

Masalai i tokaut

Number Seven: 25 July 2002

Kikala, another recruit to the logging mafia

Philip Kikala, one of PNG's most senior civil servants, has recently started to engage in activities that firmly suggest that he is a member of the informal mafia amongst politicians and public servants that unlawfully supports the logging industry.

In the last few weeks Kikala has tried to disrupt the Court action against Minister Michael Ogio's unlawful appointment of David Nelson as the Managing Director of the Forest Authority and he has tried to unlawfully grant approval for an illegal timber permit.

Philip Kikala is the Secretary of the National Planning and Implementation Department. He was appointed earlier this year after the previous Secretary was controversially removed by PDM Minister Andrew Kumbakor (who is himself now facing a leadership tribunal on various counts of misappropriation and other wrongdoing). Mr Kikala is also a member of the National Forest Board by virtue of his position as Secretary of Planning.

In May 2002 the National Forest Board instigated a legal action to remove David Nelson as the Managing Director of the PNG Forest Authority. This was because Mr Nelson had been unlawfully appointed by the Minister for Forests and Deputy Prime Minister Michael Ogio.

The Prime Minister, Sir Mekere Morauta, has openly supported the court action brought by the National Forest Board and has agreed that the appointment of Nelson did not follow proper procedures (*see below*). Meanwhile, Ogio has consistently ignored a demand from the PM that Nelson be removed (*see below*).

But now Philip Kikala has weighed into the debate on the side of David Nelson and Minister Ogio, effectively taking up their case against the Prime Minister and the rest of the National Forest Board.

On July 16th Kikala issued a Board Circular stating (falsely) that the Board had not endorsed the legal action against Nelson and Minister Ogio and expressing his support for David Nelson and encouraging the rest of the Board to put the matter "to rest" (*see below*).

This Circular prompted a swift response from the Chair of the National Forest Board, Dr Wari Iamo, who described Philip Kikala's views as "grossly misleading" and "utterly distorted" (*see below*).

Dr Iamo has accused Kikala of failing to observe "good Board and management practices" and of 'destabilizing' the Board.

But this is not Mr Kikala's only unsavory and highly questionable intervention in forestry issues in recent times.

On May 3rd 2002, Philip Kikala signed a 'Consent to the Grant of a Timber Authority' for the Simbali area in East New Britain (*see below*).

This action by Mr Kikala was unlawful, as the National Forest Board had not given any approval for him to sign official documents on behalf of the Board. And his intervention was totally unnecessary as the full Board in fact met on May 3rd and the Consent could and should have been signed by the Chair of the Board.

The 'Consent' signed by Mr Kikala is also totally illegal as the proper procedures and necessary legal steps set out in the Forestry Act have not been followed.

The Chair of the National Forest Board has now issued a written request to Mr Kikala for him to "refrain from signing any documents on behalf of the Board and stop signing any Contract Papers and other important permits and licenses" (*see below*).

PM gives NFA 'full backing'

PRIME Minister Sir Mekere Morauta is "delighted" with the National Forest Board stopping David Nelson from becoming National Forest Service boss.

Mr Nelson's position, as acting managing director was nullified on May 23 and was subsequently appointed and confirmed as the authority's managing director on a four-year contract on the same day by Governor-General Sir Silas Atopare.

The latest development has incensed the PNG Chamber of Commerce representative on the board Bob Tate who yesterday said the "bizarre twist" had gone against the Forest Act, was not transparent and did not meet the board's policy that managing director appointments be on merit only.

He said the politicising of the National Forest Service had resulted in the industry experiencing massive financial losses, adding the country had lost more than K5 million in revenue from timber product sales in the past two weeks because Forest Minister Michael Ogio was out of town and unable to sign export permits.

Two logging ships were still docked at Rabaul waiting to load timber as their export permits were

By ALEX RHEENEY

yet to be signed by Mr Ogio, he said. Sir Mekere, meanwhile, said he was happy that the board was finally acting within its powers to take out a court injunction to prevent Mr Nelson's permanent appointment.

He said he expected the board to do the right thing by fixing the problem.

"I am very happy, if its power had been reserved then it (board) has got every right. I am delighted. I expect them to do the right thing. I don't have to do everything; it is their duty. They have the authority. Not me, the prime minister has many things to do," Sir Mekere said.

Mr Tate said the successful court order taken out against Mr Nelson and Mr Ogio on Tuesday to prevent Mr Nelson from executing his duties and Mr Ogio from making the appointment, would be reviewed in light of the latest happenings.

He said the board would go to court again today or tomorrow to ensure Mr Nelson did not become a permanent appointee until the board met with Mr Ogio.

Sir Mekere said set procedures in the appointment of Mr Nelson was not followed, adding his staff was now investigating the appointment of Mr Nelson.



PRIME MINISTER
PAPUA NEW GUINEA

25 April, 2002

Hon Michael Ogie, MP,
Deputy Prime Minister and Minister for Forests,
P. O. Box 5055,
Boroko

Dear Minister,

RE: APPOINTMENT OF MANAGING DIRECTOR, PNG FOREST AUTHORITY

It is critically important that the appointment of the Managing Director, or Acting Managing Director to the PNG Forest Authority is undertaken, and seen to be undertaken, in full compliance with prevailing laws and procedures.

This requires proper consultation with the Board for both substantive and acting appointments, and correct instruments for gazettal, cleared by the Office of the Legislative Counsel. I am advised that, whilst the acting appointment of Mr Goodwin Amos was undertaken in the correct manner, the subsequent appointment and gazettal of Mr David Nelson failed to follow required legal procedures, and would therefore be open to likely successful legal challenge.

I understand that you then sent instructions on 15th April for the revocation of Mr Nelson's appointment, with a notice properly cleared by the Legislative Counsel, but that the Acting Governor General declined (in writing) to make a further revocation or appointment to the position. In this regard legal advice is that the Acting Governor General was failing to comply with his Constitutional obligations to act on the advice of the prescribed authority, in this case yourself as Forest Minister.

The current situation is clearly unsatisfactory, and needs to be resolved promptly before there is further public criticism of Government failing to comply with the law, or an unnecessary legal proceedings. You are requested, therefore, to promptly resolve the issue, notably by re-sending instructions for the revocation of Mr Nelson's acting appointment as soon as possible back to the Governor General, with the required notice attached, cleared by the Legislative Counsel, for subsequent gazettal.

I am informed that the position of Managing Director for the Forest Authority has already advertised, and many applications received. From this process of short-listing and selection, a suitable high calibre candidate should, in due course, be able to be selected for the substantive position. The appointment of acting chief executive (for PNGFA or other institutions) should normally be retained by an existing senior staff member, who already has a firm grip on the

issues facing management and industry, rather than prematurely appointing a temporary outsider, prior to the appointment to the substantive position.

For your urgent follow up, please

Yours Sincerely,



Mekere Morauta, Kt MP
Prime Minister

cc Minister for Public Service

BOARD CIRCULAR

TO : All Members – National Forest Board

FROM : Philip Kikala
Deputy Chairman & Secretary for National Planning
& Implementation

DATE : 16th July 2002

RE : RATIFICATION OF COURT PROCEEDINGS

It has been brought to my attention that there is conflicting view on whether the Board has resolved to ratify the action taken by the Chairman Dr. Wari Jomo, in court case against the Minister for Forests and the Managing Director.

I understand that the Board (majority) of the members resolved not to ratify the Chairman's action.

If the Chairman or another member desires to challenge, they are at liberty to do so individually and not to involve the Board.

For the interest and stability of the Authority, I am so far impressed with Mr. Nelson's performance to date and that is exactly what the Board ought to be concerned itself with at this point in time.

There are a lot more pressing issues involving third parties with the National Forest Authority that we need to consider. The stability of the National Forest Board and National Forest Service is an important function in the overall process of administration of the National Forestry Act.

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I sincerely hope this matter is put to rest once and for all.

Thank you.



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PHILIP KIKALA
Secretary National Planning Office
& Deputy Chairman – National Forest Board



PAPUA NEW GUINEA FOREST AUTHORITY
NATIONAL FOREST BOARD

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NATIONAL CAPITAL DISTRICT
PAPUA NEW GUINEA

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18th July 2002

Mr. Philip Kikala
Secretary for National Planning and Implementation
And Member of the National Forest Board
3rd Floor Vulupindj Haus
PO Box 631
WAIGANI NCD

My dear Secretary

RE: RATIFICATION OF COURT PROCEEDINGS

Your Board Circular on the above subject matter dated 16th July was received in my Office on 17th July 2002. Your circular which stated that the majority of the Board Members did not ratify the Chairman's actions is not correct.

Your Board Circular is not in keeping with good Board and management practices, especially for the good governance of the forestry sector. Indeed, it achieves nothing but further destabilizes the Board and Management.

I take personal offence and insult to this Board Circular, especially when you as a senior Board Member and the Head of an important Central Agency knows very well management practices and protocol in such sensitive matters of this nature. As the Chairman of the Board, and a colleague, this matter should have been discussed with me before such Circulars were formulated and circulated.

The Board Circular is grossly misleading and the facts are utterly distorted to suit certain causes and not the general welfare, interest and stability of the Authority. When individual Board Members sees fit to act without consultation and issue circulars of this nature it achieves none of the principles that you stated in your Circular but further confuses and destabilises the Board and Management.

In future if you or any Board Member who has a grievance or an important policy concern to raise, it is important to follow good management and administrative protocols by addressing it to the Chairman and the Board, and can be amicably discussed at Board Meetings.

In the last Board Meeting No: 84. under Other Business my Minute of 27th May 2002 to all Board Members was tabled and ratified. Mr. David Nelson opposed but he is ineligible by virtue of Section 18, and you were absent. The Board Minute of 84 reflecting "Addendum" and reporting after-the-fact is irrelevant. However, two members of the Board who wrote Minutes after the meeting did not raise their concerns at the meeting but are quite entitled to their views and can be discussed in the next Board Meeting when this matter is raised again.

The question of the Managing Director's appointment is before the court and I do not wish to start a paper-war with you or individual Board Members. I should await the natural course of justice to prevail, and in the meanwhile, we focus our energies on substantive forestry policy and governance issues.

I request you to withdraw this Board Circular as it has legal implications on your status as the Deputy Chairman of the National Forest Board.

In addition, I also would appreciate if you could refrain from signing any documents on behalf of the Board and request that you stop signing any Contract Papers and other important permits and licenses.

Yours sincerely,

DR. WARI IAMO
Chairman - National Forest Board

SCHEDULE 1

Forestry

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1981

Act, Sec. 89
Reg. 174

FORM 172

~~*CONSENT/NON-CONSENT TO GRANT OF TIMBER AUTHORITY~~

To: Chairman of Committee responsible for forestry functions in East New Britain
Provincial Government.

Having received notification from the Provincial Chairman of the Forestry Committee
under Section 89(5) of the Forestry Act that he intends to grant a timber authority to
Simball Limited for the following purpose over the project area described below.

- harvesting logs for commercial use from roadline clearing operations
- harvesting logs for commercial use for use from forest clearing operations

Project Area:
(description)

Simball Extension Timber Area, Wide Bay

The Board hereby ~~*consents/does not consent~~ to the said grant.

**delete whichever is inapplicable*

Dated this 28th day of May 2002



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For the Board

024751

Site Counter