

REPUBLIC OF FIJI

FIJI PINE DECREE 1990

A DECREE to make provision for a mechanism the ultimate objective of which is to facilitate the acquisition of forests, lands and ancillary industries by proprietary units and landowners; the incorporation of Fiji Pine Limited under the Companies Act; the transferring to it of all assets, liabilities and obligations of the Fiji Pine Commission; the establishment of the Fiji Pine Trust; the establishment of Forest Industry Assistance Fund, and repealing the Fiji Pine Commission Act, 1976.

In exercise of the powers vested in me as President of the Sovereign Democratic Republic of Fiji and Commander-in-Chief of the Armed Forces, I, acting in accordance with advice of the Prime Minister and the Cabinet, hereby make the following Decree:

PRELIMINARY

Short title and Commencement

1. This Decree may be cited as the Fiji Pine Decree 1990 and shall come into force on the second day of October 1990.

Interpretation

2. In this Decree, unless the context otherwise requires:

"assets" means any real or personal property of any kind, whether or not subject to rights, and without limiting the generality of the foregoing includes:

- (a) any estate or interest in any land, including all rights of occupation of land or building;
- (b) all buildings, vehicles, plant, equipment and machinery and any rights therein;
- (c) all trees [crops];
- (d) all shares and stock in any Company;
- (e) all rights of any kind, including rights under a written law, deeds, agreements or licence, planning rights and water rights, and all applications for and objections against applications for such rights;
- (f) all patents, trade-marks, designs, copyright and any other intellectual property rights whether enforceable by Act or rule of law;
- (g) goodwill and any business undertaking.

"Beneficiaries" means the Landowners and Extension Forest Owners and the Government as owner of State lands.

"Commission" means Fiji Pine Commission established by the Fiji Pine Commission Act 1976.

"Company" means Fiji Pine Limited to be incorporated by virtue of Section 4 of this Decree.

"First Trustees" means the Trustees appointed by the Minister under the provisions of this Decree.

"Fund" means the Forest Industry Assistance Fund established by Section 11 of this Decree.

"Fund Regulations" means the regulations made by the Minister pursuant to Section 11 of this Decree.

"Government" means the Government of Fiji.

"Liabilities" include:

- (a) liabilities under any written law or agreement; and
- (b) contingent or otherwise.

"Minister" means the Minister for Forests or any Minister to whom has been assigned the responsibility for forestry.

"repeal date" means the day nominated by the Minister upon which the repeal of the Fiji Pine Commission Act shall come into force.

"transfer date" means the day nominated by the Minister upon which all the property, rights and liabilities of the Commission shall be transferred to and vest in the Company.

"Trust" means the Fiji Pine Trust established by Section 7 of this Decree.

"Trust Rules" means the rules of the Trust.

Decree to bind the State

3. This Decree shall bind the State.

PART I : INCORPORATION OF FIJI PINE LIMITED

Incorporation of Company

4.-(1) There shall be registered under the Companies Act a Company limited by shares that has the name Fiji Pine Limited.

(2) For the purpose of incorporation there shall be appointed by the Government seven (7) subscribers who shall hold one share each in the Company for the time being in trust for the Government.

Transfer of Assets, Liabilities and Obligations to Company

5.-(1) Notwithstanding any Act, rule of law, or agreement all assets, liabilities and obligations of the Commission shall by virtue of this Decree be transferred to and vest in the Company on the transfer date, whether or not any Act or agreement relating to any asset or liability or obligation permits such transfer or require any consent to such a transfer.

(2) Without prejudice to the generality of subsection (1) of this section, all contracts, agreements, conveyances, deed, leases, licences and other instruments undertakings and notices (whether or not in writing) entered into, by or made with, given to or by or addressed to the Commission (whether alone or with any other person) before and in force on the coming into force of this Decree or subsisting immediately before the coming into force of this Decree shall on and after that day to the extent that they were previously binding on and enforceable by, against or in favour of the Commission, be binding and of full force and effect in every respect against or in favour of the Company as fully and effectively as if, instead of the Commission the Company had been the person by whom they were entered into, with whom they were made or to or by whom they were given or addressed as the case may be.

(3) The Registrar of Titles is hereby authorized and directed, upon production of an instrument of the land affected, under the provisions of the Land Transfer Act or any other Act for the time being in force relating to the registration of title to any land, to make all such entries upon any certificate of title or lease, or mortgage, or other instrument or document as may be necessary or expedient in consequence of the transfer of property to the Company under this section and the holder of any such certificate of title, lease, mortgage, instrument or document shall produce the same to the Registrar of Titles for that purpose.

Actions, Arbitration or Proceedings etc. Not to Abate

6. Any action, arbitration or proceedings and any cause of action, arbitration or proceedings which shall before the coming into force of this Decree be pending or existing by, against, or in favour of the Commission shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Decree, but the same may be prosecuted continued and enforced by, against or in favour of the Company as and when it might have been prosecuted, continued and enforced by, against or in favour of the Commission as if this Decree had not been made.

PART II : FIJI PINE TRUST

Trust to be Incorporated

7.-(1) There is hereby established a Trust called the Fiji Pine Trust having such objects as shall be contained in the Trust Rules.

(2) The Trust shall be a body corporate with perpetual succession under a common seal and may in such name sue and be sued, borrow money and enter into contracts and may acquire, purchase, take, hold and enjoy real and personal property of every description and may convey, assign, surrender and yield up, charge, mortgage, transfer or otherwise dispose of or deal with or in real or personal property vested in the Trust on such terms as the Trust thinks fit.

Trustee Act and Perpetuity Rules not applicable

8.-(1) The provisions of the Trustee Act shall not apply to the Trust established under section 7 of this Decree.

(2) The rules against perpetuity contained in any written or other law shall not apply to the Trust.

Trust Rules

9.-(1) The Board of Trustees shall make rules to be called the Trust Rules prescribing all matters relating to the Trust.

PROVIDED that the First Trustees shall make the Trust Rules with the consent of the Minister and any amendments thereafter shall be made as provided in the Trust Rules.

(2) The Trust shall be administered in the manner set out in the Trust Rules.

The First Trustees

10. There shall be appointed by the Minister First Trustees who shall hold office under the Trust Rules until they are subsequently removed, substituted or replaced in accordance with the Trust Rules:

PROVIDED that the beneficiaries of the Trust may elect their own Trustees within twelve (12) months from the day when this Decree shall come into force in accordance with the Trust Rules.

PART III : ESTABLISHMENT AND PRINCIPAL FUNCTIONS OF THE FUND

11.-(1) There shall be constituted a Forest Industry Assistance Fund for the purpose of:

(a) furthering the Government's economic goals for the forestry industry;

(b) providing assistance to forestry industry and any components thereof including the development of landowners related thereto and extension forest schemes; such assistance

being in the form of advisory, financial, managerial, marketing and any other assistance as it relates to investigating possible plantation areas, establishing such forests, planting, growing, maintenance, logging, transportation and end use production and ancillary industries associated with forests and products therefrom and to employ any third parties for the purposes thereof; and

(c) undertaking any other activities that will be conducive to the betterment of the industry.

(2) The Minister shall make regulations not inconsistent with this Decree prescribing all matters relating to the Fund.

(3) The Fund shall be administered in the manner set out in the Fund Regulations.

PART IV : REPEAL OF FIJI PINE COMMISSION ACT

12. The Fiji Pine Commission Act is hereby repealed and such repeal shall come into effect on the repeal date and all regulations and orders made pursuant to the provisions of that Act shall be revoked on the repeal date.

Made this 16th day of October 1990.

PENAIA K GANILAU
President of the Sovereign Democratic
Republic of Fiji and Commander-in-Chief
of the Armed Forces
