



National Gazette

PUBLISHED BY AUTHORITY

(Registered at the General Post Office, Port Moresby, for transmission by post as a Qualified Publication)

No. G345]

PORT MORESBY, THURSDAY, 8th AUGUST

[2013

National Executive Council

Decision No: 85/2013

Special Meeting No: 06/2013

**RESTRUCTURE AND CONSOLIDATION OF STATE INVESTMENTS IN PETROLEUM ASSETS,
MINING ASSETS AND STATE OWNED ENTERPRISES**

On 14th March 2013, Council:

1. noted the content of Policy Submission No. 67/2013;
2. approved to consolidate the holding of State Mining assets/interests through a company called "Kumul Mining Holding Limited" and its subsidiaries, and that a special share called the "Kumul Share" (having veto power) in the company be held by the serving Prime Minister and the former Prime Ministers jointly holding an ordinary share, with the Kumul Share and ordinary share held under a Trust to be called the "Kumul Trust";
3. approved to consolidate the holding of State Petroleum assets/interests through a company called "Kumul Petroleum Holding Limited" and its subsidiaries, and that a special share called the "Kumul Share" (having veto power) in the company be held by the serving Prime Minister and the former Prime Ministers jointly holding an ordinary share, with the Kumul Share and ordinary share held under a Trust to be called the "Kumul Trust";
4. approved to consolidate the holding of State Owned Enterprises through a company called "Kumul Corporations Holding Limited" and that a special share called the Kumul Share" (having veto power) in the company be held by the serving Prime Minister and the former Prime Ministers jointly holding an ordinary share, with the Kumul Share and ordinary share held under a Trust to be called the "Kumul Trust";
5. approved to establish and recognize the "Kumul Mining Holding Limited" as a commercial enterprise that principally participates in the conduct of mining activities, including midstream and downstream activities, as sole State nominee and permitting the State to nominate it to acquire assets and interests in Mining Projects directly or through subsidiaries for the purposes of the *Mining Act* and for related purposes;

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6. approved to establish and recognize the “Kumul Petroleum Holding Limited” as a commercial enterprise that principally participates in the conduct of oil and gas activities, including midstream and downstream activities, as sole State nominee and permitting the State to nominate it to acquire assets and interests in Petroleum Projects directly or through subsidiaries for the purposes of the *Oil and Gas Act* and for related purposes;
7. approved to establish and recognise the “Kumul Corporations Holding Limited” as a commercial enterprise that is principally a non-operating parent company for the State-Owned Enterprises;
8. approved the immediate transfer by the Department of Treasury of the State’s shareholding in OTML and BCL to “Kumul Mining Holding Limited”;
9. approved to dismantle Petromin through:
 - (a) a transfer and assignment of its Petroleum assets/interests and attaching liabilities (including relevant employees) to “Kumul Petroleum Holding Limited”;
 - (b) a transfer of its Mining assets/interests and assignment of attaching liabilities (including relevant employees) to “Kumul Mining Holding Limited”;
 - (c) winding up of the company; and
 - (d) repeal of the *Petromin Act*.
10. approved to dismantle IPBC through:
 - (a) transfer of all assets and assignment of liabilities of the General Business Trust (including all employees) to Kumul Corporations Holding Limited;
 - (b) transfer of NPCP (Kroton) and attaching liabilities including relevant employees to “Kumul Petroleum Holding Limited”;
 - (c) winding up of the company; and
 - (d) repeal of the *IPBC Act*.
11. approved the Kumul Trust to be established and managed by Independent Managers and administered by a Secretariat called the “Kumul Secretariat”;
12. approved the legal architecture to effect and implement the consolidation agenda to begin with the following Constitutional Law platform:
 - (a) amendment to the National Constitution to authorise the State to:
 - undertake commercial business activities (in addition to any community service obligations), alone and in conjunction with others, including the power to buy and sell, borrow, guarantee, give security, etc.;
 - equitably share in the participation in and benefits from the development and exploitation of minerals and petroleum; and
 - establish business enterprises for the purposes of undertaking business activities, in accordance with an enabling Organic Law called the “Organic Law on the Kumul Trust”.
 - (b) Repeal the Organic Law on the Sovereign Wealth Fund;
 - (c) Legislate the Organic Law on the Kumul Trust to:
 - give effect to the constitutional amendment;

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- establish the terms of the Kumul Trust by which the shares in respectively NPCP Holdings, NMCP Holdings and Kumu Holdings are held on trust for the State by the serving Prime Minister (as to the Kumul Share having veto power) and the former Prime Ministers jointly holding ordinary shares, and managed by Independent Managers and administered by a secretariat called the “Kumul Secretariat”;
 - establish the Sovereign Wealth Fund and its management by a Board of Trustees under the SWF Trust and administration by the SWF Secretariat;
 - provision for Constitutional Law protection against the powers and functions of the Central Bank and its Governor being compromised by operation of the Kumul Trust or the SWF; and
 - provision for dividend policy for each of the KM Holding Group of Companies and likewise the KP Holding Group of Companies — splitting dividend distribution between the Consolidated Revenue Fund, SWF and the Holding Group of Companies from which a dividend distribution is made.
13. approved the legal architecture to also have supporting and enabling legislation to be effected as follows:
- (a) enactment of the *Kumul Mining Holding Limited Authorization Act*, *Kumul Petroleum Holding Limited Authorization Act* and *Kumul Corporations Holding Limited Authorization Act*;
 - (b) enactment of supporting and enabling legislation for the Sovereign Wealth Fund; and
 - (c) enactment of consequential amendments to Acts of Parliament that include the *Audit Act*, *Public Finances (Management) Act*, *Claims by and Against the State Act* and *Loans (Overseas Borrowings) Act*.
14. approved that Treasury, IPBC, NPCP (Kroton), Petroleum and MRDC to cooperate with one another, as applicable, in transferring assets and assigning liabilities (including affected employees) to attain smooth transition in operation and management of the streamlined mineral, oil and gas assets, investments and interests of the State;
15. directed the Attorney General and Minister for Justice to take carriage of drafting the required Constitutional Laws and enabling legislations (including consequential amendments and instruments), in consultation with the Minister for Public Enterprise and State Investments, Minister for Petroleum and Energy, Minister for Mining and Minister for Treasury to finalize for endorsement by the NEC for tabling in Parliament by the Prime Minister;
16. directed that the Attorney General and Minister for Justice has the authority to do all things necessary and convenient to achieve completion of the State’s consolidation agenda including the appointment of lawyers; and
17. directed the Minister for Public Enterprise and State Investments to ensure IPBC pays all the costs of the lawyers engaged by the Attorney General and the Minister for Justice in connection with the implementation of these approvals.

I Certify the above to be a correct record of the Decisions reached by the National Executive Council.

Dated this 18th day of March, 2013.

P. O’NEILL, CMG,
Chairman—NEC

I. VEALI, MPS,
Acting Secretary—NEC.