

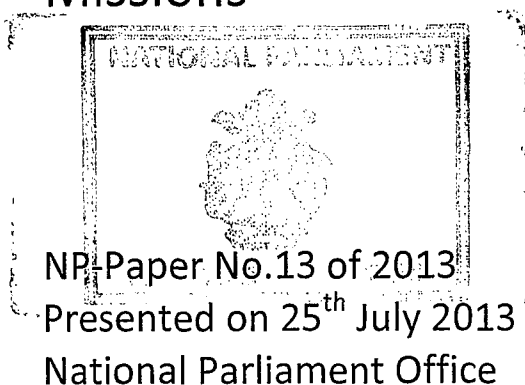


National Parliament of Solomon Islands

Foreign Relations Committee

Committee Report

Report on the Inquiry into the appointment of Ambassadors and High Commissioners, and other Principal Representatives of Solomon Islands to Overseas Diplomatic Missions



Terms of reference

On Friday 21st October 2012, the Foreign Relations Committee resolved to inquire into and report on the appointment of Ambassadors and High Commissioners or other principal representatives of Solomon Islands in any other country or accredited to any international organizations, and in particular:

- a. summon relevant government officials to provide background information and explanation pertaining to such appointments;
- b. examine and observe the process and procedure involved in the appointment of heads of foreign diplomatic missions;
- c. ascertain the adequacy of the current process and procedure of appointment;
- d. determine the role of the Committee in relation to such appointments;
- e. ensure to make recommendations for the establishment of a reliable and transparent process and procedure in the appointment of foreign diplomatic representatives;
- f. ascertain a clear understanding of the role of stakeholders involved in the process and the procedure of the appointment of heads of foreign diplomatic missions;
- g. promote and foster accountability and transparency in the process and procedure of the appointment of heads of foreign diplomatic missions;
- h. report to Parliament the Committee's observations and recommendations informing Parliament of any shortcomings identified and suggesting ways to enhance current system of appointment.

Committee membership

Hon. Milner Tozaka	Chairperson
Hon. Matthew Wale	Member
Hon. David Day Pacha	Member
Hon. Peter Tom*	Member
Hon. Silas Tausinga*	Member
Hon. David Tome*	Member
Hon. Selwyn Riumana*	Member
Hon. Martin Kealoe	Member
Hon. Martin Sopage**	Member

Note on Committee membership

*Hon. Peter Tom, Hon. Tausinga, Hon. Tome, and Hon. Riumana are no longer members of the Committee.

**Hon. Sopage is a new member of the Committee post inquiry.

Secretariat

Mr. David Kusilifu, Director of Committees

Mr. Albert Kabui, Legal Advisor

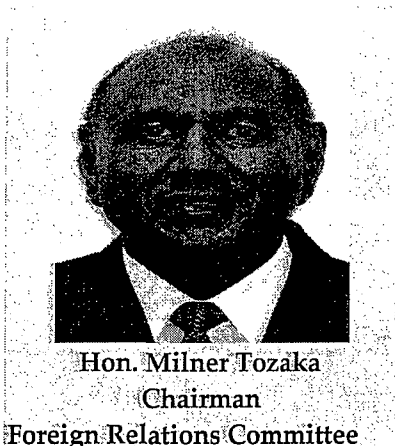
Mrs. Emily Kupenga, Admin Officer

Mr. Jefferson Hallu, Committee Secretary

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Chair's Foreword



It is my pleasure to present the report of the Foreign Relations Committee's inquiry into the appointment of ambassadors and high commissioners.

The inquiry was initiated by resolution of the Foreign Relations Committee as response to the growing concerns by the public and citizens of Solomon Islands regarding the establishment of overseas diplomatic missions and the appointment of Solomon Islands representatives to head those overseas diplomatic missions.

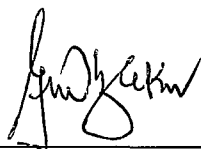
It is a vital aspect of a sovereign nation to establish diplomatic missions overseas to promote, protect and enhance its diplomatic relations with other countries. Like any other aspect of governance, the establishment of overseas diplomatic missions must be zealously guarded in the best interest of the nation as a whole.

On behalf of the Committee, I would like to thank the Ministry of Foreign Affairs and Trade Relations, the Office of the Prime Minister, the Government House, the Attorney General's Chamber, the Office of the Auditor General, and the Public Service Commission for the time and effort in assisting the Committee putting these issues into perspective.

I wish to acknowledge tireless efforts put by the Parliament staff in ensuring that the Committee have the support to conduct this inquiry.

Finally, I would like to thank my fellow Committee Members for their participation in this important inquiry.

I commend the report to the Parliament.



Hon. Milner Tozaka

Acknowledgement

The Committee acknowledge the commitment of the Clerk to National Parliament, the Committee Secretariat, and staff of the National Parliament for the sound secretariat support that enabled the professional conduct of the inquiry.

Sincere thanks to all the Committee members who were present and provided probing questions to bring out better understanding of the subject matter.

The Committee would also like to thank all individuals and organisations who appeared before the Committee as witnesses at the hearing. Thank you for responding positively to the Committee's invitation and for attending the Committee hearing. This report would not have been possible without the valuable information provided to assist the Committee to undertake its important oversight role of ensuring accountability to the people of Solomon Islands.

The Committee acknowledges and appreciates the attendance of the following witnesses who appeared before the Committee on October 24th 2011.

- Mr. Rawcliff Ziza, Deputy Secretary, Government House
- Mr. Ranjit Hewegama, Legal Draftsman, Attorney-General's Chambers
- Mr. John Tealikilava, Secretary, Public Service Commission
- Mr. Robert Sisiolo, Permanent Secretary, Ministry of Foreign Affairs and External Trade
- Mr. John Tuhaika, Secretary to Cabinet, Prime Minister's Office and Cabinet
- Mr. Edward Ronia, Auditor General, Office of the Auditor-General

Summary of recommendations

Recommendation 1

The Solomon Islands Government must conduct an independent, full-scale and comprehensive assessment of the processes involved in establishing overseas missions, a report of which must be laid in Parliament as soon as the assessment is completed.

Recommendation 2

The Solomon Islands Government must enact an Act of Parliament, and its corresponding regulations, that provides for the manner in which the powers granted by Section 127 of the Constitution are to be performed. The legal instrument(s) must either be compatible with Section 127 of the Constitution as presently drafted, or Section 127 of the Constitution should be amended to provide for the legislative instrument(s).

Recommendation 3

The Solomon Islands Government must develop, maintain and enforce a transparent and accountable processes and procedures in the establishment of overseas missions and the appointment of overseas heads of missions, in particular –

- a. a clear statement of the objectives of the Ministry of Foreign Affairs and Trade;
- b. an analysis of the relationship between the Solomon Islands Government and the country concerned;
- c. a clearly specified set of objectives for establishing a particular Mission;
- d. a detailed analysis of the benefits to be gained, supported by facts and figures about parameters around levels and types of trade, and political exchanges;
- e. An analysis of the cost of establishing, managing and administering a Mission;
- f. a selection process which evaluates candidate against the selection criteria;

- g. an appointment process which reflects the outcome of the selection process.
- h. A review process which review the operations of overseas missions and the head of mission.

Chapter 1 – Introduction

This Chapter provides a background to the inquiry, an overview of the Committee’s terms of reference, and a brief description of the inquiry process.

Background to the inquiry

- 1.1 On 17th October 2011, the Committee resolved to conduct an inquiry into the appointment of Appointment of Ambassadors, High Commissioners, and other Principal Representatives of Solomon Islands to Overseas Missions.¹
- 1.2 On 21st October 2011, the terms of reference were defined and the Committee resolved to hold hearing on the 24th October 2011.

Terms of reference

- 1.3 The inquiry’s terms of reference are set out on page 2. Other functions of the Committee are contained in Appendix 2.
- 1.4 The National Parliament of Solomon Islands establishes and empowers the Foreign Relations Committee to examine and report to Parliament on its observations and recommendations on matters prescribed by the Order. The Committee may conduct an inquiry on its own initiative or by instruction from the House by calling for information from relevant organisation or persons identified by the Committee. By virtue of Standing Order 71B of the Standing Orders of the National Parliament of Solomon Islands, the Committee is duty bound to discharge its role in scrutinizing relevant executive implementation of national policies and regulations within the boundaries prescribed by the Order or as referred to or instructed by the house. This function is a manifestation of the principles and practices of accountability that is so central to the governance and legal system enshrined and protected by the Constitution.

Conduct of the inquiry

- 1.5 The inquiry process included seeking written submissions and a public hearing at Parliament House. A total of six (6) stakeholders were identified and invited to make written submissions or to appear in person at the hearing, or both. All stakeholders appeared as witnesses before the Committee on 24th October 2012.

¹ Appendix 1

Submission

1.6 The Committee received a written submission from the Auditor-General.

Hearing

1.7 A public hearing was held for a day at the Parliament House. All six stakeholders appeared before the Committee.²

1.8 A list of individuals and organisations who responded to the Committee's invitation to appear in the hearing is contained on page 6.

² Appendix 3

Chapter 2 – Background

- 2.1** The appointment of Solomon Islands' heads of foreign diplomatic missions is an issue that was considered by the Committee on two previous occasions: on August 1995³, and on May 1996.⁴ These reports examined the functions of the Committee vis-à-vis the processes and procedures involved in the appointment of overseas diplomatic representatives. Two important issues transpired from these past two reports: the constitutional role of the Foreign Relations Committee in so far as the appointment of heads of foreign diplomatic missions is concerned, and the process involved in the making of an appointment.
- 2.2** It is worth noting that in both reports the issue of such appointments was a matter discussed in similar terms to the present. The previous inquiry found that because of the absence of a prescribed regulatory framework, the appointment process was lax and weak, inevitably leading to misconceptions and misunderstandings about the duties relevant institutions should discharge in the entire appointment process.
- 2.3** Although the Committee has made suggestions and recommendations for better implementation of the process, it is apparent that nothing was done about the recommendations. The whole process has remained the same to date. Hence, the need to resurface the issue to the fore.
- 2.4** Whilst the Constitution clearly provides for the power to appoint heads of foreign diplomatic missions, the processes and procedures required to implement the appointment remains obscure as there are no clear guidelines for the implementation of the power to make the appointments.
- 2.5** Therefore, the underlying rationale of this inquiry therefore is to recommend possible ways to ensure the establishment of a robust and transparent mechanism for the implementation of the relevant duties and responsibilities required to effect such appointments.

³ Solomon Islands National Parliament, 5th Session, Foreign Relations Committee Report, August 1995.

⁴ Solomon Islands National Parliament, 5th Session, Foreign Relations Committee Report, May 1996.

Chapter 3 – The Appointment process

This Chapter provides an overview of the current nomination, selection, consultation processes.

Legal framework

3.1 The appointment of Solomon Islands heads of foreign diplomatic missions is governed by Section 127 of the Constitution of Solomon Islands.⁵ These are Ambassadors, High Commissioners, or other principal representatives of Solomon Islands in any other country or accredited to any international organizations.

3.2 The power to make appointments to these offices, including power to exercise disciplinary measures and/or power to remove persons holding or acting in such offices, is vested in the Governor-General, acting in accordance with the advice of the Prime Minister, after the Prime Minister has consulted the Public Service Commission.⁶

3.3 By virtue of section 127 of the Constitution, the Prime Minister nominates a candidate and consults the Public Service Commission (PSC). The Prime Minister then tenders the nomination to Government House and advises the Governor-General to effect the nomination. The Governor-General then proceeds to formalising the appointment.

Nomination process

3.4 The Committee noted that this process has been the practice since Independence. Although the Constitution provides for what to be done by whom but it does not specify for how it is to be done. Hitherto, there is still no written regulation or guidelines that spell out how potential candidates or nominees are selected. During the hearing, the Secretary to Cabinet (STC) pointed out that –

Whether there are criteria, and I have not sighted any, I can only mention that section 127 of the Constitution is very clear that the prerogative is on the Prime Minister.⁷

⁵ 127.-(1) Power to make appointments to the offices to which this section applies (including power to confirm appointments) and to remove and to exercise disciplinary control over persons holding or acting in such offices is vested in the Governor-General, acting in accordance with the advice of the Prime Minister tendered after the Prime Minister has consulted the Public Service Commission.

(2) The offices to which this section applies are those of Ambassador, High Commissioner or other principal representative of Solomon Islands in any other country or accredited to any international organisation.

⁶ *Ibid.*

⁷ John Tuhaika, *Hansard Transcript*, 24th October 2011, p.19.

Committee comment

3.5 The Committee appreciates that the Constitution clearly provides for the powers to make appointments of foreign head of missions. However, the Committee is of the view that transparency and accountability warrants that the nomination process ought to be spelt out expressly in a legal instrument providing enforceable guidelines to those that are responsible for the implementation of the appointments. To bestow unfettered discretion in the nomination process may possibly invite political manipulation contrary to good governance practices.

Selection Process

3.6 It transpired from the inquiry that, like the nomination process, there is currently no formal selection process in place for such appointments. All of the witnesses confirmed that they have neither sighted, nor are aware of the existence of a formally prescribed process or procedure to select candidates.

3.7 The Permanent Secretary to the Ministry of Foreign Affairs and External Trade (PS, MoFAET) informed the Committee that *...there are no formal criteria in determining who should be the head of missions...*⁸

Committee comment

3.8 The Committee is of the view that the absence of a formal criteria for the selection of potential candidates is contrary to good governance practices. It may possibly invite political manipulation and inevitable corrupt practices.

Consultation Process

Nomination

3.9 Prior to advising the Governor-General on the nominated candidate, the Prime Minister is required to consult with the Public Service Commission (PSC) only.⁹ During the hearing, the Legal Draftsman of the Attorney-General's Chambers confirms this –

...I don't think there is a requirement for the Prime Minister to consult anyone because all he has to do is to consult the PSC, and if it agrees, he can make the recommendation to the Governor-General. In actual fact there is nothing to compel the Prime Minister to do it. It is not mandatory on his part to consult. So it is left to the discretion of the Prime Minister to

⁸ Robert Sisilo, *Hansard Transcript*, 24th October 2011, p.10.

⁹ Above, n5.

either consult or not to consult. He can act within the spirit of that section and say, 'well I have no obligation on my part to consult anyone in this appointment'.¹⁰

3.10 The role of the PSC is not clear since there are no clear written guidelines to adhere to in the consultation process. The practice to date has been that the PSC receives nominations from the Prime Minister for endorsement purposes only. The Secretary to the PSC informed the Committee that the nature of the consultation is such that the PSC only endorses the nominated candidate forwarded by the Prime Minister and that there is no true consultation process. The PSC is not asked for its views or asked to make any input, observation or recommendation, but only to endorse the appointment.

...usually the name comes in and that's about it. The Commission meets and says yes, because it comes from the head of the government, and so the PSC cannot say no or whatever, because there are no guidelines to lead the commissioners on how they should do their work. They just wait upon the name of the person to come in, they meet and just give okay...¹¹

Selection

3.11 In terms of selection of a candidate, the nature of consultation is informal and unregulated.

...there are times when my Minister used to call me and seek my own inputs on the names that have been put before us...there are some consultations certainly with my Minister and maybe with other Ministers too and even other MPs [Members of Parliament]...¹²

To this end, the STC who appeared before the hearing confirms that –

...the process begins...with the Prime Minister and ends up with the Foreign Affairs and the Public Service Commission. That is a consultation process.¹³

Committee comment

3.12 The Committee is of the view that there needs to be genuine discussions about proposed candidates. It is imperative that the consultation process is seen to be transparent encompassing inputs from various relevant stakeholders and should refuse simply to endorse those put forward by the Government. The PSC and Government

¹⁰ Ranjit Hewagama, *Hansard Transcript*, 24th October 2011, p.14.

¹¹ John Tealilikilava, *Hansard Transcript*, 24th October 2011, p.10.

¹² Above n8, p.10.

¹³ Above n7, p.11.

should publish criteria which would be helpful in determining the nature of the PSC contribution to the process. In addition, the Government should consider consulting more widely on such key appointments. It is recommended that the proposed legislative mechanism should clearly outline the consultation process which must include inputs from all relevant stakeholders prior to the formal appointment.

Chapter 4 – Effectiveness and efficiency

This Chapter is based on the written submission by the Auditor-General. In his submission, the Auditor-General has taken a few steps back from the appointment process and looked at the initial stages of planning and the path to reach a decision to establish overseas missions, most particularly from an audit perspective.

Establishment of Overseas Missions

4.2 The Auditor-General (A-G) submitted a written submission outlining his views on the establishment of overseas missions and the nomination, selection and appointment of representatives of overseas missions. The A-G highlighted, from an audit perspective, two risks that are involved in the operation of overseas missions. The submission also outlined how the identified risks can be managed.

4.3 First, there is a risk that the establishment of an overseas mission will not provide value for money even if set up is done well. The establishment should best reflect what the Nation needs to achieve on behalf of its people in the long run.

4.4 To manage this risk, the responsible Ministry needs to develop a business case that clearly articulates the need for the Mission, its roles and objectives.

4.5 That prior to the establishment of an Overseas Mission, the MoFAET develops a business case outlining:

- A clear statement of the objectives of the MoFAET;
- An analysis of the relationship between the Solomon Islands and the host country;
- A clear specified set of objectives for establishing a particular mission;
- A detailed analysis of the benefits to be gained, supported by facts and figures about parameters around levels and types of trade, political exchanges, travel between the two countries, common interests, etc;
- An analysis of the cost of establishing and running the mission;
- A list of critical success factors for the Mission if it is seen to be successful.

Selection of Representatives

4.6 The second risk is the function of an overseas mission is worthwhile but it is not done as well as required. To manage this risk, the MoFAET needs to ensure that a robust selection process is developed to ensure the right person is chosen for the job.

4.7 It is proposed that the MoFAET formulates formal selection criteria. To achieve this, the MoFAET needs to develop:

- A position description for the role derived directly from the success factors for the Mission;
- A selection criteria for the Head of Mission that reflect the position description;
- A selection process which evaluates candidates against the selection criteria; and
- An appointment process which reflects the outcome of the selection process.

Review

4.8 The MoFAET should develop a review process which reviews the operations of overseas Mission and the Head of Mission. This review process should also include occasional administrative audits. This is to ensure that the decisions made in relation to establishing and running the Mission continue to be sound.

4.9 The A-G informed the Committee that in 2010 one of his staff participated in auditing the Solomon Islands High Commission Office in Papua New Guinea, at the request of the Solomon Islands Government.¹⁴ This was to ensure that the Mission is being managed efficiently and effectively with appropriate probity. The outcome of this report is pending in the MoFAET.

4.10 Other Missions are not subject to specific audit. However, the MoFAET is subject to audit as in the case of any government Ministry.

¹⁴ Edward Ronia, Evidence, 24th October 2012.

Committee findings

The process and procedure for the appointment of overseas diplomatic representatives remains obscure. The absence of a transparent and accountable regulatory mechanism renders the whole process weak and susceptible to political manipulation contrary to good governance practices.

Although section 127 of the Constitution clearly outlines the power and process of appointment, the actual process remains ad hoc and unfettered given the absence of clear and express guidelines required for proper implementation.

Comprehensive policies need to be formulated, developed and embodied in legislative authority. These policies and its associated regulations must clearly prescribe for essential appointment and consultation processes and procedures, and their accompanying consequences of non-adherence.

Not only will this work in order to effectively fulfil the purpose of overseas missions and related appointments, but also reflecting principles and practices of good governance, an element fundamental to the core existence and operation of the Constitution.

Course of action

As part and partial of its oversight role, the FRC may review government's action on the recommendations put forward by the FRC twelve (12) months from the time of tabling this report.

Appendix 1 – Minute



FOREIGN RELATIONS COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Deliberative Meeting.

Minutes of Proceedings

Meeting No: 7

Friday 21st October 2011, 11:00 am. Conference Room II, Parliament House

Members Present

Hon. Milner Tozaka (Chair)
Hon. Selwyn Riumana – Member
Hon. David Tome – Member
Hon. Mathew Wale – Member

Apologies

Hon. Silas Tausinga

Absent

Hon. Martin Kealoe- Member
Hon. David Day Pacha

Secretariat

Mr. Albert Kabui
Mr. Jefferson Hallu

1. Prayer & Opening Remarks

Hon. Tome opened the meeting with prayers followed by welcome remarks from the Chair.

2. Review & Adoption of previous minute.

The minute of meeting no: 6 is reviewed, confirmed and adopted as the true minutes of that meeting.

3. Matters Arising from Previous minutes

Secretariat informs members of the proposed inquiry under Standing Order 71B(c) scheduled for 24th October 2011

Secretariat briefed members of past similar reports.

Secretariat briefed members of the scope of the inquiry.

Secretariat to draft the Chair's speaking notes clarifying the objective of the inquiry in relation to the appointment of ambassadorial representation, i.e. interpretation of SO 71B(c), the procedure and process of appointment, and the role of the FRC vis-à-vis such appointments.

The Committee resolved that the inquiry/hearing to be held in public

4. AOB

There being no other business to deliberate on, the meeting closed with a word of prayer by Albert Kabui.



FOREIGN RELATIONS COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

Inquiry into the Appointment of Ambassadors, High Commissioners, and other Principal Representatives of Solomon Islands to Overseas Missions.

Minutes of Proceedings

Meeting No: 8

Monday 24th October 2011, 10:00 pm. Conference Room 2, Parliament House

Members Present:

Hon. Milner Tozaka (Chair)
Hon. Matthew Wale – Member
Hon. Peter Tom – Member
Hon. David Pacha - Member

Apologies:

Hon. Martin Kealoe - Member
Hon. Selwyn Riumana – Member
Hon. Silas Tausinga – Member
Hon. Martin Kealoe – Member
Hon. David Tome - Member

Secretariat:

Mr. Jefferson Hallu

Witnesses:

Mr. Rawcliff Ziza, Deputy Private Secretary, Government House.
Mr. Edward Ronia, Auditor-General, Office of the Auditor-General.
Mr. Ranjit Hegemana, Legal Draftsman, Attorney General's Chambers.
Mr. John Tealikilava, Secretary, Public Service Commission.
Mr. John Tuhanuku, Secretary to Cabinet, Prime Minister's Office & Cabinet.
Mr. Robert Sisiolo, Permanent Secretary, Ministry of Foreign Affairs & External Trade.

In-Attendance:

Media Representatives, Honiara.
Hansard Officers, National Parliament Office.

Minutes

5. Prayer & Opening Remarks

- a. The Chairperson welcomed Committee members, witnesses, Committee Secretariat Staff, Hansard Officers, and media representatives.
- b. Hon. Pacha opened the hearing with a word of prayer.

6. Hearing

- c. *Committee commences at 10:09 am.*

Mr. Rawcliff Ziza appeared before the Committee.
Mr. Edward Ronia appeared before the Committee.
Mr. Ranjit Hegemana appeared before the Committee.

- d. The Chairperson introduced the Committee members, Secretariat staff, and Hansard Officers. He also acknowledged the presence of local media representatives.
- e. Witnesses individually briefed the Committee on the role they play in the nomination, selection, consultation, and appointment processes.
- f. Committee probed into aspects needing further explanation or elaboration.
- g. Witnesses were asked of their professional and personal opinion regarding the adequacy of the existing system of appointment. Their views as to an ideal system of appointment were also sought.
- h. *Committee suspends at 11:22 am.*

- i. *Committee resumes at 2:03 pm.*
- j. The Chairperson introduced the Committee members, Secretariat staff, and Hansard Officers. He also acknowledged the presence of local media representatives.

Mr. John Tealilikilava, Mr. John Tuhanuku, and Mr. Robert Sisiolo appeared simultaneously before the Committee as a panel.

- k. Witnesses briefed the Committee on the role they play in the nomination, selection, consultation, and appointment processes.
- l. Committee probed into aspects needing further explanation or elaboration.
- m. Witnesses were asked of their professional and personal opinion regarding the adequacy of the existing system of appointment. Their views as to an ideal system of appointment were also sought.
- n. *Committee hearing ends at 2:30 pm.*

7. **Deliberation**

Committee resolved that Secretariat staff draft a report with model recommendations to be agreed on and endorsed by the Committee at a later date to be appointed by the Chairperson.

Appendix 2 – Standing Order 71B

Standing Orders National Parliament of Solomon Islands

71B. FOREIGN RELATIONS COMMITTEE

LN 23/1995

There shall be a Standing Select Committee designated the Foreign Relations Committee whose functions shall be to examine and make its observations and recommendations on --

- (a) the establishment of new diplomatic and consular relations and the severing of existing ties;
- (b) the accession to and signing and ratification of international treaties and conventions;
- (c) the appointment of Ambassadors and High Commissioners or other principal representatives of Solomon Islands in any other country or accredited to any international organisations;
- (d) the application of the Geneva Convention relating to diplomatic immunities and privileges;
- (e) the receiving of foreign assistance and the administration and management thereof;
- (f) the regulations, terms and conditions of service of employees of regional bodies of which Solomon Islands is a member;
- (g) the Government's conduct of its foreign policy.

Appendix 3 – Hearing Schedule

FOREIGN REALTIONS COMMITTEE – INQUIRY INTO THE APPOINTMENT OF SOLOMON ISLANDS AMBASSADORS:

SCHEDULE, Monday 24 October 2011, Venue: Parliament Conference Room.

Time	Stakeholder
9:30 am – 10:30 am	Government House
10:30 am – 11:30 am	Auditor General
11:30 am – 12:30 pm	Attorney General's Chambers
12:30 pm – 1:30 pm	LUNCH
1:30 pm – 2:30 pm	Public Service Commission
2:30 pm – 3:30 pm	Office of the Prime Minister and Cabinet
3:30 pm – 4:30 pm	Ministry of Foreign Affairs and External Trade