a final note I will ask that all these matters namely La-Ali Investments Limited portion 5C, Mudau Investment Limited portion 6C, Godae Land Group Incorporated portion 7C, Haubawe Holdings Limited portion 8C and finally Foifofo Limited portion 9C be adjourned generally to a date to be fixed and published for substantive inquiries to be conducted on the ground in Western Province.

COMMISSIONER JEREWAI: Thank you, Counsel. I think that is clear enough so I need not add any further. These matters are accordingly adjourned generally. Hold on a second, Mr Associate? All right, adjourn please.

**AT 5.47 PM, THE COMMISSION OF INQUIRY INTO SABL WAS
ADJOURNED UNTIL THURSDAY, 13 OCTOBER 2011 AT 9.30 AM.**

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