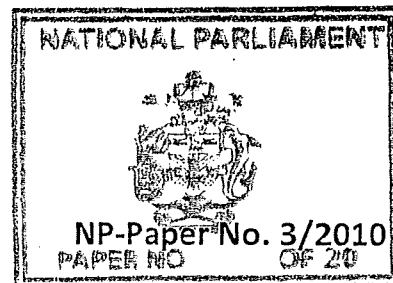




NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE

**Report on the North New
Georgia Timber Corporation
(Amendment) Bill 2010**



Presented on Tuesday 16 March 2010

National Parliament Office

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1 INTRODUCTION

The Bills and Legislation Committee has completed its review of the North New Georgia Timber Corporation (Amendment) (“Bill”) introduced in the House during the current (11th) meeting of Parliament by the Honourable Minister of Forest. The Bill was submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*¹. The Speaker examined the Bill² and authorised it to be introduced in the current Parliament meeting.

The Bill was read the first time on Thursday 11 March 2010 according to the government’s order of business. It is proposed that the Bill be read the second time on Tuesday 16 March 2010. On Friday 12 February 2010 the Minister of Forest gave notice of the North New Georgia Timber Corporation (Amendment) Bill 2010, which required the Committee’s consideration and review. The Bills and Legislation Committee considered the Bill on Thursday 25 February 2010 and Friday 5 March 2010 and heard evidence from a range of stakeholders. The Committee met again on Tuesday 16 March 2010 before the House sat and following its deliberations the Committee makes this report to Parliament, with recommendations, for the information of Members and for Parliament’s consideration.

Terms of Reference

Pursuant to its mandate under the *Standing Orders*, the terms of reference of the Committee in this instance is to examine the Bill and to report its observations and recommendations on the Bill to Parliament.

Functions of the Committee

The Bills and Legislation Committee (“Committee”) is established under *Standing Order* 71, an Order made pursuant to the *Constitution*³, and under that Order has the functions, together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;

¹ *Standing Order* 44 (1).

² As required by *Standing Order* 45 (1).

³ Section 62, *Constitution of Solomon Islands* 1978.

- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

Membership

The current members of the Bills and Legislation Committee (8th Parliament) are:

Hon. Severino Nuaiasi, MP (Chair)

Hon. Siriako Usa, MP

Hon. Isaac Inoke Tosika, MP

Hon. Augustine Taneko, MP

Hon. Nelson Ne'e, MP

Hon. Japhet Waipora, MP

Hon. Patteson Oti, MP

2 POLICY BACKGROUND

Purpose of the Bill

The *North New Georgia Timber Corporation (Amendment) Bill 2010* includes the following government policy objectives:

- (a) To extend the period of operation of the Corporation for another 15 years;
- (b) To establish the position of a General Manager; and
- (c) To provide for other minor amendments.

Background

The North New Georgia Timber Corporation Act was established in 1979 following a need by customary landholders in North New Georgia, Western Province to negotiate logging rights to allow extraction of forest resources in their landholdings. The 1979 Act established a Corporation, the *North New Georgia Timber Corporation* with the intention of utilising timber resources in areas in North New Georgia specified under the Act. More so, the Act transferred ownership of all timber standing on the customary land of landholders of the New Georgia lands to the Corporation as a trustee for those land owners.

Commercial logging operations in Solomon Islands started way back during the Colonial era. However, it was not until the early 1980s that logging operations started to shift to customary land. Prior to that most logging were done on alienated land or government leased land. At the time of Independence Solomon Islands relied more on the Forest and Timber Act 1969 to govern exploitation of forest resources in the country. That law however did not have specific provision that regulates exploitation of timber resources on customary land.

Towards the 1980s, a good number of Foreign logging companies including the Levers Pacific Timber (subsidiary of Levers Brothers) have carried out logging on Kolombangara and some areas in New Georgia Island. It came to pass that some customary land owning groups in parts of North New Georgia have had the intention to venture into utilising their forest resources in their customary landholdings. But Timber Rights negotiation on customary land was a complicated process.

Thus the Corporation was set up to deal with logging issues and represent the interests of landholders in the locality of North New Georgia. The legislation was a first of its kind in the country. Not only did it establish a Corporation but it had provisions to grant felling licence to potential logging companies for the purpose of forest exploitation on North New Georgia. The Act has since been amended twice in 1980 and 1984 to include new regulations and omit what were regarded as out dated portions of the law.

Under the Principal Act the Corporation had a tenure of 30 years. This expired on 3rd September 2009. Its successive story however prompted a proposition to extend the life of the Corporation for another fifteen more years, retrospective to 3 September 2009.

The Bill apart from seeking to establish the position of a General Manager intends to put in place transparent and accountability mechanisms. The Principal Act does not cater for check and balance system so as to properly monitor use of Corporation Funds thus created loopholes to effectively account for spending. The lack of accountability mechanism had significant implication on the activities and operations of the Corporation. The objects of the Bill intend to cater for provisions as stated.

3 REVIEW OF THE BILL

In its review of the Bill, the Committee considered secondary materials and also heard from certain key witnesses.

Secondary Material

In order to review the Bill in its proper context, the Committee received briefings from the Committee Secretariat on the brief background and the reasons and objectives to the North New Georgia Timber Corporation (Amendment) legislation.

Public Hearing

The Committee held a public hearing on Thursday 25 February 2010 and Friday 5 March 2010, with the view to hear from relevant officials of the Ministry and key stakeholders. The following witnesses appeared before the Committee at the hearings:

- Permanent Secretary, Ministry of Forest;
- Legal Draftsman, Attorney General's Chamber;
- Representatives from North New Georgia Timber Corporation;

A complete list of witnesses who appeared at the hearing is annexed as **Appendix 2**.

4 ISSUES ARISING

From its preliminary research and evidence gathered at the hearing, the Committee identified a number of issues arising from its review of the North New Georgia Timber Corporation (Amendment) Bill 2010. These are considered in this Chapter, together with responses from witnesses and, where necessary, recommendations of the Committee on a specific issue.

Position of General Manager

The Committee sought clarification on Clause 2 of the Bill particularly on the rationale behind establishing a General Manager. In taking evidence the Committee heard that the need to establish the position of General Manager stems out from consultation with the North New Georgia Timber Corporation.

In their submission witnesses from North New Georgia Timber Corporation informed Committee that the Principal Act established a Secretary/ Manager position. The Committee heard that the general perception on the jurisdiction and responsibility of such Office is of a loose definition. The intention therefore is to restrict the responsibilities attached to that of a General Manager.

15 years Extension

One of the issues which the Committee was concerned about was the provision for the extension of the life of the Corporation. The Bill seeks to extend the operation of the Corporation for another 15 years and should retrospectively take effect on 3rd September 2009.

In their submission witnesses from the North New Georgia Timber Corporation provided that the rationale for the 15 years extension stems out from a very successful record of the entity in achieving its purpose. Over the last 30 years the Corporation had been a vehicle for development and an agent for unity uniting different tribal groups irrespective of creed, tribe and religion covered under the Principal Act.

The Witnesses further expressed that since 1979 the Corporation effectively put in place structured systematic control measures fulfilling sustainable forest management policies. Such mechanism greatly impacted on minimizing depletion of available loggable forests in areas covered by the Act.

The Committee also heard that establishment of the Corporation ended Timber Rights disputes in North New Georgia thus another argument for the proposed extension. Timber Right owners in the Corporation were protected under the said North New Georgia Timber Corporation Act. The Committee noted that the Corporation has a valid 14 years agreement on felling license with the Golden Springs International logging company up to 2014 and so was the other reason as to the proposed extension.

The Committee however raised concern that the extension will or may have the potential to continue to suppress customary land rights of tribal groups.

Removal of Dekurana Customary Land Area

Of great interest to the Committee too was the exclusion of Dekurana customary land area, (Clause 6), from the First Schedule of the Principal Act.

The Committee heard that the decision to remove Dekurana customary land area was made upon the request of the Dekurana Tribal Owning Group.

The Committee understand the Dekurana Tribal Owning group was not present at the North New Georgia Timber Corporation Board of Directors Meeting on 17 August 2009 (during which the proposed amendments were discussed and agreed upon). Though the Committee was not satisfied with the reasons given it did not further deliberate on the issue.

Board of Directors Leadership Repute

Another issue of interest to the Committee was in relation to the leadership reputation of Board of Directors of the North New Georgia Timber Corporation. The question was brought in light to the proposed 15 years extension. The Committee would like to know the status of the Boards decision-making capacity over the last thirty years and its implication on beneficiaries.

In taking evidence the Committee heard that the past board members comprise of village elders where majority lacked adequate formal education. This disadvantaged them in a lot of areas including their level of understanding during board meetings when the English language was used. The Committee also noted that past correspondences on activities of the

Corporation were never submitted to the new Board thus implicating on important records of the Corporation.

Definition of “Timber”

The Committee noted that the designated title to the Corporation had the word “Timber” where it said North New Georgia Timber Corporation. The Committee feels that because the organization was given the title “Timber Corporation” it is only fitting that its production should correspond to the title.

The Committee however noted that the definition of “timber” in the Act has a loose definition and does not correspond to the definition provided under the Forest Resource and Timber Utilization Act [Cap. 40]. The Committee view that perhaps the scope of the definition provide for a loophole that allows the Corporation to getaway with its production of round logs and not downstream-processing.

The Committee feels that the issue of definition be brought to the attention of the Office of the Attorney General and review its interpretation under the Act.

Potential of Corporation into Commercial Logging

The Committee posed a question to representatives of the North New Georgia Corporation as to whether they have plans to venture into extraction of their resources using their own equipments at the same time do away with dependence on foreign companies.

In their submission the representatives from the North New Georgia Timber Corporation informed Committee that under their development plans they have aspire to venture into such undertaking. They have had an investment committee within the Corporation whose role is to look into such issues. However they raised concern that limitations including right of consent, Banking Institutions loan conditions and financial constraint hinders them to fulfil that goal. They would like to see government support to local investors in timber extraction so as to maximize benefits from local resources.

Duplication of Process

The Committee understand that the Forest Resources and Timber Utilisation Act [Cap 40] have established processes and procedures for the exploitation of forest resources including procedures for obtaining licences. The Committee strongly believe that certain provision under the North New Georgia Timber Corporation Act may to some extent duplicate some of these processes.

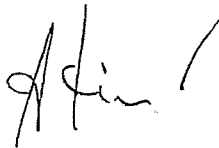
In response the representatives of the North New Georgia Timber Corporation do not wish to deliberate further but maintains that it is the wishes and aspirations of their people of North New Georgia to see an extension to the life of the Corporation.

The Committee feels that the laws governing the exploitation of forest in Solomon Islands should be vested only on the Forest Resource and Timber Utilization Act [Cap.40]. In that sense it would avoid technical implications and duplication of the country's timber processes and procedures.

5 RECOMMENDATION

The Committee has reviewed the Bill and recommends that the government monitor matters raised in this report, in terms of assessing its implementation and effectiveness in achieving its important objectives, and report to Parliament 12 months after the commencement of the Act, and in particular recommends:

1. That the responsible Ministry to bring to the attention of the Office of the Attorney General on the definition and interpretation of the term '*Timber*' in the Principal Act.
2. That the government should consider promoting, encouraging and providing technical and financial support to locals who aspire to venture into logging undertakings such as the Corporation.



Hon. Severino Nuaiasi

Chairman

Bills and Legislation Committee

Tuesday, 16 March 2010

APPENDIX 1: MINUTES



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Hearing No. 1

Thursday 25 February 2010
Conference Room 2, Parliament House, 10:00am

1. Members Present

Hon. Hon. Severino Nuaiasi, MP (Chair)
Hon. Isaac Inoke Tosika, MP
Hon. Japhet Waipora, MP
Hon. Patteson Oti, MP
Hon. Augustine Taneko, MP

Apology

Hon. Nelson Ne'e, MP
Hon. Manasseh Sogavare, MP
Hon. Siriako Usa, MP

Secretariat:

Mr. Noel Matea, Committee Secretariat

Witnesses

Mr. Gordon Konairamo, Permanent Secretary, Ministry of Forest
Mr. Rupeni Nawaqakuta, Legal Drafter, Attorney General Chambers

2. Hearing into the North New Georgia Timber Corporation (Amendment) Bill 2010

The Chairman made a brief opening statement and then called on the witnesses to make an opening statement to the Committee if they so wished.

Witnesses make their statement on their position to the Bill.

Committee questioned the witnesses.

Evidence concluded and witnesses withdrew.

Committee deliberated.

3. Close

Meeting ended 11:00am



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Hearing No. 2

Friday 5 March 2010
Conference Room 2, Parliament House, 10:00am

1. Members Present

Hon. Hon. Severino Nuaiasi, MP (Chair)
Hon. Isaac Inoke Tosika, MP
Hon. Japhet Waipora, MP
Hon. Patteson Oti, MP

Apology

Hon. Nelson Ne'e, MP
Hon. Manasseh Sogavare, MP
Hon. Siriako Usa, MP
Hon. Augustine Taneko, MP

Secretariat:

Mr. Noel Matea, Committee Secretariat

Witnesses

Mr. Jacob Lini, North New Georgia Timber Corporation
Mr. Kenneth George, North New Georgia Timber Corporation

2. Hearing into the North New Georgia Timber Corporation (Amendment) Bill 2010

The Chair welcomed the witnesses and made his opening statement.

The Chair opened the hearing and asked the witnesses to introduce themselves and make any opening statements.

The witnesses made their opening statements to their position on the Bill.

The Committee questioned the witnesses.

Evidence Concluded.

Committee deliberated.

3. Close

Meeting ended 11:00am

APPENDIX 2: WITNESSES

Witnesses who appeared before the Bills and Legislation Committee on Thursday 25 February 2010 and Friday 5 March 2010 were:

1. Mr. Gordon Konairamo, Permanent Secretary, Ministry of Forest
2. Mr. Rupeni Nawaqakuta, Legal Draftsman, Attorney-General's Chamber.
3. Mr. Jacob Lini, Director, North New Georgia Timber Corporation
4. Mr. Kenneth George, Director, North New Georgia Timber Corporation

