

TRANSCRIPT OF PROCEEDINGS

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COMMISSION OF INQUIRY INTO SABL

MR NICHOLAS MIROU

COMMISSIONER

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AT KAVIENG, FISHERIES COLLEGE, TUESDAY 25 OCTOBER 2011
AT 9.35 A.M.
(Continued from Monday 24 October 2011)

MR TUSAIS: Good morning Commissioner. This is our second day of hearing in Kavieng Town, New Ireland Province. Today we propose to go into substantive hearings into the matter of Cassava Etagon Limited SABL. But prior to that we have issued a diary setting out what we propose to do today. There are about seven witnesses who have been served, who I believe some are already here. If we could mention those witnesses and allocate dates for hearing evidence from them first. The first listed person who was summonsed is Mr Pedi Anis.

COMMISSIONER MIROU: Mr Pedi Anis please, can you come forward? Mr Anis, please take a sit. Thank you Mr Anis.

10 MR TUSAIS: Mr Anis' response to summons number 22 issued by the Commission. We thank you for appearing, making time to appear before this Commission today. Mr Anis is relevant to four SABLs in this province, starting with Rakubana in Namatanai and the three SABLs on New Hanover Island; Tabut Limited, Umbukul Limited and Central New Hanover Limited. We propose therefore, to call him a little bit later during the sittings after we have gone through the substantive hearing and gotten views from other persons of interest and then we can invite Mr Anis to give his evidence in regards to all three of them instead of starting off with Mr Anis today. I have not consulted with him but I think he does not have too many objections to that proposal. It is probably best to call him
20 toward the end of these sittings in New Ireland after we have covered all the SABLs in which his company is involved in. So Commissioner, I suggest that Mr Anis' matter be put tentatively for mention on Friday. If we cannot reach him on Friday, we contact Mr Anis and advise him. But for his evidence we propose to call him or recall him back on Thursday next week, which will be 3 November 2011.

COMMISSIONER MIROU: So tentatively 28 October.

MR TUSAIS: Tentatively this Friday, yes, Commissioner.

COMMISSIONER MIROU: At 9.30.

MR TUSAIS: But for his evidence next Thursday, the 3rd. Perhaps I could put it
30 this way. If Mr Anis does not hear from the Commission before Friday, then he is excused till Thursday next week to come and give evidence.

COMMISSIONER MIROU: Thank you Counsel. Mr Anis, thank you for coming forward to the Inquiry and responding to the summonses that were issued to you on last week, was it? Was that summons issued to you last week?

PEDI ANIS: Yes, thank you, Commissioner.

COMMISSIONER MIROU: Thank you. You are still under summons. As you heard counsel mentioned that we will require you to come to give your evidence on 3 November 2011 at 9.30 am and tentatively we will set a day for Friday, 28 October, this Friday. In the event that the Commission does not call you, then we will require you on 3 November. So if you do not hear from counsel on Friday this
10 week, then you are excused until 3 November 2011. I thank you for your attendance this morning and we look forward to hearing from you.

MR PEDI ANIS: It is privilege and honor Commissioner, to come before you.

COMMISSIONER MIROU: Thank you Mr Anis.

MR PEDI ANIS: Thank you.

COMMISSIONER MIROU: You are excused until that time.

MR PEDI ANIS: Thank you.

MR TUSAIS: Commissioner, the second listed witness is Mr Miskus Maraleu. If he is present, if he could step forward. Good morning, Mr Maraleu. Just take a seat.

20 MRS MISKUS MARALEU: Good morning, sir.

COMMISSIONER MIROU: Good morning Mr Maraleu.

MR MISKUS MARALEU: Good morning, sir.

MR TUSAIS: Commissioner, I propose to deal with Mr Maraleu in the same fashion as Mr Anis. Mr Maraleu features in various capacities in almost all the SABLs on New Ireland Province, except for Emirau Island, I believe. So his evidence would best be received after the Commissioner has heard evidence from other witnesses relative to the individual SABLs. So I propose to deal with this witness, Mr Maraleu in the same way as Mr Anis. If his matter could be

tentatively put down for mention this Friday and be scheduled for substantive hearings next Thursday and to go on into Friday next week to wind down this Commission. Thank you.

COMMISSIONER MIROU: Thank you counsel. Mr Maraleu, thank you for responding to the summons. You may be seated. Thank you for responding to the summonses that were served on you. And as counsel have suggested that we will require you to give evidence 3 November 2011 at 9.30 am at this place. This matter will be tentatively set for Friday, the 28th, but if you do not hear from counsel or from the Commission then we will require your presence here on 3
10 November 2011 at 9.30 am.

MR MISKUS MARALEU: I willingly consent, sir. Thank you.

COMMISSIONER MIROU: And I thank you for your attendance this morning.

MR MISKUS MARALEU: Thank you, sir.

COMMISSIONER MIROU: You may be excused.

MR MISKUS MARALEU: Thank you.

MR TUSAIS: Commissioner, the third listed witness is Mr Venuncius Gau. Mr Gau is present.

COMMISSIONER MIROU: Good morning Mr Gau.

MR TUSAIS: Commissioner, witness is responding to summons number 24. He
20 is a public servant. We propose to call him on Friday this week, 28 of 10 at 9.30 to give his evidence to the Commission.

COMMISSIONER MIROU: Mr Venuncius Gau, thank you for responding to the summonses that was issued and served on you. You are now required to come and provide your evidence to the Commission on 28 October, that is this Friday at 9.30 am. So we will require your attendance on that day. You are now excused until Friday, 28 October, at 9.30 am. Thank you.

MR TUSAIS: Commissioner, the fourth witness is Mr David Silakot. Mr Silakot is present. He appears not to have arrived. He was served ---

COMMISSIONER MIROU: We will stand down it down to later and ---

MR TUSAIS: Yes, stand it down temporarily. The fifth witness is Janet Rauveve.

COMMISSIONER MIROU: You may be seated.

MRS JANET RAUVEVE: Thank you.

MR TUSAIS: Mrs Rauveve responds to summons number 26. This witness, Mrs Rauveve, is a director of Tutumang Development Limited. That is the company linked to three SABLs; four SABLs, excuse me. The SABLs at Namatanai and three on New Hanover Island, similarly to the two first witnesses Mr Pedi Anis and Mr Miskus Maraliu. We propose to have her evidence next week Thursday after
10 we have gone through evidence, as I suggested earlier, for those individual SABLs scattered throughout New Ireland. So if she could return next Thursday and give evidence then.

COMMISSIONER MIROU: Thank you Counsel. Mrs Rauveve, thank you for responding to the summons that was served on you last week. As you heard counsel, we will require your attendance at this hearing on Thursday, 2 November 2011, you can take note of that; the date.

MRS JANET RAUVEVE: Sir, I have a trip---

COMMISSIONER MIROU: Speak up.

MRS JANET RAUVEVE: I have a trip to Lae on Thursday and that is a church, it
20 is regarding church ---

COMMISSIONER MIROU: Activity.

MRS JANET RAUVEVE: Conference, yes. And I will be returning on the 1st. So is there any possibility of ---

COMMISSIONER MIROU: Sorry, what did you say, the 1st? The 01st is ---

MRSJANET RAUVEVE: 1 November, the Tuesday.

COMMISSIONER MIROU: Okay, you are travelling ---

MRS JANET RAUVEVE: To Lae, yes.

COMMISSIONER MIROU: This Thursday?

MRS JANET RAUVEVE: It is pre-commitment, yes, prior to being served the summons.

COMMISSIONER MIROU: Tomorrow, are you travelling tomorrow?

MRS JANET RAUVEVE: The day after tomorrow. So I am asking is there any possibility of shifting back to ---

MR TUSAIS: We propose to call her on 3 November. That will be – she would already be back, would you?

MRS JANET RAUVEVE: Okay, yes.

10 MR TUSAIS: Yes, thank you. 3 November, next week Thursday, not this week Thursday.

COMMISSIONER MIROU: We will require you on 3 November 2011 at 9.30 am. You are excused until that time.

MRS JANET RAUVEVE: Okay, thank you.

COMMISSIONER MIROU: Thank you.

[9.49 am] MR TUSAIS: Mr Mark Waine is the sixth summonsed witness. I think he called in yesterday and I believe he is present.

COMMISSIONER MIROU: Good morning Mr Waine.

MR MARK WAINE: Good morning, sir.

20 MR TUSAIS: Commissioner, Mr Waine is attached to the Lands section of the New Ireland Provincial Government. He will be giving evidence in relation to Cassava Etagon Limited SABL at Kaut. We would like to receive his evidence after we have heard evidence from witnesses today; at least the customary landowners before we hear Mr Waine's evidences on Friday this week, 28 October, perhaps at 1.30.

COMMISSIONER MIROU: Mr Waine, thank you for attending the Inquiry this morning. As you heard counsel, we will require you of your attendance at the

hearing on Friday, 28 October 2011 at 1.30 pm, in the afternoon. In the meantime you are excused from attendance here.

MR MARK WAINE: Thank you, sir.

MR TUSAIS: There is a seventh listed witness Martin Baluwo, but this witness appears to have gone to Kimbe previously.

COMMISSIONER MIROU: So he is not present?

MR TUSAIS: He is not present, yes. Perhaps if we could call Mr David Silakot again. His name could be called out outside three times.

COMMISSIONER MIROU: Yes. If attendant can call David Silakot.

10 MR TUSAIS: Commissioner, this witness is not here. We will ascertain the reason why he is not here, perhaps he has got valid reasons for not attending. But this Commission has powers to ---

COMMISSIONER MIROU: Enforce.

MR TUSAIS: Yes, enforce summonses and there are penalties for non-attendance. The witness is most – he is aware of that. But we shall find out.

COMMISSIONER MIROU: We will probably mention this matter at 1.30 this afternoon.

20 MR TUSAIS: Commissioner, those are the witnesses that have been issued with summonses or at least six of them. We have listed about eight witnesses for the Cassava Etagon Limited matter. But before that I just mentioned for the record that we have drawn up a revised program for this Commission's sitting from today till next Friday, the 4th. With, Commissioner, your approval – this notice will be posted or put up in several public places for the information of the public. So if I could just read into the record Commissioner ---

COMMISSIONER MIROU: Yes, Counsel, please do that.

MR TUSAIS: For today we have two activities listed. The first has been dealt with; that is the mention of witnesses who have been summoned. The part remaining to deal with this is the hearing of evidence in Cassava Etagon SABL.

Tomorrow, Wednesday, the 26th we propose to hear evidence in the matter of Emirau Trust; Thursday, 27th is hearing of evidence of the three SABLs located on New Hanover Island. That is Tabut Limited, Umbukul Limited and Central New Hanover Limited. On Friday, 28 October, we propose to complete evidence in the three New Hanover SABLs and also to call witnesses that were mentioned this morning. On Saturday, the Commission will visit the Cassava Etagon Limited site at Kaut and on Sunday, the Commission will travel to Namatanai and given time, visit the Rakubana Limited SABL at the old Danfu TRP site. On Monday, the Commission will hear evidence for half a day or so or most of the day on Monday
10 in Namatanai town relative to the Rakubana Limited SABL project. On Tuesday, after the Commission returns, it will visit the Tabut, Umbukul and Central New Hanover Limited SABL sites on New Hanover Island. On Wednesday those visits will be completed, and on Thursday, we propose to conduct further hearings and call the three witnesses, Mr Anis, Mr Maraliu and Mrs Rauveve, relative to all those SABLs. Friday, the Commission will wrap up hearings and I think the sittings will end on, at about midday on Friday the 4th.

[9.55 am] COMMISSIONER MIROU: Thank you Mr Tusais.

MR TUSAIS: Sorry Commissioner, just in relation to our program. If I could mention for the record also Commissioner that in relation to hearings tomorrow, in
20 relation to the Emirau Trust matter, it has come to the Commission's attention that there has been threats issued by certain parties on the one side against persons appearing on the other side and that there have been intimidation threats issued. The Commission, I submit, should note this and perhaps mention generally that this Commission has powers under the Commissions of Inquiry Act to take steps and to deal with persons who are contemptuous and who show disrespect to the Commission whilst it is sitting.

COMMISSIONER MIROU: Thank you Mr Tusais. The first matter is - I thank you and the team for the program that you have made in such a short time and I appreciate the efforts that you have put into this program. The Commission will
30 adopt the program as per the days that you have set out and I will direct that this program be published for the benefit of those who have interest in all the SABLs that we are inquiring into in New Ireland Province.

In relation to the other issue that you have brought to the attention of Commission of Inquiry, in particular Emirau Trust Limited, the Commission has powers under the Commission of Inquiry Act to deal with such instances where threats against persons who are willing to assist this Commission of Inquiry with the information on all SABLs under section 11 of the Commissions of Inquiry Act, any person who insults the Commission, interrupts the proceedings of the Commission or in any manner tries to disrupt the proceedings shall be dealt with and can be found guilty of being in contempt of the Commission. The penalty for such action is a fine not exceeding K5,000 or imprisonment for a term not exceeding two years. But that is just for the benefit of those who are here that the Commission of Inquiry has those powers.

Also in reference to those who have been summoned to attend these hearings as witnesses the Commission also has powers to deal with such persons when they refuse to attend the hearing on a summons. And so in the interest and for the good of the Commission and also for the benefit of all of you who have an interest in all the SABLs, this Inquiry is about that, those land that your and forefathers have lived on. It is important for your livelihood and land itself is part of us. And so we encourage you to come forward and assist the Inquiry in any way and form because the end result of this is that the Commission will properly have all the information that will require on each of the SABLs so that we can make those recommendations to the government of the day to look at the laws, and other things that will eventually help you to make your livelihood in terms of investment in projects and other things. This is very much to help you to benefit for any thing that happens in development of our country.

So this Commission will just make that point to all who are present and if you can pass that message on to your other people that have an interest that if it comes to the attention of the Commission that someone or a group of people are intimidating or harassing anybody, we will definitely deal with those persons. It is not a good thing to go down that way but we will have to enforce the law to ensure that we get the evidence that we require.

So we thank you all for your attendance this morning. And as you have heard Counsel, we will now proceed to hear matters in relation to the SABL to which the title holder to that SABL is Cassava Etagon Limited.

MR TUSAIS: Commissioner, do we need all of that to be translated first or we can proceed?

COMMISSIONER MIROU: Mr Sarufa, if you can just translate in brief for the benefit of our ---

(INTERPRETATION)

COMMISSIONER MIROU: Thank you Mr Sarufa.

MR TUSAIS: Thank you Mr Commissioner. I propose to deal with this matter by perhaps re-reading the opening statement for the benefit of people here in New Ireland, especially the landowners.

10 COMMISSIONER MIROU: Yes.

MR TUSAIS: This was an opening done back in Waigani, a lot of them were not present. It also sets the scene and explains the circumstances for the creation, then existence of this SABL. After that I propose to call Mr Michael Lamusan to start off and then we will adjourn for a bit and I will sort out the other witnesses before we proceed.

COMMISSIONER MIROU: Yes, I think that is the best way to – is to set out the introductory background to this particular SABL. Thank you Mr Tusais. I have a copy of the submission.

MR TUSAIS: Of the opening, yes, thank you. I do not have one to provide.
20 Commissioner, this was the opening done at Waigani. There has not been much change so I propose to read the same. The only other change is that there has now been an increase in the number of customary landowners who have stepped forward to register their views in regards to firstly, to the creation and secondly, to the continuation of this SABL.

The lessee, Cassava Holdings Limited - sorry, Cassava Etagon Limited, is no longer the registered company according to extracts from the IPA or Investment Promotion Authority. Under section 16 of the Companies Act 1997, that section says, “A company is a legal entity in its own right separate from the shareholders and continues in existence until it is removed from the register.” Cassava Etagon
30 Limited no longer has capacity under law, so it seems, after it was deregistered to

sue or to be sued in its name and correspondingly to own and to dispose of property.

[10.05 am] That is something this Commission of Inquiry has to deliberate on and come to a finding and perhaps make recommendations on. I do not wish to pursue that any further because I do not have, I have not done the basic submissions on which I put forward any suggestions either way to the Commission.

The history of this SABL is that on 1 November 2006, a Lease-lease Back Agreement was entered into between the State as lessee and several persons who I will read their names out; Jimmy Goss Salatiel, Salatiel Tangap, Eliakim David,
10 Motly Simpson, Emmanuel Garasale, Robert Rabana, Ekonia Kalis, Wilson Passingan, Pelick Kasup and Graham Langa, all of several villages named as Kaut, Putput, Tome, Nokono, Kavin and Lemakot villages in the Kavieng District. The lease was to be for a period of 99 years to run from 1 November for a total rental of K10 to be paid on demand on the condition that the State issue a Special Agriculture Lease to Cassava Etagon Holdings Limited. Cassava Etagon further agreed to sublease to Chan Hae Ethanol Corporation, a Korean Company to grow cassava for production as ethanol which is said to be a form of bio fuel.

Perusal of the Lands Department files do not show a sublease made between Cassava Etagon and Chan Hae Ethanol Corporation. This is yet to be determined.
20 The only document provided by the Lands Department is a Memorandum of Agreement between the Independent State of PNG and Chan Hae Ethanol Corporation Limited of Korea. This seems to have been an agreement done from the government to – on a government to government level. The agreement is in general terms and does not make reference to the specific project earmarked for the Kaut SABL area. Commissioner, as further enlightenment, this company is also involved in Cassava projects back in the Central Province down in Rigo and is also a subject of further inquiries by this Commission.

Commissioner, it is not known if any – well, we do not know for certain, anyway, if any actual planting of cassava was done after grant of SABL six years ago. In its
30 application the company Cassava Etagon stated that it intended, “to develop a 20,000 hectare cassava farm in two phases. Phase 1, it will involve cultivation of more than 6,000 hectares in three years and the construction of cassava driers to

process and dry 10,000 cassava monthly for export to South Korea. Phase 1 will cost US\$6 million. Phase 2 will involve full development of 20,000 hectares and the construction of a cassava factory to produce ethanol oil and other cassava based products such as cassava wine, spirit, flour, et cetera for export.” The Commission can verify this when it visits the SABL later on this week.

10 A direct grant under section 102 of the Land Act for 99 years was made on 4 December 2006 to Cassava Etagon Holding and published in National Gazette number G224 of 7 December 2006. With an area of 20,000 hectares, the land known as Kaut, being portion 884C, in the milinch of Djaul, fourmil of Kavieng is located about 25 kilometers out of Kavieng town in the New Ireland Province. The area was previously logged under a timber rights purchase arrangement but that TRP has expired in 2009. The area is quite large and runs from the eastern seaboard or eastern coast to the other side of the main island of New Ireland.

20 Who or what is Cassava Etagon Holdings to whom direct grant was signed by Mr Anthony Luben as delegate of Lands Minister. According to company extracts obtained from IPA, Cassava Etagon was incorporated and registered on 4 August 2005 and given company number 1/54388. On 30 May 2008, it was deregistered and ceased to operate. The company shareholders were mainly chairman of ILGs in the Tikana LLG of Kavieng District. The 15 listed shareholders come from eight villages named as Kasalok, Lokono, Kaut, Putput, Tome, Kavin, Ngavalus, and Panapai village. The Commission has received files from the Lands Department, the Registrar of Titles, Investment Promotion Authority and a few submissions at that time, but now a lot of submissions from the interested members of the public or from the SABL area. There is now, it is known to the Commission that there are serious objections to the establishment and the continuation of the SABL in the Kaut area. There had been previous indications in the files of the Lands Department. There seems to have been pressure applied for the Lands Department officials to expedite this project as it was a government arranged project with a foreign company. The land investigation reports appear from 30 perusal of the file, to have been conducted in haste and often at night time on instructions from only a few landowners. In a field report done by Mr Lazarus Paul Malesa who was the lead Lands Department official, he says that there were 36 land investigative reports, nine only were fully completed while 27 others were yet to be accepted and signed by the landowner representatives. Mr Malesa was

summonsed in Waigani but his evidence was put forward to later on this year, sorry, later on in November for him to be heard after we have received evidence from landowners here. These are extracts from the opening statement made at Waigani and I think it just sheds some background and explanation for the Cassava Etagon Holdings Limited.

Sorry, Commissioner, I just wish to tender the Gazettal Notice formally for the Commission's record.

COMMISSIONER MIROU: Yes.

MR TUSAIS: The Commission will note that there is a disparity in the ---

10 COMMISSIONER MIROU: Shall we number it?

MR TUSAIS: Sorry, yes. I am not sure how. This is the very first exhibit tendered in New Ireland Province. So we should adopt a numbering system but using initials adopted at Waigani.

COMMISSIONER MIROU: Yes, Cassava Etagon.

[10.17 am] MR TUSAIS: Yes, Cassava Etagon 1. Thank you Commissioner, sorry for the delay. We will be making certain references to that exhibit a little later on. There appears to be discrepancies and differences in the total acreage published under the Notice of Direct Grant and the Lease-lease Back Arrangement. There has been an increase between the 2 or 3,000 hectares which is 6,000 hectares which is quite
20 significant.

COMMISSIONER MIROU: So whatever is on the gazette is not really different from the actual Lease-lease Back title?

MR TUSAIS: It is different from the lease which was entered into after the Notice of Direct Grant was published. If I could perhaps just read ---

COMMISSIONER MIROU: We will give this a number here.

MR TUSAIS: Sorry?

COMMISSIONER MIROU: We will give this one a number.

MR TUSAIS: Yes, it is G, the exhibit number?

COMMISSIONER MIROU: Yes.

MR TUSAIS: Yes, it is maybe Cassava ---

COMMISSIONER MIROU: Cassava, CE1, Cassava Etagon.

MR TUSAIS: Yes, 1.

[EXHIBIT CE1 – GAZETTAL NOTICE NUMBER G224 OF 7 DECEMBER 2006]

COMMISSIONER MIROU: Okay, so, in relation to the National Gazette that was published on Thursday, 7 December 2006 on the Direct Grant ---

MR TUSAIS: Yes, it is on page 5 of this Gazette, it is a Notice of Direct Grant under, I am reading from the publication. Notice of Direct Grant under section 102, “I, Anthony Luben, delegate of the Minister for Lands and Physical Planning, by virtue of the powers conferred by section 102 of the Land Act No 45 of 1996 and all other powers enabling me hereby direct grant a Special Agriculture and Business Lease to Cassava Etagon Holdings Limited over the land described in the schedule hereunder. On the schedule it says, “A Special Agriculture and Business Lease for a period of 99 years over all that piece of land known as Kaut, being portion 884C, milinch of Djaul, fourmil of Kavieng, New Ireland Province with an area of 20,000 hectares as shown on survey plan, catalogue number 24/453. Please note it is dated 4 December 2006”, and here contains the name or is under name of Anthony Luben who at that time was the Deputy Secretary for Lands. A lease agreement dated 14 May 2007, sorry State lease. I will be ---

COMMISSIONER MIROU: What is the SABL title?

MR TUSAIS: Yes, this is the State lease issued to Cassava Etagon Holdings Limited. I will be submitting a copy later. I do not seem to have an extra.

COMMISSIONER MIROU: We can give it a number?

MR TUSAIS: Yes.

COMMISSIONER MIROU: So this one we will give it CE1.

MR TUSAIS: This will become CE2.

COMMISSIONER MIROU: CE2, yes.

[EXHIBIT CE2 – STATE LEASE ISSUED TO CASSAVA ETAGON LIMITED DATED 14 MAY 2007]

MR TUSAIS: CE2 is the State lease. This lease is dated 14 May 2007. And for some reason everything else remains the same except for the acreage at the bottom, it says, “all that piece of land known as allotment 884C, Djaul, Kavieng, New Ireland Province, containing an area of 26,000 hectares or thereabouts as delineated on the registered survey plan, catalogue number 23/453.”

COMMISSIONER MIROU: So there is a variation of about 6,000.

10 MR TUSAIS: Quite a large portion of land, yes, 6,000 hectares. Commissioner, I further tender a third document which is the – this is the Lease-lease Back Agreement entered into by the persons named previously; Jimmy Goss Salatiel and several others. Sorry, if I could just read it. This is the Lease-lease back document, if it could become exhibit CE3.

This is prior to the issuance of the State lease; this is the Lease-lease Back Agreement made on the first day of November 2006 between Jimmy Goss Salatiel, Salatiel Tangap, Eliakim David, Paul Taon, Gazon Rabana, Robert Rabana, Ekonia Kalis, Wilson Passingan, Pelick Kasup and Graham Langa, all of Kaut, Putput, Tome, Lokono, Kavin and Lemakot villages in Kavieng District. These particular
20 Lease - lease Back Agreement in the schedule contained on the first page says, “all the piece of land containing an area of approximately 20,000 hectares known as Kaut, portion 884C.” Yes, it is also noticeable on this Lease - lease Back Agreement that the delegate of the Minister, Mr Pepi Kimas, Secretary for Lands at that time did not actually sign the agreement on behalf of the State. Commissioner, these are features which appear not to be consistent, that they are different insofar as of a significant nature in the total area covered under the SABL granted to Cassava Etagon.

COMMISSIONER MIROU: On the face of those documents, it is **face a fact** that there is a discrepancy.

30 MR TUSAIS: A major discrepancy, yes. Commissioner, if we could also tender this survey map done by the Lands Department to become exhibit CE3.

COMMISSIONER MIROU: So the map is CE3.

[EXHIBIT CE3 – LEASE - LEASE BACK AGREEMENT MADE ON 1 NOVEMBER 2006]

MR TUSAIS: Thank you. We will be referring to this map whilst we ---

[10.25 am] Sorry, if I could call the first witness Mr Michael Lamusan. If the witness could be sworn?

MICHAEL LAMUSAN, Sworn:

XN: MR TUSAIS

COMMISSIONER MIROU: Yes, you may be seated Mr Lamusan and we will
10 hear from you; Counsel will take you through the evidence generally.

MR TUSAIS: Good morning, Mr Lamusan.

A: Morning sir.

Q: You are a public servant working with the New Ireland Provincial Government?

A: That is correct, sir.

Q: You just speak up a bit. We need to record all of that; all of what you are saying so ---

COMMISSIONER MIROU: Speak up into the mic and we need to record it for our purpose.

20 A: Yes, sir.

MR TUSAIS: You come from an area called Bagatere, it is B-a-g-a-t-e-r-e on the west coast of Tigak in the Tikana LLG area of New Ireland Province?

A: Yes, sir.

Q: This is an area that you have come to realize is included in the SABL issued to Cassava Etagon Limited?

A: Yes, sir.

Q: Would you just state for the record what your interest is in this SABL? Just tell the Commission what you wish to say?

A: Thank you sir. Sir, I am here today, sorry, sir. My name is Michael Lamusan as I have already stated. I am a public servant.

COMMISSIONER MIROU: You have a written statement there?

A: Yes, sir.

Q: May be ---

10 MR TUSAIS: Commissioner, perhaps I can hand a copy up for your – it is not done in the usual affidavit form but I ---

COMMISSIONER MIROU: That is something we can accept.

A: Just a statement, yes.

MR TUSAIS: I submit it will suffice for ---

COMMISSIONER MIROU: Yes.

MR TUSAIS: The Commission's purpose while it is out and about in the provinces.

COMMISSIONER MIROU: And maybe Counsel, we can allow Mr Lamusan to read his – you can read your statement.

A: Okay, sir.

20 Q: And if you want to explain, you can explain it.

A: Yes, sir. I will be explaining it through but not with some of these here.

Q: You can take us through your statement. Thank you.

A: Thank you, sir. Sir, this morning I represent the true landowners of an area called Bagatere on the west coast of Tigak in the Tikana LLG, Kavieng, New Ireland Province. This area shares the boundary or border with Kaut in

the northwest and north, Navulus on the east, Lovalei to the south. So we are basically in the middle of these three or four areas.

10 The landowners I am representing today are my own mother and my brothers, sister, my cousins, Setu and his brothers, Pepe and his family, Malisa, Bernard Lauri and his brothers and our uncle Boaz Latara. We should not be here on this Commission of Inquiry, sir. We have no reason to be here. However, recently we have been informed that our land in Bagatere has been included in the portion 884C under the Cassava SABL project. Unfortunately, we have recently discovered that sir, that people have gone
10 out and registered 11 ILGs which covers the entire land under Bagatere without the consent of the true landowners whom I represent today. At this point sir, I would like to inform you sir, that several correspondence have been forwarded to the registrar of ILG of Lands and one to your Commission, sir, regarding this particular issue. I think these copies are with the Counsel, sir. All these correspondence, sir, were provided by John Wesley, who is my younger brother and he is living in Moresby, on behalf of these same landowners I am representing today.

20 MR TUSAIS: Commissioner, sorry, could I just interrupt. I have provided a copy of this to the witness perhaps if we can go through them and whichever of interest we can enter as exhibits.

COMMISSIONER MIROU: Yes. Thank you Mr Lamusan. You may be seated; you may remain seated. If any documents you want to pass on we will, Associate will deal with it.

A: Okay, sir. Our special interest today, sir on the SABLs, specifically in
30 portion 884C in New Ireland Province, milinch of Djaul, fourmil of Kavieng, reference, the Cassava Etagon Holdings Limited, is to do with the registration of ILGs in Bagatere. As I have mentioned we have just recently been made aware that our land of Bagatere is also included under portion 884C. And as from this morning sir, I realized that 6,000 hectares has been added to the previous 20,000 hectares under Cassava Etagon Holdings Limited.

MR TUSAIS: Witness, could you pause there. I will show you this map perhaps for Commission's better understanding, you could indicate on this map. Just remain there. Just identify which part where Bagatere falls into that map show the Commission so we can mark it.

COMMISSIONER MIROU: I note that it is at the south, I mean from this map, it is south.

A: Yes, that is right.

MR TUSAIS: The witness could just confirm that for ---

A: That is right, sir.

10 COMMISSIONER MIROU: If you can indicate that.

A: Sir, this is the land we are talking about. This is the land here, sorry, sir. This is the east coast, sir and this is the west coast. This part is the Kaut area and this is what I am talking about now, this area as part of the 884C, Kaut, here.

Q: And where is your village?

A: The village is here, Bagatere.

Q: Thank you Mr Lamusan.

MR TUSAIS: Please continue.

20 A: Sir, at the very beginning when the issue of the cassava project was brought up, we the landowners of Bagatere did not have any issue with it. We were not part to that project in Kaut as I have already stated. However, the unknown registrations of the ILGs covering our land of Bagatere and the inclusion of our land under the Cassava SABL has made us very angry. And that is the reason why we are here today; to voice our disappointment and anger in the manner of which our land has been hijacked by people who do not belong to that area; who have no inheritance, no authority, through our customary lineage and who knew very little of the true clans that own the Bagatere land. Sir, Bagatere covers five villages currently and these are; Olmalak, Metiselen, Lasagok, Penumai and Batin. These villages are inside

the land of Bagatere. I, now refer, sir to National Government Gazette 80 dated 13 April 2006 which gave notice of the following integrated land groups.

Q: Witness, just hold on a minute. Just look at this, is that what you are referring to?

A: Yes, sir.

Q: I tender that through this witness.

COMMISSIONER MIROU: So this will be exhibit ---

MR TUSAIS: I lost count, 4?

10 COMMISSIONER MIROU: Okay, before we do that Counsel. This statement here will make an exhibit?

MR TUSAIS: Yes, sir.

COMMISSIONER MIROU: We will make this exhibit; the statement by Michael Lamusan is exhibit CE4.

MR TUSAIS: Survey plan is CE4, his statement is CE5 and the copy of the National Gazette is CE6.

COMMISSIONER MIROU: Okay, thank you.

MR TUSAIS: Thank you.

[EXHIBIT CE4 – SURVEY PLAN BY LANDS DEPARTMENT]

20 **[EXHIBIT CE5 – MICHAEL LAMUSAN’S STATEMENT]**

EXHIBIT CE6 – COPY OF THE NATIONAL GAZETTE NUMBER 80 DATED 13 APRIL 2006]

COMMISSIONER MIROU: Thank you. Mr Lamusan, you may proceed.

A: Thank you, sir. In this Government Gazette, sir, there are 11 ILGs incorporated. The first one here is Makatitian, that is the name of the clan. The name of the person is Lulu, place, Kavin, Bagatere, ILG number 11841.

The second is second ILG is also Makatitian clan. The name of the person is Sivutan, place Bagatere, ILG number 11842. Third one is Mekanuk clan, no name given, place Batan, ILG number 11843, third Makatitian Lamaluo, place Bagatere, ILG number 11844. Fifth Makatitian, name Nares, place Penumai, ILG number 11805. Sixth Makatitian, name, Mit, Bagatere, 11846. Seventh, Makatitian clan, name Ian Mat, place Bagatere, ILG number 11847. Eighth, Magatitian, name, Rachel, place, Olmalap, ILG number 11848. (9) Makatitian, name, Manau, place, Bagatere, ILG number 11849, (10), Makatitian, name of person, Mala Kaul, place, Bagatere, ILG number 11850 and last clan Makatitian, name of person, Uten, place, Bagatere, ILG number 11851.

10

10.38 am]

Sir, we these landowners dispute these ILGs as specified in the Government Gazette number 80 dated 13 April 2006, for obvious reasons. Number 1, sir. The landowners of the area known as Bagatere were not truthfully consulted. And as we were never consulted we have not appointed, nor authorized any one to represent us in any matters relating to our land.

Secondly, the 11 ILGs as indicated in the Government Gazette number 80 dated 13 April 2006 do not truly represents the clans of Bagatere and therefore is faulty. And you will note sir, the chairmen of the ILGs are named after dead people, some of whom have died more than 10 years ago. The clan which are indicated in the Gazette does not tie the name of the leader; the ILG leader. Let me explain, sir. First, let us look at the first clan on the list it says Makatitian. The name of the person is Lulu, ILG number 11841. Lulu has passed away; dead many years. Her descendant Lamalua, correction, her sister, Lamalua, is also listed in the ILG as a leader of a different ILG under the same clan. Then you have Nares of the clan Makatitian, ILG number 11845 but you also have her son Sivitan, same clan registered with a separate ILG number 11842. Both these people including Lamalua have passed away well before 2006 when this was gazetted.

20

30

The next one sir, you have Ianmat, the clan is registered as Makatitian, yet, Ianmat is not of the Makatitian clan, rather is of the Timnol clan. Similarly, his father Manau is also registered under different ILG number 11849. Rachel is registered as a Makatitian rather than a Timnol clan, Malakaul is

registered as a Makatitian clan rather than a Timnol clan, Peten is registered as a Makatitian rather than a Timnol clan. And most importantly, all these people are dead so many years ago. No one could have talked to them to get their consent of these ILGs. The most recent member of those listed above passed away in 2002 and she is my aunty Petenu. She is the recent one, everybody else died well before 2002. She is also registered as a leader of an ILG. Sir, the people who did this purposely missed out one important clan leader in the Bagatere area and that is Ranga. His name does not appear anywhere in these ILGs. Sir, Ranga is the older brother of Manou. Both are principal landowners of Bagatere, Sevis, Nares, Mit, Rachel and so on. Yet his name does not appear anywhere in the ILGs as shown in Government Gazette number 80 dated 13 April 2006. Some of them - all these people sir, are already dead but their descendants are here today. Some are here in this room while others of short notice, because of short notice are not able to be with us today.

MR TUSAIS: Witness, could I just pause you there? Let us go back to that lease.

A: Yes, sir.

Q: Just for further clarification to this Commission. Would you start from the top again and say how you are related to this and when those persons you mentioned, passed away or died? Just start with the first down to the 11th, how are you related and henceforth?

A: With that sir, I will need the assistance of my cousins too because some of these people were dead before I was, so I knew very little of their existence.

Q: Just say generally, of what you know.

A: Okay. First one is the clans; the Makatitian, the name is Lulu from Kavin. That is Kavin down in Bagatere not the one up north. There is two different Kavin. I probably have to explain that. There is a Kavin up north, northwest and, that is next to Lokono and Kaut, and there is a Kavin also down in Bagatere; that is south of us. There is a small area they call Kavin and that is the area where we are referring to, not the one up north. The

relationship between Lulu and myself and the others I will have to leave that to some of my cousins to explain that.

Q: Okay, but this person has been there to ---

A: That she has been dead long long time ago.

Q: Before you ---

A: I was not even around.

Q: What about the second person?

A: Sivutan, he is the son of Nares, that is number five, as you can see. And Sivutan will be related to me as cousin.

10 Q: She is also dead, how long ago?

A: She is dead, well, before 2006, 2002, that is before our aunty Peten died, before that.

Q: Okay, we will jump the no name number three, get to number four, Lamaluo.

A: Namaluo is the sister of Lulu, from the same place.

Q: And what is your relationship to this person?

20 A: That is what I am trying to say. I need my cousins to try and get this lineage correctly. But as I said, because the names are out there, we are disputing it because they are not put in the way we want it; the clan leaders would have decided it. See, that is why the whole confusion is here. We would have rather have somebody representing these two names but still living to make it more easier to explain.

Q: So that would be your answer to the others except for one of these witness who is your aunty. Is that ---?

A: That is the last one, is it?

Q: Patan, yes.

A: Yes.

Q: All right, who will he related to, you complete your statement. You are on the last page.

[10.45 am]A: Yes, sir. Sir, SABL on Cassava Etagon Holdings Limited is for a 99 years Lease - lease back arrangement, I believe, and our land in Bagatere has been included under that. We have not been truly informed of the complication relating to the lease-lease back arrangement that as we know now covers a term of 99 years. 99 years lease, sir, is a very long time. Under the Lease-lease Back arrangement I understand that the terms of the LLB does not give the customary landowners any right to claim for compensation or payment of any benefits within that period of 99 years. This I believe is an injustice to the customary landowners, and our land both here in New Ireland and I believe all throughout Papua New Guinea. The people must be consulted adequately and then their consent must be obtained honestly and transparently, not by force or devious means. Whilst we are angry that some unauthorized persons have gone out and register our land under suspicious circumstances, we are equally angry in the way that these people are allowed to freely roam our land in the pretext of development and enticing our ignorant and simple folks in the village in signing away their land for a development project that our people can hardly benefit from. Today, I also believe that the landowners of Kaut, Putput, Ngavolos, Lokono and others are also here to voice their opinion on this project. But we, the landowners of Bagatere of which I am speaking on their behalf, we stand together and request the Commission to consider our concern as follows;

- (1) We demand that the registration and issuance of the license for the 11 ILGs as notified in the government gazette number G80 13 April 2006, be immediately be stopped and revoked;
- (2) We demand that the Bagatere, the area which is covered under the ILGs and as indicated in government gazette number 8, 13 April 2006, is removed from SABL Cassava project in portion 884C;
- (3) If that is not possible; the second is not possible, meaning removing our land Bagatere from portion 884C, then we, the landowners of

Bagatere, demand that SABL Cassava project in portion 884C, New Ireland Province, milinch of Djaul, fourmil of Kavieng must not be allowed to progress. We demand that this SABL on Cassava is completely removed.

- (4) That the Commission using its powers to have the people involved in unauthorized registration of our land in Bagatere, be immediately investigated and prosecuted.

10 Sir, we believe this project does not truly represent aspiration of our people of Bagatere, and if it does, we the landowners would not be here today in front of your Commission, sir.

Q: Just a few questions for clarification purposes. I will just summarize. You have been telling the Commission now that the Lands Department or any official; any government official or any official of the Cassava Etagon Limited company has not been to your people, to your area and has not talked to anyone from the Bagatere area?

A: No, sir.

Q: Is that what you are telling the Commission?

A: Yes, sir, exactly that sir.

20 Q: I will ask this further question. People might say you are a public servant, you are based in Kavieng town, may be you live Kavieng town. Is that the situation or you travel to and from ---

A: No, I live in Kavieng town.

Q: But even from Kavieng town, would you say with certainty that in your village with your relatives that none of these officials ever went and consulted with them?

A: Yes, sir.

Q: So you have been in constant contact and dialogue with members of your family and surrounding clans, people from the Bagatere area, and you are

certain that no one went into the area in order to include the Bagatere area within the larger Cassava Etagon SABL?

A: I could not rightly say that but may be my cousins or uncles will probably be more exact in that area. But from their advice, I can rightly say, yes, we have not been consulted by anyone.

Q: Thank you, I have no other questions except to clarify, just to make sure that they are not speculations.

A: Okay, sir.

Q: Thank you.

10 COMMISSIONER MIROU: Thank you counsel. Mr Lamusan, just a few questions to ask. At the time this application was submitted to the Lands Department for a SABL, did any Land officers from within the National department, including the Provincial Lands office here come and talk to the villagers at your, at Bagatere?

A: Sir, when that project came up it was for the Kaut Toma area, Bagatere was not named in their area. So everybody was concentrated in that – the area beside Bagatere.

Q: Okay, coming back to that actual project. Is that project actually, did it take place on your land; Bagatere land?

20 A: It has not taken place on the land yet, sir and I do not know when it is going to take place.

Q: So nothing has happened so far since the SABL?

A: No, sir, the thick jungle still there; nothing.

Q: And any other areas that is also located in this SABL, has any work been done by ---?

A: I do not think so, sir.

Q: To date?

A: To date and I think that can be clarified by the other landowners of Kaut and the others when they are here; in the hearing they will probably clarify that. But in the area where I am speaking on behalf of the landowners; Bagatere, there is nothing.

Q: So your major concern and including those of your village is that this SABL was done without your ---

A: Our knowledge.

Q: Your knowledge?

A: That is right, sir.

10 Q: And the ILGs that were also ---

A: Registered, sir.

Q: Registered, do not ---

A: No, sir.

Q: Have names of persons who are actually living?

A: No, sir.

Q: Or even if they were living, they would be proper persons to be named on those ILGs?

A: That is right, sir, yes.

Q: Is there any other things that you wish to say before ---

20 A: Not right now, sir.

Q: Sorry, we will leave the matter to your other witnesses to ---

A: Okay, sir.

Q: Comment on.

A: Thank you, sir.

Q: Counsel, any questions arising.

MR TUSAIS: None, except to thank Mr Lamusan for his assistance to the Commission.

COMMISSIONER MIROU: Mr Lamusan, I would like to – on behalf of the Commission we would like to thank you for the preparation that you have prepared in such a short time and for speaking on behalf of your people. And we appreciate the evidence that you have provided to us this morning and the matters that you have raised will be included as we make further progress in this particular SABL which affects your people and the land that you live in. So we thank you so much
10 and you are now excused from further – from giving evidence. Thank you.

A: Thank you, sir.

THE WITNESS WITHDREW

MR TUSAIS: Commissioner, we have quite a few witnesses still pending. But we have to sort them out. We made a list but we have got indications that they wish to switch and change for various ---

COMMISSIONER MIROU: Maybe we can adjourn.

MR TUSAIS: We will adjourn yes, maybe for 15 minutes.

COMMISSIONER MIROU: Yes.

20 MR TUSAIS: If the Commissioner could, maybe for – we come back at quarter past. What we intend to do is to call witnesses from the various clan that exists within ---

COMMISSIONER MIROU: Kaut area.

MR TUSAIS: The SABL so that we have got various spokespersons representing about five different clans. For one part of the SABL, Mr Lamusan spoke for the other part of the SABL. There may be other witnesses from his part of the SABL. But the witnesses we listed are mainly come from the other ---

COMMISSIONER MIROU: Mr Lamusan is from the west coast?

MR TUSAISA: West coast, Bagatere side.

COMMISSIONER MIROU: West coast and then we have them from Central and the east.

MR TUSAIS: We come back a bit, yes, to the east. But we need to sort them out and get this through in a more efficient way rather than consulting constantly, yes, Commissioner. If we could adjourn for 15 minutes.

COMMISSIONER MIROU: Yes. This proceeding is adjourned generally for 15 minutes. Thank you.

10 **SHORT ADJOURNMENT**

[11.23 am] COMMISSIONER MIROU: Thank you Counsel.

MR TUSAIS: Thank you Commissioner. Our second witness for today is Mr Henry Eremas, comes from the Kivingu clan. He is an executive of that group. He will be giving his evidence in English. If he could be sworn.

COMMISSIONER MIROU: Yes, Mr Eremas, thank you for coming. Please, can you stand up and take the oath.

HENRY EREMAS; sworn

XN: MR TUSAIS

20 COMMISSIONER MIROU: Mr Eremas, you may be seated. But you can speak up loudly and also into the mic because we are recording the proceedings. Thank you. Thank you, Counsel.

MR TUSAIS: Your name, for the record is Mr Henry Eremas?

A: Yes, sir.

Q: Which village do you come from?

A: I come from Putput village.

Q: That village is within the SABL that we are hearing evidence on this afternoon?

A: Yes, sir.

Q: In Putput village, your clan is called the Tibingu clan?

A: Yes, sir.

Q: You are an executive of that clan; what is the nature of that organisation?

A: The nature of that organisation is bringing together the clan members who were destabilized during the events of the State lease that is in progress now.

10 Q: So apart from Tibingu clan, which other clans covered by what you intend to tell the Commission today?

A: That is the Makatitian clan, the Tivingau clan, the Makanuk clan and the Mokon clan.

Q: For purposes of this Commission, you wrote a letter addressed to Commissioner Jerewai, but you did write a letter?

A: Yes.

Q: Perhaps you can hand a copy of that up to the Commissioner for – you could perhaps start off by reading from that letter. It sets out basically what you intend or wish to tell the Commission about?

A: Yes, sir.

20 Q: Is your letter dated 21 October 2011?

A: Yes, sir.

Q: Commissioner, for our records that would become exhibit CE7.

[EXHIBIT CE7 – LETTER BY NEIGHBOURING CLAN AND MR EREMAS CLAN TO THE COMMISSION]

COMMISSIONER MIROU: Thank you Counsel. That is the letter by various members of Mr Eremas?

MR TUSAIS: Eremas, neighbouring ---

COMMISSIONER MIROU: Clan?

MR TUSAIS: Of this clan and neighbouring clans. Mr Eremas, just so that we are clear in our minds or at least the Commissioner is clear in his mind. You point out in this map already before the Commission, just show the Commission where exactly your area is on this map? You just point out and call out the names of the villages and locations as written on that map.

A: This is the area in concern. It is across here and towards east of New Ireland, basically, Wikens area.

10 Q: Commissioner, the witness is referring to the eastern ---

A: Eastern part of Kaut.

Q: Part of the SABL, generally described as Kaut which is the eastern part of the Kaut TRP. And your village, can you just point that out where it is on the map? Putput is not listed but just generally from the Buluminski Highway. All right, have a seat. Perhaps you could just start by reading from that letter. I think it sets out concerns that you and your clansmen have in relation to this SABL.

A: Thank you, sir. Shall I proceed, sir?

Q: Just to start. You read what you wrote down for the record.

20 A: Thank you, sir. This letter was compiled, written out prior to meeting held, a general meeting held at Putput village on the 20th of this month, after having known that a Commission of Inquiry was going to be convened in Kavieng, pertaining to the SABL which is portion 844C. The purpose of this letter was written purposely to let the Inquiry know that the Tivingur clan prior to Commission of Inquiry or whilst the Inquiry was being in process, without our knowledge, we had already gone into investigations on our part, on our lands. That is why the letter maybe states that we felt we are already part of the Commission of Inquiry, because upon doing so we did send copies of our documentations, claims to Port Moresby through the

Assistant Secretary of Customary landowners when an advertisement was put out in paper for information to be lodged.

COMMISSIONER MIROU: Okay, this Customary Lands officer, is that the request made by the Department of Land.

A: Yes, sir.

Q: On the SABLs, requesting for the titles?

A: Yes.

Q: And who did you send this, your submissions to?

A: The Deputy Secretary, Customary Lands.

10 Q: Customary lands.

A: Kila Pat, Mr Kila Pat.

Q: Romily Kila Pat?

A: Romily.

Q: And you know the exact date that you sent your submissions?

A: On 12 September.

Q: 12 September this year?

A: Yes, sorry, 12th of, yes, September, yes.

MR TUSAIS: I do not have a copy but we will get to that.

COMMISSIONER MIROU: We will, yes, we will.

20 MR TUSAIS: Just for clarification, Mr Eremas. You described the land as 844C -
--

A: Sorry, 884C.

Q: Just state it for the record.

A: Yes, clarification here, sir, 884C.

Q: Mr Eremas, perhaps you could start by reading that letter and then I will ask you to tell generally, what you wish this Commission to hear.

A: Thank you, sir. The letter is from the Tivingur clan, Tome, Putput, Kaut, Kaplaman, Kavin No 2, villages within the west Kaut and it is addressed to the Commissioner, Commission of Inquiry, at that time was Alois Jerewai but of course, now is Commissioner Mirou. Our stand as clan was basically for the request of our tribe revocation of every dealings including the said SABL due to the fact that we did encounter upon our investigations that we did not have lands belonging to our clans, anymore.

10 It reads as; “We, the Tivingur clan wishes to enforce our stand for outright revocation of the above mentioned SABL, re portion 884C accordingly. Accordingly, this is in support of our previous submission faxed and mailed to the Lands office, Deputy Secretary Lands to be considered for this Inquiry accordingly.

We have gained support from the other clans who are also lands and also affected by this scrupulous dealings of where a letter of consent from all clans is hereby provided to fully back our standings.

20 We are aware of the fact that an Inquiry of this magnitude will cover a lot of issues of legal and technical issues or so to say. However, we hope that you will further consider that we are ordinary village people with no knowledge of this type of issues, and furthermore, we lack financial capacity to hire legal and technical person to represent us. But we do hope that in your deliberations, you will have room in your heart to accommodate our humble cry and request that this Commission of Inquiry reveal to us, if ever, our land has been tampered with in whatever ways as we are very, very concerned.

Our land is our livelihood, our land is our birthright. Thank you, very much.”

Signed, Henry Eremas.

[11.33am]Q: Okay, Mr Eremas, that is your general statement. I would like to take you to the time that those SABL was created or investigations; open investigations

done to establish this SABL. We have papers from Lands Department saying a land investigation report was conducted between 18 June 2006 to 1 July 2006. You listen while I will just summarize this report. The team from the Lands Department included a woman called Elizabeth Tobeia, who was the Manager, Special Project. I take it to mean the Cassava Etagon Project. There was also a Mr Manu Kila, a Special Project officer and a Lazarus Malesa, together with a Lands officer based here, Mr Waine. They say they conducted a lands investigation report, starting from Kaut side, down on the west coast all the way to your side at Putput and generally
10 around that area in which the SABL now is marked out, surveyed and is there.

A: Yes.

Q: That is what the land investigation report says by the Lands Department officials. You tell the Commission whether these people came consulted yourself, your clans people, would you just tell the Commission of your understanding?

A: Thank you, sir. I cannot elaborate more on personal, on actual being on site at the time of land investigation as I was not here. But from hearsay of our clansmen and women there was never ever an awareness or toksave so to say, that this type of investigation was going to take place; not ever, meaning
20 that everybody were not informed of the intentions of getting the land, the reports done and for the purpose of getting it done.

Q: They have got an attachment. They have got something down in writing here. They say land investigation reports were compiled within the Kaut TRP area for the first listed, is Pulaput, that is the name of the land, the land owning group is Mekomuna, village is Lokono. Is that within your area or it is outside?

A: It is within the area but it is further.

Q: Further out. Do you have any knowledge of ---

30 A: No, not at all.

Q: What about Dimuan and the Makatitian landowning group?

A: No.

Q: What do you mean, no? You have knowledge of that or?

A: No, I have no knowledge of that, sir.

Q: You do not have knowledge of that?

A: Do not have knowledge, sir.

Q: What about Lalautun, that is within the Tivingur ---

A: That I do not have any idea.

Q: Lalautun, extended Tivingur?

10 A: That never heard, sir.

Q: There is a very long list, we do not have time to go through that but what you are generally saying is that you do not have ---

A: Any faintest idea of the purpose of the land investigation and ---

Q: Your clan group is called Tivingur?

A: Tivingur clan, yes.

Q: What about the surrounding ones? What are their names? Would you -- how many clans are there?

A: There are -- the reality is that there is only four or there is only five or may be six clans within this area; within the area of west Kaut alone. There is
20 only three clan who has land within this area.

Q: Sorry, you say five, now you say three.

A: Six confirmed.

Q: Sorry?

A: Six clans.

Q: Just call out their names.

A: The Tivingur clan, Makatitian clan, the Mokon clan ---

Q: You just call it slowly. We need to ---

A: Sorry.

Q: Type this out later. Some of us are not from New Ireland so we might get confused a bit. Thank you.

A: The Tivingur clan.

Q: Just spell that, would you?

A: Tivingur, spelt, T-i-v-i-n-g-u-r, Tivingur clan.

10 Q: And the next one.

A: Mokon clan, M-o-k-o-n.

Q: Third?

A: The third, Makatitian clan, M-a-k-a-t-i-t-i-a-n clan.

Q: Fourth?

A: Makanuk clan, M-a-k-a-n-u-k.

Q: And the fifth?

A: Tivingau clan, T-i-v-i-n-g-a-u.

COMMISSIONER MIROU: Five clans.

A: Five clans, yes, sir.

20 MR TUSAIS: Did you correspond or write previously to the Minister for Lands, Mr Lucas Dekena?

A: Yes, sir, I did.

Q: It is on the letter dated 4 March 2011?

A: Yes, sir.

Q: Do you have a copy in front of you?

A: Yes, sir.

Q: Commissioner, I have copies of that letter, if I could hand it up. Have this marked exhibit CE8.

COMMISSIONER MIROU: Thank you, counsel. Letter dated 04 March 2011, addressed to the Honorable Minister for Lands.

**[EXHIBIT CE8 – LETTER BY 5 CLANS DATED 4 MARCH 2011
ADDRESSED TO THE HONOURABLE MINISTER FOR LANDS]**

10 MR TUSAIS: This letter is signed off by Mr Robinson Munda, who is the paramount clan chief of Tivingur clan, yourself Mr Henry Eremas, senior clan executive of Tivingur, Mrs Dorcas Langan or Lagan, she is the chairlady and a Mrs Dolly Jason, sorry, there are some more; Mrs Miriam Eremas, Mr Salum Morokas, Mr Lapan Pelis, Mr William Peka ---

A: Yes, sir.

Q: And Mr Gasingut Kivalu.

A: Yes, sir.

Q: Would you read contents of the letter into the record? You just start off with what you say. You do not need to say the address and all that.

[11.43am]A: Subject matter of the letter is “Request for Outright Revocation of Land Portions. (1) Masi, Portion 854C; (2) Kayok Portion 855C; (3) Mapaik Portion 856C; (4) Tulangit 857C; and Portions 878C; Bankolap Portion 877 and Yepeli 23-454 and the proposed Mabuwan milinch Balagai, fourmil Kavieng.

With the clan executives of the whole of Tivul Clan of Tome, Putput, Kasalog, Kapamal villagers in the Piana Local Level Government of the Kavieng Electorate, New Ireland Province, hereby make this urgent request to the Honourable Minister to immediately effect outright revocation of the

previous registered or proposed ILG registrations in progress as indicated in the map attached and within the surrounding areas for reasons that the above mentioned land portions ILG registrations in question. There was no proper consultation and agreement reached by majority representatives to effect these registrations accordingly. Even the whole clan was not aware that our land was being registered and by whom. In doing so, has denied our rights to our land as we were not aware of the procedures for registrations of ILGs. In other words, we were never given our right to object this bit or have our say as a requirement as should have been the case. We assume that these registrations were done whilst negotiations for Cassava Development was in progress. This land registrations were all rushed to fill the requirements at that time.

These sentiments have since been confirmed by the Chairman of the Board of Directors of Etagon Cassava Holdings Limited who are and were Board members within the Tegana Local Level Government and not landowners.

This proposed development project has since been abandoned, thus our land is illegally tied up by family oriented land groups and not landowners or clan groupings as should have been or should be the case.

This has now caused hindrance to the clan, land group or Tivul Clan to effectively register a blanket incorporate land group for the clan as a whole so as to enable the clan to plan and carry out negotiations for developments on the clan land as a whole.

Understandingly, we believe the idea of registration of family land groups should have been effected under Section 7 of Customary Lands Act or whatever the case may be. Therefore, this also warrants outright revocations of all registered land portions, and have this land returned to the landowners accordingly and properly registered to represent all clans of landowners and that should fulfill the purpose of ILG registrations.

Our good Minister, land is a very important factor in our livelihood, and very importantly, it is our birthright. Therefore if our land rights are violated by means of illegal participations, it has become a very sensitive issue for us all. We therefore wish to kindly request that you, as Minister for Lands and

Planning seriously consider our humble and urgent request for outright revocation of the registered portions in the subject matter and that all these lands be returned to us accordingly.

Please refer to a copy of the map and as indicated, shaded for confirmation.

We wish to sincerely take this opportunity to thank you in anticipation and hope and trust that you will effect our request accordingly.

Yours faithfully,”

Q: Thank you. And you do include a map at the back?

A: Yes.

10 Q: Which is taken from this bigger map?

A: Yes.

Q: And the shaded portions – where your land or where your area is?

A: Yes.

Q: Do you wish to say to say anything else apart from that to the Commission regarding what happened before formation – establishment of the SABL and its existence now?

20 A: Being a landowner, I wish to tell this Inquiry, that being a landowner, I am very much concerned sir, that the procedures or the manner in which this SABL was acquired – referring back to the other group that has already come in, we share the same sentiments. We, meaning the whole clans within the area, were never consulted or never informed that there was such intentions was being put in place to have lands registered under this SABL. In saying that, whilst that was being done by the people involved, ILGs were being formed, but possibly to tap into the development – the proposed development that was being proposed thus leading to the ILGs being formed. There was no prior awareness carried out on the project alone. The negatives and the positives of it all, thus leaving leading to a lot of people - when I am talking people, I mean, the communities at large - not fully knowing the negatives and the positives of the actual project of that

magnitude. In doing so, a lot of the people or clan members, generally speaking, were denied that right to have a say or given an understanding that such was being undertaken. Therefore, on the site of the old SABL, we strongly feel that we should have been consulted and explained. Because when we talk of land titles, there are so many names of land titles being in the process of other dealings. That should have been explained to the people of what this SABL or this title was going to do for the people, like I previously mentioned, the positives and the negatives of it.

10 Q: Okay, Mr Eremas, are you yourself, or any of your family members, are you listed under any of these ILGs that this SABL was registered – the ILGs that formed the Cassava Etagon company?

A: No, simply because whilst there was talking of ILG registrations and objections from within the communities, majority of the clan owners never consented to the actual proposed project. Therefore they refused to be part and parcel of what happened. What then happened was, the so called officers of the company, most probably including the Lands people went individually to people who were with them at that time, who are members of our clan, who then went ahead and registered ILGs and included part of our clan, not the whole clan but only members of a certain family grouping in the ILG. The rest of the Tivul clan was never included in the ILGs.

20

COMMISSIONER MIROU: So you are saying, some members of your clan was involved with those officers of the company to include your land in this SABL?

A: Yes, sir.

Q: Are you able to name these persons within your family that - ?

A: I am not able to name in person and I am not able to name in ILG registration whatnot because that information, we do not have that with us. We never had that information, it was purely kept with them and the people concerned.

30 Q: So one of the actual problem was created by the Lands Department as a result of that application for an SABL to be issued, except no consultation was made generally to the whole community and as a result of that –

because of the lack of consent on the part of your clan and others who are affected by it, you are saying that this SABL should never have been issued in the first place. Because procedures, consultation, even the officials from the Lands Department and others did not come and visit you and discuss that your land will be part of this SABL?

A: Yes, sir.

[11.53 am]MR TUSAIS: Just to follow up on what Commissioner has asked you. Since 2006, have you learnt the name or identity of this person who put you in and your grouping, members of this ILG in order to create that Cassava Etagon Holdings?

10 A: I would say that the name of the person mainly involved Solatiel Bos and Paul Steven Taong.

Q: In your clan, are they – do they have authority to speak on your behalf?

A: No.

Q: Do you have any further things you wish to tell the Commission?

A: At the moment I do not have anything in the lines of clan representation right now. But I am of the opinion that other clans also share the same sentiments.

Q: Perhaps they can speak for themselves, Mr Eremas?

A: Yes.

20 Q: But for your clan, how many people do you represent?

A: The majority of the Tivul clan, I would be looking at about 200 clan members to, so to say.

Q: This is men, women and children?

A: Yes.

COMMISSIONER MIROU: Mr Eremas, whilst Counsel is – Mr Eremas, from 2006 when this SABL was issued, has any project activities been done on the land?

A: Up until now from 2006, nothing has eventuated whatsoever.

Q: So, no projects?

A: There is a dense jungle still standing there, right now.

Q: Okay. No forestry activities or the planting of cassava?

A: No, no sir.

MR TUSAIS: The Land Investigation Report, it was done by the Lands Department, it says that in this area, there are about 5,000 people. Just your general knowledge, would you say that that is the population of this area?

A: Is it 5,000 sir?

10 Q: 5,000, yes. But not from your tribe, this is Kaut area? You do not need to answer it if you do not know but just as a general estimation?

A: On a 5,000, I do not have any idea on that and I –

Q: That is fine. Commissioner, I do not have any further questions.

20 COMMISSIONER MIROU: Yes, thank you Counsel. I do not have any either. Mr Eremas, the Commission thanks you for speaking on behalf of your clan in relation to the matters you have highlighted for the Commission. In terms of this SABL where it affects your particular areas that you have highlighted to us, we will take those matters into account when we consider these particular SABLs and the recommendations that we will be making. We thank you that you have come forward on behalf of your clan and those matters are now before the Commission and they will be considered.

A: Thank you, Sir.

COMMISSIONER MIROU: We will be making our submissions on the report to the Prime Minister in March next year so sometime we will go by because we will still have to inquire into other SABLs. There are about 75 plus. So we will still be carrying on with our own Inquiry but if matters come to light over this portion, definitely, these are matters we will deal with, with our officials in Port Moresby when we return. These are matters we will raise with them. And we thank you for coming forward and saying things that will assist us.

A: Thank you, Sir, I appreciate it very much, Sir.

COMMISSIONER MIROU: You are excused from your evidence.

THE WITNESS WITHDREW

MR TUSAIS: Mr Commissioner, I intend to tender the Land Investigation Report for the Cassava Etagon within the –

COMMISSIONER MIROU: That will be exhibit ---

MR TUSAIS: Exhibit CE9.

COMMISSIONER MIROU: It is the Land Investigation Report 2006.

10 **[EXHIBIT CE9 – LAND INVESTIGATION REPORT OF 2006]**

MR TUSAIS: It is just one of 36 proposed Land Investigation Reports in the summary done by Mr Malesa of Lands Department. It says, “Out of 36 Lands Investigation Reports, about 9 are fully compiled are in my possession. Nine LIRs are those which have their survey plans registered. The remaining 47 LIRs have been compiled. However, landowner executives have yet to sign the report.” I think I adverted to that in my opening. “This report is currently in the possession of Project Coordinator,” et cetera. We also wish to bring to the Commission’s notice the implications that this map – or on the map you will see that described as survey class 4, at the bottom right hand corner, in the second box, class of surveys, Rural Class 4. This in Lands Department language means a major survey.

20

COMMISSIONER MIROU: So a major survey is a large tract of land so we are talking about, from the East to the West Coast, Central---

MR TUSAIS: And stretching in from both sides, yes. Okay, I also tender the Memorandum of Understanding reached between the Independent State of Papua New Guinea and Chan Hae Ethanol Corporation Limited. Yes, Memorandum of Agreement. This was the foundation on which the State invited the company to grow Cassava dated 4 February 2005.

COMMISSIONER MIROU: Thank you, we will accept that. That will be marked Exhibit CE10.

[EXHIBIT CE10 – MEMORANDUM OF UNDERSTANDING BETWEEN THE INDEPENDENT STATE OF PAPUA NEW GUINEA AND CHAN HAE ETHANOL CORPORATION LIMITED DATED 4 FEBRUARY 2005]

MR TUSAIS: Commissioner, just before we adjourn for lunch, we will be calling several witnesses in the afternoon but we still have to sort out who is going to come and give evidence. For the Commission's information, we have had witnesses come during the breaks and wishing to give evidence. We will see how far we can go. But for today, I am just indicating that we may not get through all the witnesses.

COMMISSIONER MIROU: Yes.

MR TUSAIS: We may need perhaps, because of the extension, to come back and wrap this matter up, give a bit more time, but for these sittings, it does not look like we will be able to completely cover all the witnesses so perhaps if the public could be told just so that they do not go away feeling like they have been left out.

COMMISSIONER MIROU: Yes, we will inform them as we go on. We have a day allocated for this particular SABL, referred to as 884C Kaut. Counsel has indicated that there is a number of –so from the list that I have been given there is about eight witnesses to hear evidences from. Two have already given their evidence. During the short adjournment that we had, there were a number of you who have approached Counsel to indicate your willingness to give evidence. It is a matter that the Counsel and Technical Counsel will decide on during the luncheon break but in the afternoon we will still continue with other evidence from the witnesses.

[12.03 pm]One thing that I would like to inform you is that our time here is only for 10 days. We have been allocated 10 days and we have five SABLs to inquire into which includes your particular area. But that does not stop us from taking evidence; that is all subject to the time we have but only one thing that this Commission will wish to highlight is that, if the areas of issues that are different from what the other two witnesses or even witnesses that you called are very similar then that is a matter that we already have on our records. And whatever it is, if it is for the very

recommendations that you wish that this SABL be cancelled, then make a – see Counsel and these matters will be discussed and then we can try to minimize repetition of – and so if we can all cooperate and work together, we might be able to complete the inquiry into your SABL and so we can proceed to the other SABLs. Or you can go through one person as your spokesman or spokeswoman so that whatever grievances that you have will be only through that one particular person and so we can take that evidence and it is basically your evidence to the Commission of Inquiry. So those are the matters that you can consider and when you see both Counsels during the luncheon break, we will adjourn now to ---

10

MR TUSAIS: Sorry Commissioner, if I could just indicate, when we resume at 1.30, we wish to call Mrs Margaret Anne Elias from the list of witnesses.

COMMISSIONER MIROU: Okay.

MR TUSAIS: Her evidence is relating to a particular piece of land and we will hear from her. The other witness, we will give her a numbering when we return.

COMMISSIONER MIROU: Okay, thank you, Counsel. So we have a witness to
20 be called this afternoon, Margaret Elias.

So the Commission will now adjourn to 1.30 and we will recommence our hearing.

LUNCHEON ADJOURNMENT

[1.35 pm] COMMISSIONER MIROU: Thank you Mr Tusais.

MR TUSAIS: Good afternoon Commissioner. We have got this afternoon the rest
30 of the witnesses, that are about four of them and we will be calling the four; we should be able to – we should manage to get through the evidence. These persons or most of them come from the villages. We have heard evidence already from landowners who are based – not permanently based in the villages, but these are witnesses who will tell us what happened on the ground. The first person to lead evidence this afternoon is Mr Jerry Lamasisi.

COMMISSIONER MIROU: Mr Lamasisi, please come forward. Take a Bible and swear an oath.

40

JERRY LAMASISI: Sworn

XN: MR TUSAIS

COMMISSIONER MIROU: Thank you Mr Lamasisi. Counsel?

MR TUSAIS: He will give his evidence in Pidgin. So far, Mr Associate could interpret for the time being. We have arranged for an interpreter but he is not immediately available.

10

COMMISSIONER MIROU: Okay, thank you.

MR TUSAIS: For the record, again, your name is Mr GERRY LAMASISI, spelt L- A- M-A-S-I-S-I?

A: Yes, sir.

Q: You describe yourself as a subsistence farmer from Putput village?

20

A: Yes, sir.

Q: And in that village, you come from the Maxon Clan?

A: Clan Mohon Clan.

Q: Okay. Your area, you are aware of this SABL under the name of Cassava Etagon covering the area described – generally described as Kaut?

A: I came to realize it when it got underway.

30

Q: Just state again, what do you mean, ‘when they started to walk about’? When you are tell your story, you cut it bit by bit so he will interpret your story.

A: I can recall in 2004, I cannot remember the date and the time but I recall our late Member, SolatielTangap and Mr Miskus Maraleu; they came up at the village at a community centre where we gather, and they told the people we were to sign the consent form. Regarding the consent form, many people did not understand what it meant. They explained a bit but many people – it did not go down well with the people. There was no understanding there.

40

The late TangapSalatiel – because he was a respected figure, they respected him and so they did not question him any further or asked him anything further. So it was given to some other people to sign the consent form – a few people to sign the consent form. This was to – the venue where the Cassava Entagon is now. Before the signing took place, there was no clear explanation as to the engagement of this company,Entagon.

Q: Okay witness, just hold it there. Who was doing the explaining? Just so that we know.

10

A: It is hard to say this but it was the late Salatiel, now that he is deceased, he is not here to defend himself but there are some landowners who can come and testify.

Q: Okay, you continue.

A: Not long after we were asked to sign the ILGs. This ILG is new – something new to us and I was one of them who took part; also new to the country and new to the province itself. We needed some good explanation regarding these ILGs.

20

[1.45 pm]

While we were discussing or being educated on this ILG thing, there was this company Etagon that came up and so there was not much educational explanation to the people regarding this ILG thing as to ILG and the company coming in. We were in doubt or not sure. What we wanted was the members and the five directors to gather us and explain to the people properly. What we feared was that there were ILGs extended out to some other clans, the ILG area – it included other clans; that is what we feared. I also have an ILG number 1, 2, 3 and 14. We did all this without proper awareness to educate us as to ILG, the meaning of it.

30

I take this opportunity to thank this Inquiry and the government for coming along to hear us little people our grievances.

Q: Okay, Mr Lamasisi, I will just ask you. You said there was a consent form presented to you and you signed that consent form. What were you consenting to?

A: I did not want to be part of it so I left.

Q: All right. But those others who signed, what was your understanding – anybody who signed the consent is like saying ‘yes’? What were they saying yes to?

A: It was to do with the Etagon and people to go inside – to allow the people to come in – the company people to come in, Etagon.

10 Q: And what did you understand this company people or Lands people will go in and do?

A: I think we should be given more time for people to gather, discuss and talk about, and therefore, I disputed it.

Q: Okay. You did not sign because you did not want to sign. To your knowledge, did the majority of the people in Putput Village or your clan, Mohon clan, did the majority, did most of your clan people sign there?

20 A: I am not a witness to that. I did not see.

Q: Okay. What about this Lands Department? Did they have any involvement with them when they went to do the Land Investigations Report?

A: No.

Q: Are you aware they went into your area, Putput Village to do the Land Investigation Report?

30 A: Originally, we are people from Tome.

Q: What was your understanding – yourself, may be the community’s understanding? How would you benefit from the Cassava Entagon?

A: I would say that there was no awareness.

Q: Did you understand this concept about lease – lease to the Government and the Government leasing the land back to you?

40 A: I do not have any clear idea about lease – leasing land to the Government and government leasing the land back.

Q: Did anybody else explain the concept?

[1.55 pm] A: No. Our worry or our problem now is – as to right now who is to benefit through this exercise.

Q: And your village – you said you are from Tome but now resident in Putput. What is your population?

10 A: The majority reside at Putput but our livelihood is all at Tome.

COMMISSIONER MIROU: You mean your garden; you do most of your gardening in Tome? And also live there?

A: Our land.

MR TUSAIS: Sorry, Mr Lamasisi, just estimate your village or your clan, your people, how many of you?

20 A: Putput Village, it is around 200 plus. And the clan alone is about 60, excluding the other clans.

Q: Since 2000, do you know if of your other clan members have signed; when the Lands people came, they did a land investigation report. Did any of your clan members sign – not consent form - there is a part there that says, “ILG Landowner Consent Form”. Did any of them sign?

A: I have no idea on that.

30 Q: I have no other questions.

COMMISSIONER MIROU: Mr Lamasisi, I know this is difficult for you but this is in relation to Mr Salatiel Tangab, the late Salatiel. From the Land Investigation Reports, Mr Salatiel Tangab played a very important role in executing this SABL on behalf of Putput Village. Would you, during that time, and your clan members, confirm whether Mr Tangab did speak to your clan members about this particular application for an SABL to be issued to Cassava Etagon?

A: I cannot recall him explaining to us regarding this signing.

40

Q: Going back to that report at page 16, there is a schedule of owners status and rights to the land and Mr Salatiel Tangap is also mentioned in that schedule. As being a member of Putput Village, Tegana LLG, would it be correct for this Commission to suggest to you that Mr Salatiel Tangap had all that authority from the clan to sign on your behalf?

Associate/Interpreter: Sorry Commissioner, can you come again?

10 COMMISSIONER MIROU: Mr Salatiel Tangab is listed in that report as an owner, he has rights to that land and he is sort of your representative from Putput Village? I am only raising this from the report I have from the Land Investigation Report.

A: What he explained to us is that every heads counted, we had the right so has he, he has his own right.

Q: So during that time, he did not consult the other heads of that various clans within Putput village?

20 A: Because he has a standing in the community, he has the respect and therefore nobody questions him as to his rights and he was a member and so there was a respect there for him.

Q: So in effect you are saying that he would be only doing something on behalf of his particular little group within the Putput Village?

30 A: That may be the case because I was only given the ILG in 2009. The majority of us do not have this. I would explain further that those that have the ILG title are the ones so close to the member - Member within the ward inside the TRP.

[2.05 pm]Q: Do you understand the process involved in the ILG or Incorporated Land Groups?

A: There should be a proper way to educate us because how it got us involved was like – we are sort of getting - involving us from all sides – involving people without proper awareness.

Q: Okay. ILG is basically the administrative process. It is within law. It is a process that the Government introduced by way of Legislation or law – I

will just explain - where the Government previous to that, they normally obtained genealogist, family tree. But because of the type of projects that we have, like mining, oil and gas, you are dealing with a huge area involving a lot of clans and villages and so to make it easier for the government to identify actual landowners, the ILG was introduced basically to cover a certain group or clan within that area where the project is going to be – activity will take place. And so that process was now used to deal with SABLs as well. But under the Land Investigation Report, there is also a need to do a proper genealogy and that is how this process is. So Salatiel, the late Tangap was probably saying that he was representing the interest of the Putput villagers. I am only suggesting it.

A: I do not know what his motives were but this Cassava exercise, there is nothing to show that this thing has actually taken place and people are still waiting. We are people; our hands are tied because there is nothing we can do or have any knowledge of and as to this day we are not sure who is holding on to the title or who is benefiting.

Q: Counsel?

[2.15 pm] MR TUSAIS: I think we are done with this witness unless you have further questions your honour?

COMMISSIONER MIROU: Thank you for your evidence this afternoon and we will consider what you have said in our report and you should know the outcome of it in March next year.

A: Thank you, Commissioner.

COMMISSIONER MIROU: You are excused.

THE WITNESS WITHDREW

MR TUSAIS: Commissioner, our next witness is Mrs Margaret Anne Elias.

COMMISSIONER MIROU: Yes, thank you. Mrs Elias?

MRS MARGARET ELIAS, Sworn:

XN: MR BOKOMI

MR TUSAIS: Commissioner, Mr Bokomi will lead evidence from this witness, thank you.

COMMISSIONER MIROU: Thank you Mr Tusais. Mr Bokomi, when you are ready, you can ---

MR BOKOMI: Good afternoon Commissioner. For record purposes, the
10 Counsel's name is BOKOMI initial J for JIMMY. I will, as Senior Counsel
Assisting has stated, lead this particular witness.

COMMISSIONER MIROU: Thank you Counsel.

MR BOKOMI: By way of background, the witness's name is Margaret Anne
Elias. She has prepared a brief statement of the kind of evidence that she will be
presenting to the Commission of Inquiry this afternoon, copy of which I seek to
tender and we can have that formulated as evidence just a little later.

COMMISSIONER MIROU: You mark it Exhibit CE10?

MR BOKOMI: No, that will be marked as Exhibit CE11.

20 COMMISSIONER MIROU: Which will also include this record of proceedings?

MR BOKOMI: That is correct.

COMMISSIONER MIROU: Local Land Court.

MR BOKOMI: I think that is a Land Court decision there – the first witness
statement; in total she has a statement of 2 pages including that annexed which is
titled: 'Recording of Proceedings, Local Land Court Held at Kavieng'.

[EXHIBIT CE11 – BRIEF STATEMENT OF MRS MARGARET ANNE ELIAS AND RECORDING OF PROCEEDINGS, LOCAL LAND COURT, KAVIENG]

COMMISSIONER MIROU: If you can get Mrs Elias to read after you have introduced her?

MR BOKOMI: That is correct. That is what I am intending to do, yes.

Witness, I have this document here, it is a short letter that you apparently wrote to the Commissioner. It is called 1,000 hectares North East Coast Kavieng, New Ireland Province, Attention: The Commissioner of Inquiry and that letter is dated
10 24 October 2010. The date is in roman numerals. Could you confirm that? Can you tell the Commissioner what your full name is for record purposes?

A: My name is Margaret Anne Elias Nee Peteri.

COMMISSIONER MIROU: Thank you.

Q: Where do you come from?

A: My mother's village is Bagael Sivasat. My father's village is where the 1,000 hectares is, at Nono close to the sea.

Q: Okay, for record purposes, I am going to show you this particular map for portion 844C, the subject of this Commission's Inquiry today. It relates to the Kaut TRP area, and if you, please point to where your particular area of
20 concern or village is?

A: Correction please here, it is 849C.

COMMISSIONER MIROU: Mrs Elias, you can sit down – you can remain seated and you just point to the place where ---

MR BOKOMI: Where exactly do you come from, that is what I am asking?

A: This is 1,000 hectares we are talking about, otherwise that is where my father belongs and my mother is from Bagael Sivasat village?

COMMISSIONER MIROU: Mrs Elias, if you can come forward close to the mic so that when you are speaking to the mic it will be recorded over there. Thank you.

A: I will be mixing Pidgin and English as well. This 1,000 hectares here is, at Nono where my father comes from.

Q: And your mother, does she come from the same area, Kaut area or?

A: She is from Bagael.

Q: Yes, thank you. Counsel, I have noted the ---

10 MR BOKOMI: Commissioner, the location of her village and the land she identifies as Nono 1,000 hectares is within the SABL area, the subject of this inquiry as she has demonstrated.

COMMISSIONER MIROU: And that is central – the central part that – Is that the central part of East and West coast?

A: We are on the East Coast.

Q: Okay, thank you.

MR BOKOMI: Commissioner, I would ask witness to now read her statement and then after that I will have certain questions to ask her.

COMMISSIONER MIROU: Yes, thank you Counsel.

[2.27 pm] Please read your statement witness, for record purposes; talk strongly into the
20 mike.

A: On behalf of the landowners of the 1,000 hectares Tigik, Matambua and Palmasut, we wish to notify you that although we were not aware of the doings that was going on in the West Coast of Tigak, we do believe that the Cassava project covers our 1,000 hectares on the East Coast of New Ireland - Nono, Kavieng, New Ireland. Our 1,000 hectares Nono was surveyed for the purpose of real estate for the rubber project. The land itself was taken to Land Court and we had a court order decision which is attached for your information. We also had an ILG which we have a certificate in our

possession No 12317. What we do not know and have want to know are as follows:

1. Who holds the title for the 1,000 hectares?
2. How many ILGs besides the Court order decision?
3. The two current Directors to be replaced.
4. West Coast should take note that Nono is included in the Cassava Project too.
5. The right Directors should be contacted for any talking or meeting or anything like that.

10

On behalf of landowners, we would appreciate if this will be attended to. Lastly, we request that:

1. Title be returned to us as promised by the Cassava Project negotiators.
2. Directors be changed, the Directors at that time were Robert Rabana and Vaketi.
3. Any proposed meetings or negotiations taking place at the project sites must be made known to us because we reside far away from the project site.

20

MR BOKOMI: Interpreter, can you interpret that last bit that Mrs Elias said?

INTERPRETER: We do not support the Cassava Project because there is no proper awareness and we are not adequately informed of such project.

MR BOKOMI: I have very few questions to ask. Are you aware of any government team going into your village to talk about acquisition of land and the purpose of such acquisition?

A: There are two projects here. Is it Cassava or is it Rubber?

30

Q: What the Commission of Inquiry is concerned with at the moment is the Cassava Project. That is the SABL, the Special Agriculture and Business Lease relating to establishment of a Cassava Project within the Kaut TRP area which is now named as Portion 844C.

A: I have no knowledge of this.

Q: Are there any people in your village who are or may be aware of this particular - any government team going in there prior to the area regarding this particular project?

A: I would say, we used to hear rumours, but we were living away on the other side.

10 Q: This 1,000 hectares for rubber project that you are talking about, it is portion 849C Nono 3. It is delineated by registered survey plan – catalogue number 23381, I am reading from the map. With the entire SABL area, portion 884C, is there any title registered over this 849C - Portion 849C that you may be aware of?

A: I request that – or I want the Commission of Inquiry to look into this title 849C, there is a title being issued over it.

10:03 am] COMMISSIONER MIROU: Mrs. Elias, you saw that map, that map that was shown to you?

A: Yes.

20 Q: This Inquiry is all about this huge piece of land that affect your village including the other villages that have come up here which we are referring to as 884C Kaut. And so it covers from the Eastern side, which is your side where the Buluminski Highway runs up to the West Coast. And this particular SABL is issued to the company called Cassava Etagon Limited. They hold the title to that portion in 2006 and that lease is for 99 years. So today it is still in the name of Cassava Etagon Limited. What Counsel wants to know from you is from your area, your place called Nono. Did you at any time during – in 2006, did anyone from the Department of Lands or from the Provincial Lands Office come to your village and talk to you people with
30 regards to that 884C? There was an application for an SABL on that area.

A: I was in my mother's village so I have no idea, no knowledge of any Government people coming to Nono and make us aware of what was going on.

Q: So in 2006 were you living at Nono?

A: I must be honest to you. That place Nono is my father's land, but at that time, I was living in my mother's village. So what was going on, I had no knowledge or idea.

Q: And from your knowledge, is there any one from your area now here with you was around in 2006, that is whether they will be able to assist us by telling us that, yes, no one from the Department of Lands came and visited them and talked to them about the ---

A: I walked with these surveyors for 1,000 hectares regardless, and we have a court order relating to this matter. Court orders mentions Salatiel ---

10 MR BOKOMI: Commissioner, if I may assist. This record of proceedings relate to the local land court hearings in respect of the land Nono which was the subject of a local land court dispute and I think the witness is talking about the land boundary inspection pursuant to the Land Dispute Settlement Act that was conducted by the Court at the time of the hearing.

COMMISSIONER MIROU: That is the clan boundary that is marked on this map?

MR BOKOMI: Yes, that is marked from here.

COMMISSIONER MIROU: That small section of the ---

MR BOKOMI: It may not have been done by any Lands Officer from the
20 Department of Lands as such. Is that correct?

A: It is true.

Q: Was the land boundary inspection done, after you registered this matter in Court, together with the Magistrate?

A: Yes, the surveyor went through it. I went with them, I looked at it; that is correct.

Q: Mrs Elias, what I want you to understand is this, as Commissioner has explained earlier on to the other witness that was there, for purposes of land acquisition for any development projects, the Government would normally send an advance party comprising of a surveyor plus some Lands Officer to

do genealogy as well as to do survey basically the area - the subject of the proposed opposition.

A: For this one, I must say that there is one man from this area with 1,000 hectares, he must come back and talk because now he is the one who get information for us and passes that information to us with another two men who are not present today.

Q: 1,000 hectares is not the subject of the Inquiry here. We are talking about 26,000 hectares which include the 1,000 hectares you are talking about. You understand?

10 A: Yes.

Q: With that, I will ask you one last question. Were you people aware and did they actually give their consent for the Government to acquire this 1,000 hectares plus the other 25,000 hectares that comprise what is now known as Portion 884C Kaut TRP 26,000 hectares for the cassava project; not the rubber project; that cassava project?

A: I have no idea.

Q: She said no?

A: No.

MR BOKOMI: Commissioner, I have no further question.

20 COMMISSIONER MIROU: Yes, thank you Counsel. Mrs Elias, we thank you for the evidence that you have provided to this Inquiry. We will take whatever you have raised with us this afternoon and we thank you for your attendance today. You are now excused from the Inquiry.

THE WITNESS WITHDREW

[2.50 pm] MR TUSAIS: Our second last witness for this afternoon is a Mrs Litia Phillip. She will be giving sworn evidence in Pidgin.

COMMISSIONER MIROU: Mrs Lidia Phillip?

MR TUSAIS: LITIA, L-I-T-I- A.

COMMISSIONER MIROU: Yes, let the witness be sworn.

LITIA PHILLIP, Sworn:

XN: MR TUSAIS

Q: Good afternoon. Your full name is Litia Philip?

A: Yes.

10 Q: Talk louder; do not get scared. Would you tell the Commission which village you come from?

A: I am from Kaut Village.

Q: Is that on the other side of the dirt road ---

A: On the West Coast.

Q: On the West Coast?

A: Yes.

Q: You understand the reason why this Inquiry is on now, it is in relation to a SABL under or described in your village's name, Kaut, TRP?

20 A: I have no knowledge of anything whatsoever. I am here and I am just sitting here with no knowledge whatsoever.

Q: All right. What is your clan?

A: My clan is Mekanuk.

Q: Were you ever aware that your land or village of Makanuk within the Kaut area was now covered by this thing called Cassava Etagon Project, SABL, Special Agriculture Business Lease?

A: Since I have been at Makanuk, there is no single person from the Government or any person for that matter came around and saw us.

Q: Have you been living in your village for – have you lived anywhere else apart from your village since you were born, let me ask you that way?

A: I have been in Kaut ever since.

10 Q: Okay. You heard the evidence from previous witness, Mr Jerry Lamasisi. He is from the other side. I think Putput. He said starting from 2004, there was this movement to get people to give consent for something. You heard this evidence?

MR TUSAIS: At Putput starting in 2004. That is what Jerry said. My question is on the Kaut side, did anybody come and do such things?

A: No.

Q: Did any of your Maimais or your leaders, any village leader or family elder or somebody respected, did they ever tell you that there was this thing out there and they were going to come cover your land?

20 A: Whilst still at the village, these people never came around. But whilst we are in town or anywhere else we hear rumours of these people coming.

Q: What rumours did you hear? What were they saying?

A: They were saying they will come and plant tapiok.

Q: At the village?

A: At the village, yes.

Q: Did they say they would go and plant tapiok down in Kaut also?

A: Yes, there was talk about this cassava project going to come up and we heard about it but there was no awareness, whether the negative and positive or the good side and the bad side of it, we were not made aware of.

Q: When did you become aware of that your land, Kaut village now is under somebody's name for the next 99 years?

A: Nobody in particular advised us but what we were hearing was that and so I was not so concerned because what we were hearing was only rumours, whether it was actually going to take place or not was something that I did not bother very much.

10 Q: All right. I am not going to take this any further. I summarise what I understand you to be saying is that you do not have any idea how this thing came about. You did not give your consent and that is your position about the Cassava Etagon SABL?

A: That is right.

Q: I have no further questions.

COMMISSIONER MIROU: Yes, thank you Mr Tusais. Mrs Phillip, thank you for your evidence this afternoon. We really appreciate the contribution you have made and you can go back to your chair now. You are excused. Thank you.

20 **THE WITNESS WITHDREW**

[3.02 pm] COMMISSIONER MIROU: Thank you Mr Tusais.

MR TUSAIS: Commissioner, the witness we called from the morning, especially this afternoon, we try to cover as much as possible the various segments of land portions or areas within this SABL. What we got is we have had different witnesses come. This final witness is Mr Talana Tiamon. His evidence is going to cover the East side, that is the area referred to by the first witness, Michael Lamusan, but he is from the village so if he could be sworn and to give evidence in Pidgin.

COMMISSIONER MIROU: We will take his evidence, yes. Thank you Mr Tusais and the witness can be sworn.

TALANA TIAMON, Sworn:

XN: MR TUSAIS

COMMISSIONER MIROU: Thank you Mr Tiamon. You may be seated and then Counsel will ask questions.

10 MR TUSAIS: Your name – your full name, just for the records is TALANA TIAMON; it is spelt T-A-L-A-N-A T-I-A-M-O-N. Mr Tiamon, which village do you come from?

A: I am from Nono Village.

Q: Is that same village as Mrs Elias?

A: Yes.

Q: I apologize Commissioner, I thought he was further down in the Bagatera area. By the way, you are sworn in already, what do you wish to tell the Commission this SABL?

20 A: Before I give my story, I would like to apologize to the Counsel and the Commissioner that I did not come prepared. I did not prepare my statement in order to assist the Commission. I was only made aware very recently. But on behalf of the people from Nono Village to Losuk, asked me if I could represent them and say something on their behalf. From Nono to Losuk, we got 23 head clans, 96 sub clans, the total ILGs is 118. It covers eight communities from this TRP. I will now talk on the ILGs.

Q: Okay, may be you leave the ILGs aside first. Let me ask you this. Did you and all your ILGs give consent to Cassava Etagon to obtain this SABL under its name? You start off from there.

A: No.

Q: Did anyone from the Lands Department come to your place at Nono or your place between Nono and Losuk? Did anybody come and consult with you?

A: No.

Q: All right. Did you or any of your clansmen sign any papers consenting to the Land Investigation Report?

A: No.

Q: Do you know anyone else with your area who agreed to Cassava Etagon and for that company to lease your land and other people's land within the Kaut TRP to the government and get the lease back?

10 A: I have not heard.

Q: Okay, you tell us, you tell the Commission what you wish to say, but keep within those – do not go too far down the track, we might reach the night time.

A: I would like to tell this Commission that we have no idea, we do not know what this Cassava Etagon is all about. Like I say, there was no awareness carried out; we have no idea, no knowledge of what it is all about.

Q: That is basically it, unless you got something else to say to the Commission?

A: According to the people, we do not want this Cassava Etagon thing to go on. We just simply want our land to be returned to us.

20 Q: Thank you. I do not have any further questions.

COMMISSIONER MIROU: Yes, I have no questions to ask. Mr Tiamon, thank you for your attendance this afternoon and your willingness to give evidence. You can be excused now.

THE WITNESS WITHDREW

MR TUSAIS: Commissioner, that is the last witness on the list. There was another person but he did not answer so we do not intend to call any other witness but Commissioner, there may be people who have listened and who feel like they need to put their case forward, at least from areas which have not been represented, but they can write full detailed submissions and pass it on to the team. We make assessments and if we can find time during these sittings, we can fit them in later on.

10 COMMISSIONER MIROU: Yes, okay. I will make a general - thank you for your attendance and your time to give us the evidence that we require. As we heard Counsel, it is not over yet, you feel free to put it into writing, in black and white and approach counsel and give whatever things you want us to know about so that we can look at them and consider. We still have some more days left – about six days left so towards the end of the week we will decide who we will hear and what type of evidence that we require. But you have heard generally what this Commission requires from you. Our Terms of Reference directs us to look at the specifics on that area of the SABLs, how it was issued. We are looking at the process and you, as the particular owners of those land, whether you have said okay to those SABLs to be issued, that is important. So that is all we want to know from those people who are affected by those SABLs. Because your land,
20 especially, the 99 year lease means that your right over those lands are suspended for that particular period in time. So I thank you for your attendance today and your willingness to support and help us so that we can provide – we can consider all the evidence that we have received today in relation to this particular SABL which is 884C Kaut. Thank you. Counsel, this morning, we made a mention of Mr David Silakot.

MR TUSAIS: We call the witness, Silakot?

COMMISSIONER MIROU: Silakot, yes.

MR TUSAIS: I was just about to mention that witness. I have been told this witness left for Kimbe and will be back on Wednesday according to my
30 information. I would like the Commission to set his evidence down for Friday and that he be notified and be here on Friday or he will be dealt with under the Commissions of Inquiry Act.

COMMISSIONER MIROU: I direct that Mr David Silokot was summoned under Summons No 25, that he will give his evidence on Friday the 28 October 2011 at 9.30 am. Mr Tusais, any other business for today?

MR TUSAIS: No, that seems to be the – as far as the Cassava Etagon SABL is concerned, as Commissioner advised, it is not finished.

COMMISSIONER MIROU: Yes.

MR TUSAIS: But for the time being, those witnesses who have come forward – they have come and presented their evidence. We live it at that for the time being and adjourn this matter generally unless and until there is need to recall witnesses
10 in relating to the matter.

COMMISSIONER MIROU: As you heard, the Inquiry is not closed in relation to your particular SABL. So you can provide that information whilst we are still here. We will still progress this matter when we go back to Port Moresby because we will need to call those witnesses from within the Departments to come forward and to tell us the things that they did in relation to this particular SABL. But thank you. Since we have no further business, we shall adjourn this proceeding to 9.30 tomorrow.

20

**AT 3.15 PM, THE COMMISSION OF INQUIRY INTO SABL WAS
ADJOURNED UNTIL WEDNESDAY, 26 OCTOBER 2011 AT 9.30 AM.**

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10 EXHIBIT CE4 – SURVEY PLAN BY LANDS DEPARTMENT.....

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