



**NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE**

**Report on the Timber
Development and Marketing
Authority Bill 2010**



Presented on 11 March 2010

National Parliament Office

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1 INTRODUCTION

The Bills and Legislation Committee has completed its review of the *Timber Development and Marketing Authority* (“**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 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. On Friday 12 February 2010 the Minister gave notice of which required the Committee’s consideration and review. The Committee met again on Thursday 11 March 2010 before the House sat and following its deliberations the Committee makes this report to Parliament, for the information of Members.

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;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;

¹ *Standing Order* 44 (1).

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

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

- (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. Manasseh Sogavare, MP

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 *Timber Development and Marketing Authority Bill 2010* includes the following government policy objectives:

- (a) To establish an authority for the purpose of timber development and marketing;
- (b) To facilitate, promote and encouraging down-stream processing of timber by communities;
and
- (c) To ensure that communities get maximum benefit from their timber resources.

Background

Around 80% of the Solomon Islands are covered with tropical rainforest. Since the early 1980s, the timber industry has been a significant sector in the economy, contributing 20% of government revenues annually, and more than 50% of export revenues. This primarily stems from commercial logging extraction.

Prior to independence, timber development in Solomon Islands relied heavily on the *Forest Resources and Timber Utilization Ordinance of 1969*. In 1972 the Colonial Administration amends the ordinance. When the Country achieved Independence in 1978 the government continue to depend on the Act to regulate and exercise control over the timber Industry. Numerous amendments then were done to the Act in 1984; 1987; 1989; 1990; 1991. In 1999 the government established the Forest Act 1999 (No. 3 of 1999). This Act however never comes into operation and was repealed in 2000 because it was not gazetted. The government then reverted to the Forest Resource and Timber Utilization Act (Cap. 40) of 1978.

The Act prescribes the procedure for obtaining a licence. There are two types of licences which may be issued under the Act. The one that is most used is the Timber Licence authorizing the felling and removal of trees either for milling or for export. Since most of the logging operation are carried out on customary land great efforts have been made to involve those persons claiming rights over the land in the negotiation process.

The process commences with an application to the Commissioner of Forest for the Commissioner to grant his consent to negotiate with the relevant Provincial Government Executive, and the owners of the customary land. If the Commissioner of Forest grants his consent then the Provincial Government will fix a meeting for the purposes of identifying the persons who have rights under custom and are willing to dispose of their timber rights.

A Timber Agreement will then be entered into between the applicant and the persons having rights over the area. The Commissioner of Forest will be advised of the outcome and where a Timber Agreement has been signed, he will issue a Timber Licence. There are provisions dealing with rights of any aggrieved party, times, and so forth. An aggrieved party may appeal to the Customary Lands Appeals Court. The Act also provides a Standard Logging Agreement and in many cases, if not all, the Timber Agreement is a verbatim or a modified version of the Standard Logging Agreement.

By far the rate of harvesting on the Islands has far exceeded the sustainable capacity of the merchantable forests, and most projections estimate that these forests will be exhausted within the next decade. This was because majority of the Licenses issued by the Commissioner of Forest focus more on extensive commercial logging.

Conservation has not been given much attention, and the government has limited capacity to regulate logging. The timber industry has been surrounded by controversy involving logging-related conflicts with local communities, widespread destructive logging practices such as high-grading, with little regard for the residual forest and the implications of degradation by multinational companies and widespread illegal logging.

Whilst the government acknowledges that logging contributed significant revenue to the country, the government has also realised that there remain a need to decentralize development activities to the rural people and to promote sustainable forest management practices aimed at maintaining the level of timber extraction at a sustainable rate. It is against this backdrop that the CNURA Government, through the responsible Ministry, now proposes to establish this Act, purposely:

- (a) To establish an authority for the purpose of timber development and marketing;
- (b) To facilitate, promote and encouraging down-stream processing of timber by communities;
and
- (c) To ensure that communities get maximum benefit from their timber resources.

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 Timber Development and Marketing Authority legislation.

Public Hearing

The Committee held a public hearing on Thursday 25 February 2010 and Friday 25 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 Chambers;
- Representatives from Honiara based Timber Buyers and Exporters;

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 Timber Development and Marketing Authority Bill 2010. These are considered in this Chapter, together with responses from witnesses and, where necessary, recommendations of the Committee on a specific issue.

Consultation

One of the important functions of the Committee is designed to ensure that there is proper scrutiny of proposed legislation. From what the Committee can gather from witnesses consultation was limited to a number of relevant authorities. The Committee has on many occasions entreated the Government to consult widely with stakeholders before introducing legislation to parliament and placing it in the hands of this Committee. The Committee heard from the Legal Counsel representing Honiara-based Timber Buyers and Exporters that there has been no consultation at all with them. Stakeholders are frustrated and shared a general concern that they have been left out in the drafting process and yet will be the ones who will be greatly affected. The Committee noted that there was consultation prior to drafting the Bill amongst the relevant authorities involved but not necessarily more broadly.

The Committee continues to hear that stakeholders are frustrated by the limited and last minute consultation that occurs in relation to the final Bills presented to Parliament. The Committee also feels that this limits the effectiveness of the Committee as witnesses do not have adequate time to properly go through and understand the Bill and prepare submissions.

The Committee is concerned that considerable consultations with stakeholders involved are necessary for meaningful feedback on the proposed provisions. While the Committee acknowledged that a Bill cannot delve into the details of timber development and marketing regulation a common understanding amongst all stakeholders should have been reached before a Bill is introduced in Parliament.

Current Timber Processes and Marketing Practices

The Committee posed questions relating to the current timber processing and marketing practices undertaken in the country.

The Committee heard from the Permanent Secretary of the Ministry of Forest that under the Forest Resources and Timber utilization Act 1984 the Commissioner of Forest issued two types of licenses: Felling License for the purpose of milling or sale and Mill License. The Permanent Secretary pointed out that the Mill License caters only for the purpose of operating the mill and milling of timber. It does not allow felling activities. The Committee heard that in most cases individual persons and groups often by pass these practices and fell and mill timber without proper Licenses.

The Committee was informed that timber buyers and exporters are not required to have license to buy and sale timber. The requirement is they need to buy from producers with felling or milling License. The Committee heard that the Bill will not really affect timber buyers because they do not have licenses.

The Committee understands that in terms of current marketing practices individual persons and groups who produced milled timber find their own market and negotiate their own prices. The Committee notes that the Bill will not provide a competitive market but will establish a regulation that will ensure a stable market that will offer maximum value for timber products.

Timber Development and Marketing Authority

The proposed Bill provides for the establishment of an Authority which will be a statutory body that administers the act. During the hearing the committee heard that the need of an Authority was the result of consultations between the Government and other relevant authorities in order to facilitate, promote at the same time regulate marketing of timber resources in the country.

The Committee also heard that the need for an Authority was borne from long experience under the current practice that rural community timber producers do not earn maximum benefit out of their timber resources. Timber producers were often

faced with situations where they have to submit to local prices determined by local buyers, which in many cases is not always at the best value.

Implication of a Centralized System

One of the issues continuously raised by the Committee was the implication of the government regulated approach on certain aspects of the economy and especially operation and production of private timber buyers and exporters. While raising this concern the Committee highlighted similar legislative arrangement with the Commodities Export and Marketing Authority (CEMA) which never achieved its purpose. The Committee looked at aspects that include:

- **Effect on Pricing and Maximum Returns**

The Permanent Secretary of Forestry informed Committee that currently, all millers and exporters of sawn timber find their own market and negotiate their own price. In that scenario the Permanent Secretary is of the view that Timber Buyers and Exporters are not paying full value of the timber from resource owners. If the Authority was established, there is the potential that Communities can get a best market value and so will ensure that they get maximum returns from their timber resource.

The Legal Drafter, in his submission stated that in relation to Clause 9(b) the best international price if possible will be the market price otherwise the Minister can fix the prices, that is by regulations under Clause 30(1)(d).

According to representatives from Honiara-based Timber Buyers and Exporters they are of the view that a regulated system as intended under the Bill will control local buying price at a fixed rate. But that does not mean that it will provide the best market price. Having more buyers will allow market forces to establish a best market value. In this sense it will help sellers determine a maximum available price for their resources.

The Committee noted that one of the goals of the Bill is for rural communities to get as much as maximum economic value of their timber resources.

- Competition

On the issue of competition the Committee notes that the Bill will shed significant control on the buying, selling and exporting of timber resources. This issue brings mix reactions from witnesses.

The Permanent Secretary stated that regulating the local timber industry will decentralize timber undertakings to rural communities throughout the country. The Committee heard that the open competition disadvantage a lot of rural people. It therefore in the interest of the CNURA government that regulating competition will provide maximum benefit to rural communities.

However, representatives from local timber buyers and exporters raised concern that the government should leave the market open to competition. Privatization and liberalization, to some extent, will boost competition and encourage growth in the economy. This is the view raised by representatives from Honiara-based Timber Buyers and Exporters. They are of the view that the regulatory arrangement pursued by the government under this Bill does not only go against the principles of the free market economy but will contradict the present government's policy which seeks to open markets and encourage competition. The Committee heard that only through competition will small rural timber producers get best value in terms of prices for their milled timber.

- Impact on Local Timber Buyers and Exporters

On the issue of implication upon existing Timber Buyers and Exporters, the Committee notes that the Bill will have negative implication on their long term production and operation.

In taking evidence the Committee heard that the Bill will set a tedious process whereby timber right disputes may arise leading on to other processes which will impact on production output and subsequently left timber buyers with no timber to buy.

The Committee also noted that associated operational costs including land transportation, fumigation, freight and others more will put pressure on the long term production of these

small scale timber buyers and exporters. These would subsequently led to loss of jobs on the part of employers let alone tax revenue for the government.

Conflict of interest

The Honiara-based Timber Buyers and Exporter in their submission stated that there is a likelihood of conflict of interest on the part of the authority. The Committee heard that this will arise from the authority performing multi roles under section 9 of the bill where it will buy, marketing and export timber. At the same time under clause 22 of the bill it will be issuing export permits for timber mill. Now further under clause 17(2)(b) it will have powers to object to issuance of any provision license by the Commissioner of Forest. These are very different contradicting roles which the authority will be empowered to perform under the provision of the bill. The local timber buyers and exporters questioned the impartiality of the Authority on that regard.

Government Support

Another issue which emerge from the Hearing relates to efficient government support to timber producers. Under the Bill the government through the Authority will provide considerable assistance to rural communities in terms of technical and financial support.

Local timber buyers and exporters however raised concerned that the Bill over looked their investment activities and opted to provide assistance only to rural communities. They are of the view that their activities are part and parcel of the intention of downstream-processing and so should get equal treatment as such.

Notice of Withdrawal

The Committee was informed by the Permanent Secretary of Forest on Friday 5 March 2010 in its second Hearing that Cabinet on its meeting on Thursday 4 March 2010 resolved to withdraw tabling of the Bill to parliament. The Permanent Secretary submitted a Minute written by the Minister of Forest Hon. Job D. Tausinga advising on the decision of Cabinet on the Timber Development and Marketing Authority Bill 2010 (refer to **Appendix 3**).

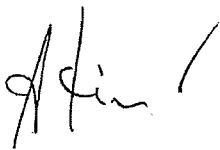
On the basis that the Bill will be withdrawn and will take effect after tabling of this report, there will be no further consideration until such time where a new Bill is brought before Parliament.

The Committee was informed by the Permanent Secretary of Forest on Friday 5 March 2010 in its second Hearing that Cabinet on its meeting on Thursday 4 March 2010 resolved to withdraw tabling of the Bill to parliament. The Permanent Secretary submitted a Minute written by the Minister of Forest Hon. Job D. Tausinga advising on the decision of Cabinet on the Timber Development and Marketing Authority Bill 2010 (refer to **Appendix 3**).

On the basis that the Bill will be withdrawn and will take effect after tabling of this report, there will be no further consideration until such time where a new Bill is brought before Parliament.

5 RECOMMENDATION

The Committee has reviewed the Bill and recommends that the government monitor matters raised in the 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.



Hon. Severino Nuaiasi

Chairman

Bills and Legislation Committee

Thursday, 11 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, 11:00am

1. Members Present

Hon. Hon. Severino Nuaiasi, MP (Chair)
Hon. Isaac Inoke Tosika, MP
Hon. Augustine Taneko, MP
Hon. Japhet Waipora, MP
Hon. Patteson Oti, 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 Forests
Mr. Rupeni Nawaqakuta, Legal Drafter, Attorney General Chambers
Mr. Michael Mani Billy, Manager, TIMOL Enterprise
Mr. William Pita, General Manager, Eagon Group of Companies
Mr. Dent Soma, General Manager, John Wesley Timber Ltd
Mr. Adam Bartlett, Manager, Barava Tropical Homes
Mr. John Aba, General Manager, Top Timber Corporation
Mr. Terry Wu, Manager, Top Timber Corporation

2. Deliberation on Issues and Questions for the Public Hearing

The Committee Secretariat briefed the Committee.

3. Hearing into the Timber Development and Marketing Authority 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 Legal draftsman provided an overview of the Bill.

The Committee questioned the witnesses.

Evidence Concluded.

The Committee then suspended for lunch at 11:45am until 1:00pm.

The Hearing resumed at 1:00pm

The following witnesses appeared before the Committee;

- Mr. Michael Mani Billy, Manager, TIMOL Enterprise
- Mr. William Pita, General Manager, Eagon Group of Companies
- Mr. Dent Soma, General Manager, John Wesley Timber Ltd
- Mr. Adam Bartlett, Manager, Barava Tropical Homes
- Mr. John Aba, General Manager, Top Timber Corporation
- Mr. Terry Wu, Manager, Top Timber Corporation

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

The Committee questioned the witnesses.

Evidence Concluded.

Committee deliberated on request from witnesses to give time to prepare submission.
Committee resolved to re-invite and hear from witnesses on Wednesday 3rd March 2010.

4. Close

Meeting ended 2:00pm



BILLS AND LEGISLATION COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Minutes of Proceedings

Hearing No. 2

Friday 5 March 2010

Conference Room 2, Parliament House, 11:00am

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. Gordon Konairamo, Permanent Secretary, Ministry of Forests
Mr. Chris Hapa, Pacific Lawyers
Mr. Michael Mani Billy, Manager, TIMOL Enterprise
Mr. William Pita, General Manager, Eagon Group of Companies
Mr. Dent Soma, General Manager, John Wesley Timber Ltd
Mr. Adam Bartlett, Manager, Barava Tropical Homes
Mr. John Aba, General Manager, Top Timber Corporation
Mr. Terry Wu, Manager, Top Timber Corporation
Mr. Delbert Lennea, General Manager, Stirling Doors
Mr. Hilton Horton, Honiara Timber Exporters
Mr. Ridolo Gebe, Lagoon Eco Timber

2. Hearing into the Timber Development and Marketing Authority Bill 2010

The Chairman made a brief opening statement and then called on the Legal Counsel representing Honiara based Timber buyers and exporters to make an opening statement to the Committee if he so wished.

The Legal Counsel addressed the Committee.

The Committee questioned the witnesses.

The evidence concluded and the witnesses withdrew.

The Committee adjourned at 12:30pm.

The Committee resumed at 2:00pm and the following witness appeared before the Committee

Mr. Gordon Konairamo, Permanent Secretary, Ministry of Forest

The Chairman made a brief opening statement and then called on the Permanent Secretary to state make his statement.

The Committee questioned the witness.

The evidence concluded and the witness withdrew.

3. Close

Meeting ended 2:15pm

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. Chris Hapa, Pacific Lawyers
4. Mr. Michael Mani Billy, Manager, TIMOL Enterprise
5. Mr. William Pita, General Manager, Eagon Group of Companies
6. Mr. Dent Soma, General Manager, John Wesley Timber Ltd
7. Mr. Adam Bartlett, Manager, Barava Tropical Homes
8. Mr. John Aba, General Manager, Top Timber Corporation
9. Mr. Terry Wu, Manager, Top Timber Corporation
10. Mr. Delbert Lennea, General Manager, Stirling Doors
11. Mr. Hilton Horton, Honiara Timber Exporters
12. Mr. Ridolo Gebe, Lagoon Eco Timber

APPENDIX 3:

Tabled document: BLC
by P.S, Ministry of Forests
dated 5/03/2010 13:34pm
KAA

MINUTE

TO: Permanent Secretary
Ministry of Forestry & Research
P O Box G24
HONIARA

Re: TIMBER DEVELOPMENT AND MARKETING AUTHORITY BILL

The above Bill has been withdrawn by Cabinet yesterday 04.03.2010 for the Parliament sitting this month.

Ministry of Finance, the caretaker Minister, introduced a Cabinet paper for the withdrawn of the bill. The reason is financial and the submission/advice from the Finance Ministry to the Forestry Ministry on October/November 2009 was the basis of the withdraw.

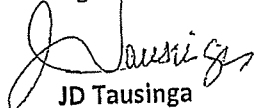
It was agreed the TDMA would oblige the government to make financial outage that the government does not have.

Although, procedurally the Ministry of Forestry is the authority to have the Bill introduced for either withdraw or otherwise, the Ministry of finance seen it fit to take that responsibility away from us.

Although finance is the reason, I am of the view that external influences may have had impact. On the reversal of the Cabinet decision earlier on that saw the readiness of the Bill to be tabled in the Parliament.

As for now, the Bill is withdrawn

Signed,



JD Tausinga
Minister
Ministry of Forestry

5/03/2010

