

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL  
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COMMISSION OF INQUIRY INTO SABL

MR JOHN NUMAPO

THE CHAIRMAN & CHIEF  
COMMISSIONER

MR ALOIS JEREWAI

COMMISSIONER

MR NICHOLAS MIROU

COMMISSIONER

TOP FLOOR, GOVERNMENT PRINTING OFFICE, WAIGANI,

THURSDAY 28<sup>TH</sup> JULY 2011 AT 11.35 A.M.

[11.35 am] THE CHAIRMAN: Counsel assisting and members of the – all the technical advisers, we will now commence this inquiry and basically do some preliminary addresses and do some directions as well. Before I do so, I would like to, once again for the record, announce the names of the commissioners; myself, John Numapo, as the Chairman and Chief Commissioner; assisting me is Commissioner Alois Jerewai and Commissioner Nicholas Mirou. We have been appointed to inquire into this SABL or Special Agriculture and Business Leases.

I would now like to call upon senior counsel assisting, Mr Paul Tusais, to introduce the counsel and the technical advisers that are now sitting before us, thank you.

MR TUSAIS: Thank you, chief commissioner. My name is Paul Tusais. I stand in for counsel assisting Mr Davis Steven or Steven Davis – excuse me. Appearing with me today – sorry, we have the secretary to the commission, Mr Mathew Yuangu, present with us; the senior technical counsel or adviser, Dr Gary Sali; technical adviser, Ms Mayambo Ipu Peipul; and technical adviser, Mr Mark Pupaka. Thank you, chairman.

THE CHAIRMAN: Thank you, Mr Tusais. We will now deal with the preliminary matters as part of the commencement of this inquiry into the SABL and as per our discussions, the discussions we have had. We need to agree on some of the primary tasks and responsibility for the counsel assisting as well as the technical advisers and also agree on a work plan for the purposes of this inquiry.

I will now ask Commissioner Jerewai to – on behalf of the commissioners – to outline the necessary directions in relation to those preliminary tasks for you counsel and the technical advisers. Commissioner Jerewai?

COMMISSIONER JEREWAI: Thank you, Chief Commissioner and brother commissioner Mirou, counsel. It is imperative that we now commence formally to have on record the progress of this commencement and progress of this Commission of Inquiry into Special Agriculture Business Leases.

In accordance with the instruments establishing this commission of inquiry as executed by The Honourable Sam Abal, acting Prime Minister, on 21 July 2011, there are a number of instruments but they are relevant. The ones to be mentioned for the record is the Instrument of Appointment and Establishment of the Commission of Inquiry – this commission of inquiry – and the appointment of the Chief Commissioner and Commissioner Mirou and myself to preside throughout this inquiry for the duration of the term as specified in that instrument.

It is also imperative to point towards the statement of the case based upon which this inquiry had been established and it is quite lengthy, and I with my brother commissioners formally adopt it as the guideline in conjunction with the terms of reference which I also make reference to for the purposes of the records. And those terms of reference are those that are specified in our instruments of appointment as well, and I need not read through all of them but I ask the chief commissioner to announce formal adoption to these terms of reference together with the statement of the case to formally adopt them.

THE CHAIRMAN: All right, I think we will formally adopt the terms of reference which I believe you all have got along with the appointment – instrument of appointment – as referred by Commissioner Jerewai for the purpose of this inquiry. So we will formally adopt it and also the statement of the case that has also been attached to the instruments to guide this inquiry and as those will be references that will be guiding the inquiry into that special agriculture business leases.

COMMISSIONER JEREWAI: Thank you, chief commissioner. Having formalized those matters as of the most preliminary step now, I wish to be on record as stating that each commission of inquiry established and appointed pursuant to the Commission of Inquiry Act sets its own procedures. And at this point in time, we have not set up the procedures primarily because these procedures will be determined after we have attended on preliminary tasks which we are about to issue directions for senior counsel assisting especially to take note and to delegate or embark upon together with the assistance of the technical personnel that you have at their disposal to enable this inquiry to go down the path pursuant to the terms of reference. Accordingly, on behalf of the Chief Commissioner and Commissioner Mirou, I have been authorized to announce these directions.

The first direction is for counsel to take notes – senior counsel to take notes – for the counsel to provide all relevant legislations when we next resume or prior to when we next resume to the commissioners. And that should also include any superior court precedents in cases that you may be aware of, or we may be aware of, in relation to the matters of Special Agriculture Business Leases which I will restate throughout in abbreviations of SABLs.

The second direction will be for counsel to embark immediately and in the next six working days. That will be inclusive of Friday 29, to the following week Monday.

THE CHAIRMAN: 8 August.

COMMISSIONER JEREWAI: That will be 8 August 2011, to first of all through both correspondences and by possible telephone communication, to procure from the lands – rather, Department of Lands and Physical Planning – their relevant division in charge of customary land matters for the whole of the country, information on all of the Special Agriculture Business Leases titles to which have been issued which have been alluded to in the attached list of these leases to the terms of reference numbering approximately between 72 and 74, a little bit more or a little bit less. At this point in time, we do not know the exact number, and that is a matter which we will establish in the course of this inquiry.

The information to be determined which will be imperative to the determination of the continuation of this inquiry in the substantive will necessarily be in relation to the title itself, particulars of the title holder, all the relevant information particularly in the form of documentation, prepared prior to and after the issue of each of the SABLs. I think it will be appropriate to leave it generally at this point rather than specifying any further than that.

Now, in case of – in the course, rather – in the course of your establishing the title holder the particular entity, that is the title holder, it may be that the title holder is a registered business under the Business Names Act or registered – rather, an incorporated land group under the Land Groups Incorporation Act or it may be a corporation incorporated pursuant to the Companies Act.

[11.45 am] In case of these entities, we also direct that you conduct appropriate searches perhaps commencing with a letter to the relevant division of the IPA, which would be the companies office, or to the chief executive officer of the IPA - Investment Promotion Authority - and seek to have all of these entities' records made available to you to determine particularly the content of that entity - incorporated entity - inclusive of directorship, membership, shareholder, registered officers, imperative also will be whether they are foreign registered corporations or PNG registered corporation, public offices of the company, et cetera. So that will be the other task that we direct that you embark on immediately.

Those information may be immediately available by the kind cooperation of the officials who are the authority in the custody of whom these information are kept and that may enable your speedy procurement of these information to form the most primary basis upon which we can proceed. On the other hand, you might encounter some resistance and if you do, you will of course report back when we resume at the resumption date, and this commission inquiry will then consider

appropriate action to be taken to ensure that compliance is had with the requested information.

In consultation with counsel earlier, it has been agreed that the announcement of the commencement of this inquiry together with the terms of reference be prepared for publication for the benefit of the public to know that this inquiry had commenced. And I believe you have been tasked also to prepare appropriate publications by way of advertisement of invitations to the public at large to either appear or make submissions to the inquiry with regard to the content of this inquiry. And so we – that is a further direction that you prepare all these necessary instruments to be considered and to be pursued immediately.

These tasks as I - with the commissioners including Chief Commissioner Numapo, Mirou and myself, we understand, will on your indication take about seven working days. So it is proposed that when we rise this morning - when we adjourn this morning, we will adjourn to 8 August at 9.00 am.

THE CHAIRMAN: 9.00 am.

COMMISSIONER JEREWAI: 9.00 am. Before I invite, particularly the senior counsel to address in case there are some preliminary matters that have been discussed in the preceding meetings prior to this formal convening of the inquiry, I just want to advise that those most primary information or evidence which will become evidence in due course, will form the basis upon which we will determine the course of the substantive inquiry. And that course will be left until we return on 8 and see where we are as far as these preliminary tasks are concerned. At this juncture now, if I may leave it to – chairman, if I can leave it to you to call on the senior counsel to address on any matters we may not have covered.

THE CHAIRMAN: Thank you, Commissioner Jerewai. I would like to invite senior counsel assisting, Mr Tusais, to address us on any matters or issues that we may not have covered or any other things that you think is necessary for us to consider as part of our preliminary preparations and collection of evidence.

MR TUSAIS: Thank you, Chairman and Commissioners. At this juncture I do not have any particular suggestions to make except to perhaps, reinforce what commissioner Jerewai has said. Our primary task as it were at this stage is to gather as much information as we possibly can and hopefully within the next week when we are in adjournment by Monday 8, counsel assisting this commission of inquiry can come to this table and advise the commissioners that we have got these

many cases and we should – this is our road map, this is where we will go from there. But apart from that because of the obvious lack of information that we have, I do not have the necessary advice and assistance that I would have hoped to give the commissioners today. Thank you.

THE CHAIRMAN: Thank you, counsel Tusais. As the timeframe has been set and we have given about six- seven working days for you to come back with some information to form the basis of this inquiry to commence with it, letters need to go out to various government agencies and departments for purposes of collecting all those primary documents, and records and so forth. So I would suggest that those letters be send out by tomorrow. We will sign and letters be hand delivered to those government agencies and departments, and that would also give them time to prepare themselves to put together all the necessary files and documentations that we will require for this inquiry. So that let us get the letters signed today and we will have it hopefully delivered by this afternoon, if possible. Thank you.

All right, Commissioners Jerewai and Mirou, and senior counsel assisting, and technical advisers and secretary, I think that now brings us to the end of these preliminary proceedings to officially commence this inquiry. So we will be reconvening again on 8 August and we would by then have all the information before us.

COMMISSIONER JEREWAI: Hopefully.

THE CHAIRMAN: Yes, hopefully. So, thank you all for turning in and we will rise until 8 August at 9.00 a.m.

**THE COMMISSION OF INQUIRY INTO SABLIS IS ADJOURNED TO MONDAY 8 AUGUST 2011 AT 9.00 A.M.**