

**COMMISSION OF INQUIRY INTO  
ASPECTS OF THE FORESTRY INDUSTRY**

**INTERIM REPORT NO. 4**

**TIMBER EXPLOITATION IN  
NEW IRELAND PROVINCE**

**VOLUME 1**

**March 1969**

COMMISSION OF INQUIRY INTO  
ASPECTS OF THE FORESTRY INDUSTRY

INTERIM REPORT NO 4

TIMBER EXPLOITATION IN  
NEW IRELAND PROVINCE

VOLUME 1



## COMMISSION OF INQUIRY INTO ASPECTS OF THE FOREST INDUSTRY

P.O. BOX 2554, Boroko

TELEX NE: 23290

PAPUA NEW GUINEA

The Hon. Rabbie Namaliu  
Prime Minister  
P O Box 6605  
Waigani NCD

DATE: 29 March 1989

OUR REF:

YOUR REF:

TELEPHONE: 25 7099

My Dear Prime Minister

I have the honour to present you with the Commission's  
fourth Interim Report "Timber Exploitation in New  
Ireland Province" Volumes 1 - 4B.

Yours faithfully

BARN

.....  
Commission of Inquiry into  
Aspects of the Forest Industry

COMMISSION OF INQUIRY INTO FORESTRY MATTERS

INTERIM REPORT NO 4

TIMBER EXPLOITATION IN NEW IRELAND PROVINCE

VOLUME 1

Report on Timber Exploitation in New Ireland

VOLUME 2

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Bruce Fatt Ming Tsang

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## LIST OF ABBREVIATIONS

1. DDC	Djaul Development Corporation Pty Ltd
2. DOF	Department of Forests
3. DLAD	Danfu Logging and Agricultural Development Pty Ltd
4. FAO	(United Nations) Food and Agricultural Organisation
5. FIC	Forest Industries Council
6. FOB	Free on Board
7. GAISHO NG.	Gaisho Company (New Guinea) Pty Ltd
8. LFA	Local Forest Area
9. MOI	Malaysia Overseas Investment (PNG) Pty Ltd
10. MTD	Mussau Timber Development Pty Ltd
11. M3	Cubic Metre
12. TTDC	Tabar Timber Development Corporation Pty Ltd
13. NEC	National Executive Council
14. NFDP	National Forests Development Programme
15. NIDA	National Investment and Development Authority
16. NII	New Ireland Industries Pty Ltd
17. NIOD	New Ireland Otsuka Development Pty Ltd
18. S\$	Singapore Dollar
19. TA	Native Timber Authority
20. TRP	Timber rights purchase
21. USD\$	United States Dollar

## FORWARD

Interim Report No 4 presents a full report on the aspects of the timber industry in New Ireland Province which are relevant to the very wide terms of reference for this inquiry. It is set out in four volumes, one of which is printed in two parts (Volume 4A and 4B).

Volume 1 contains the text of the report and gives an overview of the general picture and a summary of my findings and conclusions. The detailed descriptions and findings are set out in eight appendices to the report. Each appendix deals with one foreign timber company (or one group of companies) which has been involved in the exploitation of the timber resource on New Ireland or with one timber area which has been exploited by one or more timber companies. These appendices are contained in Volumes 2 - 4 (A and B) as follows:

## Volume 2

## Appendices 1 - 5A

Appendix 1

Mamirum Timber Rights Purchase Area  
Mamirum Timbers Pty Ltd  
Malaysia Overseas Investment (PNG) Pty Ltd (MOI)

This appendix describes briefly the history of the Mamirum TRP Area on New Hanover Island, the formation of Mamirum Timbers Pty Ltd as a landowner company and the contract between it and MOI to exploit the timber.

Appendix 2

Tabar Local Forest Area  
Tabar Timber Development Corporation (TTDC)  
Rasirik Suralil Local Forest Area  
Santa Investments Pte Ltd  
Lombda Pty Ltd  
Byron Consultants Pty Ltd

This appendix describes the various attempts to exploit the Tabar Island timber resource for TTDC. These attempts were made by Santa Investments, Lombda and Byron Consultants and there is currently a new (illegal) attempt being made by Tovutogu Business Group Inc. supported by Pacific Rim Holdings Pty Ltd. It includes

This appendix describes the various attempts to exploit the Tabar Island timber resource for TTDC. These attempts were made by Santa Investments, Lombda and Byron Consultants and there is currently a new (illegal) attempt being made by Tovutogu Business Group Inc. supported by Pacific Rim Holdings Pty Ltd. It includes aspects relevant to Rasurik Suralil LFA and the activities of Santa Investments in New Ireland.

#### Appendix 3

Hindai Timbers Pte Ltd  
Santa Investments Pte Ltd  
Santa (PNG) Pty Ltd

This appendix outlines the activites of the Santa group in PNG and then focuses on its New Ireland activities as contractor for Sopathin Development and Daha Na Malit.

#### Appendix 4

Mussau Island Timber Rights Purchase Area  
Mussau Timber Development Pty Ltd (MTD)  
United Timber (PNG) Pty Ltd  
Marketing of Mussau logs

This appendix describes the history of relationships between United Timbers and MTD, the exploitation of the Mussau Island TRP area and the various devices whereby United Timbers cheated and defrauded MTD and the PNG government.

#### Appendix 5

Leytrac Pty Ltd  
Siaman, Kamdaru and Kamdaru Extension TRP Areas  
Kabaman, Kabaman Extension and Nasko Extension TRP Areas  
Proposed Upper Kamdaru TRP Area  
Danfu TRP Area

This appendix describes, briefly, the operations of Leytrac and, in some detail, the marketing of Leytrac logs by Lusco Enterprises Pty Ltd.

#### Appendix 5A

Central New Ireland TRP Area  
NIFA companies  
Otsuka Furniture Company  
New Ireland Otsuka Development Pty Ltd (NIOD)

This appendix contains a historical study of the operations of NIOD and how it was characterised by deliberate avoidance of the major conditions of the permit. It concludes by mentioning Santa's proposals to exploit the area in conjunction with Central New Ireland Development Corporation.

VOLUME 3

Appendix 6      Gaisho Company (New Guinea) Pty Ltd

This appendix traces the history of the Gaisho Group in Papua New Guinea and its involvement in Nakmai LFA, Danfu, Danfu Extension and Djaul LFA. It studies Gaisho's relationships with Nakmai Co Pty Ltd, Tasukolak and Djaul Development Corporation and its participation in the joint venture companies New Ireland Industries Pty Ltd and Danfu Logging and Agriculture Development Pty Ltd. A detailed study of Gaisho's marketing practices is included.

VOLUME 4

Appendix 7

Bruce Fatt Ming Tsang  
Sakai Management Pty Ltd  
Nationwide Consultants Pty Ltd

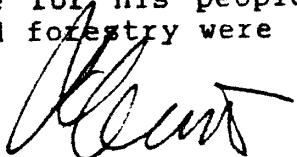
VOLUME 4A

This volume contains the report on Bruce Tsang and his companies' operations at Nakmai, Kabil, Noatsi and Napanta Nubui LFA. Outlines of his operations at Konos-Pue TRP for Kotmanse Logging and Development Pty Ltd, at East Kaut TRP Area for Matimba Logging and Development Pty Ltd and at Dahill and Lossu Plantations are also reported upon in this Volume.

Schedules 1 - 27 are included in Volume 4A and Schedules 28 - 157 are in Volume 4B.

The report in Volume 1 highlights principles and trends recorded in the detailed appendices, referring to, and drawing upon, those appendices in the process.

I wish to record my gratitude to Mr Johnson Mantu, MBE, the First Assistant Secretary (Resource Development) in the Department of Forests, for his assistance in the investigations into the New Ireland Timber industry. A New Ilander himself his extensive knowledge of his province and its timber operations was invaluable. His love for his people and dedication to the principles of good forestry were a source of inspiration to me.



T.E. BARNETT OBE

.....  
COMMISSIONER

## TERMS OF REFERENCE

The original terms of reference given to the Commission by the Right Honourable Paias Wingti were to inquire into the following matters:-

- "1. The process by which the Forest Industries Council became involved in the marketing of timber and -
  - (a) when, and by whom, a decision was or decisions were made to involve the Council in marketing operations; and
  - (b) the nature and extent of the actual operations; and
  - (c) the nature and extent of any Ministerial involvement in marketing operations; and
  - (d) the role (if any) played by the Department of Forests in the actual marketing operations and resource allocation; and
  - (e) the financial effect of the marketing operations on the funds of the Council.
2. The benefit obtained by Papua New Guinea (if any), from the marketing operations of the Council.
3. Whether any persons associated with the Council or its marketing operations received any direct or indirect benefits, whether financial or otherwise, as a result of the marketing operations of the Council and whether it was proper or improper for such benefits to be given or received.
4. What is the existing Government policy relating to forestry and in particular relating to resource allocation and condiditons of operation, marketing and pricing of timber within the forestry industry in Papua New Guinea.
5. What are the functions of the Department of Forests, the Minister for Forests, and the Forests Industry Council within the Government policy for the forestry industry.

6. What effect, if any, the involvement of the Forests Industry Council in marketing operations has had on the Government policy and the functions exercised by the Minister for Forests and the Department of Forests."

The terms of reference were later expanded to include the following additional terms:-

- "7. Ascertain whether and to what extent the functions of each of the Minister for Forests, the Department of Forests and the Forests Industries Council under the approved policy for the Forest Industry identified under term 5 have been interfered with or encroached upon by another or others of such functionaries or any other person.
8. Establish whether any of, or any persons associated with, the Minister for Forests, any officer of the Department of Forests or any member or employee of the Forest Industries Council or any other person has received or attempted or sought to receive any direct or indirect benefits whether financial or otherwise as a result of or in connection with the allocation or promised or prospective allocation of the right to participate in any way in the exploitation of timber resources and establish whether it was proper or improper for such benefits to be given attempted or offered or received attempted or sought.
9. Ascertain whether any and if so which person or persons associated with the PNG timber industry have been frustrating government policy by misdescribing species, quantity, quality or value of log exports or by deliberately understating income or overstating costs or by manipulating shipping freight charges or by any other similar devices including the practices commonly referred to as transfer pricing".

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COMMISSION OF INQUIRY INTO FORESTRY MATTERS

INTERIM REPORT NO 4 REPORT NEW IRELAND

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## 1 INTRODUCTION

The aim of this Interim Report is to record the findings of the Commission's inquiry into the New Ireland timber industry. Seventeen operations, involving ten foreign operators, various traders and twelve landowner companies were investigated. The detailed comments on each operation are recorded as appendices in Volumes 2-4 of this Report. This brief text in Volume 1 attempts to present an overview of the timber industry in New Ireland as it relates to the terms of reference of this Inquiry. In some instances the general comments and main findings referred to in Volume 1 are supplemented by reference to specific reports in the appendices which illustrate those comments and findings. Constraints of time and space have prevented me from referring to all the available evidence set out in the appendices. I believe however that a careful study of the appendices regarding each company and timber area will amply substantiate the comments and findings which I have been able to present in this volume.

The main value of this Interim Report for experts and policy makers is to be found in the succeeding volumes of appendices. They present a great deal of factual raw material which can be used by persons more expert than myself in matters of forestry, economics, environment and sociology for the purpose of analysis. Their conclusions may differ from my own to some degree but I am sure that any fair analysis of the Commission's findings will substantiate my opinion that the New Ireland timber industry is out of control and has blighted the hopes of landowners and devastated a valuable timber resource for very little gain to the people or government of Papua New Guinea. It shows up failings in national forestry policy and planning and failings in administration by national and provincial ministers and forestry officers which,

unfortunately, are of concern nationwide, not just in New Ireland.

A major concern, amply recorded in the appendices and dealt with specifically in Section 15 of this Volume is the evidence of blatant corruption at high levels of government and the practice of ministers and senior public servants to negligently, and sometimes deliberately, ignore and contravene the laws of Papua New Guinea's Parliament and the policies of its government.

Another major concern is the irrefutable evidence of full-scale transfer pricing and other fraudulent marketing practices of the foreign companies controlling the marketing of New Ireland logs. These same practices are (on the evidence before this Commission of Inquiry) carried out by almost all timber marketing companies in the country. In New Ireland I found, without exception, that all marketing companies studied were transfer pricing, commonly at the rate of about USD10 per m<sup>3</sup>. (When small producers such as Channel Timbers and Leytrac, which did not conduct overseas marketing themselves, exported logs by selling to traders such as Gaisho, Shin Asahigawa and Lusco the transfer pricing was arranged by the trader.)

## 2 NEW IRELAND PHYSICAL AND SOCIAL ENVIRONMENT

New Ireland Province has a total land area of some 997,400 ha. consisting of a main island and numerous surrounding islands ranging in size from small uninhabited atolls to larger islands or island groups such as Tabar, Djaul, Mussau and to the largest, New Hanover. According to 1984 statistics, the population of the Province is approximately 87,659 persons who are administered in five districts. Of the islands studied by the Commission, New Hanover has about 13,310

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inhabitants and Djaul has 1,920, Tabar Island has 3,056 inhabitants and Mussau has 5301.

The natural environment is described in the Saulei/Nagari Report "An Environmental Impact Assessment of the Danfu and Nakmai Timber Areas, New Ireland Province: A case study" which is included as Schedule 8 to Appendix 6 of this Report (Vol. 3). It includes scientific descriptions of the physiography, drainage, geology, climate, soils and vegetation.

In layman's language the slopes are steep, the rains are very heavy and the soils are generally poor, except for the clusters of precious alluvial and red brown soils deposited in narrow strips along rivers and streams and the volcanic soils which are usually found in inaccessible locations such as on steep and heavily eroded slopes. The ecology is fragile and the slopes are subject to regular slips and prone to erosion. The rivers and water quality are essential to the physical environment and to the people who live there and depend on subsistence agriculture, hunting, fishing and small scale cash crops for their livelihood. The whole of that physical and social environment is held together by the tree vegetation which, until very recently, has covered about 92 per cent of the land mass. This tree vegetation has consisted in large part of valuable timber species (mostly mixed hardwood) which is now in high demand.

#### Timber Resource:

Reliable figures on the original volume of timber in New Ireland Province, the amount already harvested and the amount remaining are not available. This is because there has been no proper resource inventory survey and the figures supplied by DOF are quite unrealistic. (See Schedule 1 to this Volume for a detailed study of the

resource statistics.) The best guesstimate I can make is based on DOF figures, adjusted in the light of the Commission's own investigations.

Prior to the commencement of logging, there were something like 600,000 hectares of commercially loggable forest containing over 6 million cubic metres of timber. Since then, a total of 466,991 hectares have been allocated for harvesting (280,491 ha by way of TRP and allocation under Timber Permit and 186,500 ha by way of Local Forest Declaration).

There is no more than 150,000 ha of unlogged area remaining to be allocated and these contain less than 2 million m<sup>3</sup> of timber which has not already been committed for harvesting (less than one third of the original resource).

Virtually all areas not presently allocated are programmed for allocation by 1992 under the National Forest Development Programme approved by the National Executive Council in August 1988.

Apart from subsistence gardening and fishing the Province's economic activity has been centred around copra and, more recently, cocoa. Copra has been produced on large foreign-owned plantations now being under-planted with cocoa and progressively taken over by national companies. These two crops also form the basis of small-scale block holder and village cash income plots. There is also some oil palm development and, on the plains near Magei Plantation and Huris, some cattle. Since about 1972, timber exports have produced a lot of activity and some provincial revenue but over half of the accessible timber resource has already been harvested and most of that remaining has already been allocated for export logging.

There has also been a sawmilling industry which has been steadily declining in recent years. During the Commission's visits during 1987 and 1988, sawmilling was almost non existent. The reopening of Panamana sawmill by Groomes in late 1988 now gives a one shift input capacity of about 10-12,000 cubic metres per annum.

A large gold mine is about to open at Lihir Island and there are hopes for other sites.

### 3 THE FOREIGN TIMBER COMPANIES

The existence of the timber resource has attracted a number of foreign or foreign-owned timber companies. These include:

- (a) Gaisho Co (New Guinea) Pty Ltd (Gaisho NG) and its parent Gaisho Company Limited of Osaka (Gaisho Japan) which operates as a logging and marketing contractor and also as a trader - buying and selling logs produced by others. In the past Gaisho has also acted as a shareholder in companies which hold timber permits or were party to an approved dealing in a Local Forest Area. (Vol 3 App.6)
- (b) Shin Asahigawa New Guinea Pty Ltd which does not operate on New Ireland but acts as a trader buying and selling logs from New Ireland and elsewhere.
- (c) Sumitomo Forestry Company (Hong Kong) Limited which merely acts as a trader buying and then selling logs from New Ireland and elsewhere.
- (d) Lusco Enterprises Pty Ltd which acts as a trader or agent marketing logs for Leytrac on New Ireland and for other operators elsewhere (Vol. 2 App.5).
- (e) Malaysia Overseas Investments (PNG) Pty Ltd which operates only as a logging and marketing contractor for Mamirum Timbers Pty Ltd on New Hanover (Vol. 2 App. 1). It is presently involved in a National Court battle over its involvement in a timber war in which it hopes to be approved as a contractor in the Konos-Pue TRP area;
- (f) United Timbers (PNG) Pty Ltd which contracted for Mussau Timber Development Pty Ltd on Mussau Island

until the agreement was terminated after a dispute which resulted in commencement (and later settlement) of National Court proceedings. (Vol 2. App 4);

(g) Santa Investments Pte Ltd which has previously operated in the Gulf Province (for Ahia Development Pty Ltd) and in Central Province (for Angus (PNG) Pty Ltd). After unsuccessful attempts to become contractor for Mussau Timber Development (on Mussau Island), for Kamdaha Pty Limited (in Danfu Extension TRP) and for Tabar Timber Development (in Tabar group), Santa finally gained entrance into New Ireland as contractor for Sopathin Development (in Rasirik Suralil LFA) (Vol.2 App.2) and for Daha Na Malit Pty Ltd (in Napanta Nubui). It is presently seeking involvement in Central New Ireland TRP area and is involved behind the scenes in an illegal operation on Tabar Island. Santa has just been approved as contractor for the Maisi Trust Company in West Gadaisu Timber Area Central Province. (Vol.2 App.3);

(h) Nationwide Consultants Pty Ltd and Sakai Management Pty Ltd

Both falsely claim to be national companies but are in fact owned and managed by the foreigner Bruce Tsang. Through these companies Tsang has conducted a number of hit and run operations in Konos-Pue, East Kaut, Kabil, Noatsi, Nakmai and Napanta Nubui timber areas and on Dahill and Lossu Plantations. He is presently seeking involvement in Ugana (Vol.4 App.7).

(i) Byron Consultants Pty Limited

This company was ostensibly owned by Sebulon Watt, his wife and David carpenter. It was revived by Watt in 1987 to contract for Tabar Timber Development and commenced an illegal operation. It had been secretly restructured to give Watt, his wife and Carpenter a 30% carried equity and Elias Vuvu a 5% equity. The remaining 65% was held by Suben Pty Limited but, in fact held, as to 35%, for the foreigner Benson Lee and his wife as carried equity, and the remaining 30% for the foreigners June Kong (the financier) and Hop Fat Co of Hong Kong (which supplied equipment on credit). Its activities contravened NIDA laws and its illegal operation was halted as result of public disclosures (Vol 2 App 2);

(j) Channel Timbers Pty Ltd a small operator, most recently logging in the West Kaut Area, which has

now gone out of business and sold off its equipment.

(k) Leytrac Pty Ltd

This company has logged in the Kamdaru area of West Coast Namatanai since mid 1974 (Vol.2 App.5). Its marketing is conducted by Lusco Enterprises.

(l) Groome (PNG) Pty Ltd was considered as the contractor for Mamirum Timbers (on New Hanover) but did not proceed. Groomes then commenced operating for the local company Lopanga at East Kaut. It hauls logs from there to Panama Sawmill which it has rented from Nakmai Company Pty Ltd where it is producing sawn timber for the domestic market.

(m) Timbersales (PNG) Pty Ltd

This company formerly operated at Nasko until Leytrac took over its areas. Timbersales does not presently operate on New Ireland but sells sawn timber from Rabaul into the New Ireland market.

(n) John Bereini

A very small-time operator who operates as a contractor or sub-contractor as the opportunity arises.

There are also a number of so-called landowner companies which claim to represent the landowners and which provide the corporate vehicle through which the foreign owned or dominated companies gain legal (and sometimes illegal) access to the timber. In many cases these landowner companies were stimulated into existence by the foreign contractor company seeking the timber. In a few instances they have entered into a joint venture arrangement with the foreign contractor to harvest the resource. While their forest area is being exploited it is common for these companies to be allocated office space by the foreign contractor and for the two companies to share the same lawyer, accountant and consultant. Sometimes the company secretary or a director may be provided by the contractor.

#### 4 LANDOWNER COMPANIES

The following landowner companies were studied in some detail:

##### Mamirum Timbers Pty Ltd: (Vol. 2 App.1)

Mamirum Timbers Pty Ltd (Mamirum) was incorporated in February 1984 to apply for the Mamirum Timber Permit and to negotiate with Groomes. It was designed as a landowner company but shares were never issued to landowner representatives.

It was led to sign an unfair agreement with MOI, as its contractor, by its lawyer Miskus Maraleu who was also acting for MOI. By this means Mamirum was deprived of about K120,000, over the three shipments studied by the Commission, which would have been payable under a more fair agreement (Vol.2 App.1 p.25).

By paying cash and giving benefits to its Secretary, Gerald Sigulogo, and by giving benefits to other directors, Francis Sia of MOI managed to split the Mamirum management and gain sufficient influence over the company to be able to further cheat it by way of wrongful deductions and by transfer pricing at the rate of about USD10 per m<sup>3</sup>.

##### Nakmai Company Pty Ltd: ( Vol. 3 App. 6)

Nakmai Company Pty Ltd (Nakmai) was incorporated as a landowner company in 1973 by Gaisho's lawyers. It then entered into a Gaisho dominated joint venture company New Ireland Industries Pty (NII) to enter the dealing agreement with local landowners on Nakmai LFA. By 1982 Gaisho was contracting directly for Nakmai. After a troublesome 12 to 13 years of logging, Gaisho pulled out in May 1986 and assent to the dealing was withdrawn in

August 1986. Some of NII assets were sold cheaply, some were stolen and some were abandoned. Nakmai was left as a debt ridden and internally divided company.

Bruce Tsang's Nationwide Consultants was the contractor to Nakmai for a brief period in early 1987 but then abandoned the area.

During the Commission's public hearings in 1987 and early 1988 there was dispute as to who controlled Nakmai Pty Ltd and it was not functioning. While controlling the marketing of Nakmai logs Gaisho NG was cheating Nakmai Pty Ltd by understating the true FOB price by at least USD10 per cubic metre. There is also every reason to expect Nakmai was further cheated by Tsang.

During 1988 Nakmai was revived and Groomes entered into an agreement with it to lease the former NII sawmill at Panamana for K3,000 per month which is presumably going towards repayment of Nakmai's debts. The mill is used to saw logs which are transported from the East Kaut area.

Tasukolak Pty Ltd: (Vol. 2 App. 6)

Tasukolak was incorporated as a shelf company in 1976 by Gaisho's lawyers and its new name was registered in 1979. It joined with Gaisho in the Gaisho dominated Danfu Logging and Agriculture Development Pty Ltd (DLAD) to obtain the Danfu Timber Permit. Gaisho advanced Tasukolak K299,999 at 9 per cent interest to enable it to purchase its 75% share of DLAD. Tasukolak later received a loan from DLAD which enabled it to repay Gaisho.

After Danfu cut out, Tasukolak applied for the Danfu Extension Permit in its own name (and for transfer of the Danfu Permit to it). This led to a long battle ending in a National Court order to issue the permit to Tasukolak.

During its struggle to obtain access to Danfu and Danfu Extension logs, Gaisho manipulated Tasukolak as the up front applicant and Gaisho's lobbyists applied pressure on Ministers and officials in the name of the national company Tasukolak.

Throughout its entire existence Tasukolak has shared the same registered office, accountant, lawyer and consultant with Gaisho NG. Throughout this period Gaisho NG has cheated Tasukolak by purchasing Danfu logs itself (in breach of its agreement) and then exporting them by various transfer pricing arrangements. The result has been that the Gaisho group has illegally marked up the price it received by at least 20 per cent above the price it paid DLAD (and later Tasukolak) and understated true FOB prices by at least USD10 per m3. (Vol.3 App.6 pp.38 et seq).

In recent months, as Gaisho turns away from the fading New Ireland resource, Tasukolak has commenced branching out into other ventures. It is reported to have purchased the Poropop sawmill from Channel Timbers with the intention of milling the scattered remnants of its own forest which have been left by Gaisho. It has acquired an interest, with the Provincial Government, in Malangon Lodge, which is to be renovated, and it has invested in a Port Moresby real estate venture with a company registered as Elizabeth Pty Ltd. It has also severed the physical link with Gaisho's Rabaul office and has set up its own office in Kavieng.

Djaul Development Corporation Pty Ltd: (Vol. 2 App 6)

Djaul Development Corporation (DDC) is a genuine, independent minded, landowner company. Its incorporation occurred on 10 May 1983 which was after it had lodged its application for the LFA. This caused legal problems and

was caused by the incompetency of its lawyer/consultant Sebulon Watt. DDC entered a Dealing with the landowners of Djaul LFA and entered a logging and marketing contract with Fangalawa Plantations Pty Ltd. Fangalawa was so indebted to Gaisho that Gaisho was able to simply take over its contract with DDC and commence logging with no legal basis. Under the chairmanship of Salatiel Rambalis DDC attempted to monitor Gaisho's operations and complained frequently of underpayment, wastage, undergrading and breach of conditions.

During the course of its operation for DDC Gaisho itself bought DDC logs and then onsold them at a profit. The Gaisho group then benefitted from further resales. In all Gaisho, by various devices, deprived DDC of about 20 to 22 per cent of the true FOB price, part of which it transferred off-shore, and underpaid DDC in this way by about USD10 per m<sup>3</sup> - totalling at least USD290,000 in 1986 and 1987.

When Djaul LFA cut out as a commercially attractive operation for Gaisho, DDC purchased second-hand logging equipment and is now itself logging on Djaul Island in a small way to produce sawn timber. It has also commenced other small scale business ventures and has set up an office in Kavieng.

Mussau Timber Development Pty Ltd (MTD):(See Vol 2 App 4)

MTD was originally incorporated as Tamekala Logging Pty Ltd in 1980 but changed its name in 1984 when United Timbers became interested in the Mussau Island Timber Area. Lawyer Rod Patterson, at that stage, was acting for both companies. MTD was structured as a genuine landowner company with 21 shareholders holding as representatives for different groups of landowners.

When United Timbers was conducting the Mussau logging and marketing it put its own Secretary Prashant Shastri in as Secretary of MTD also. United Timbers also arranged for MTD to employ its own lawyer, accountant and consultant.

With MTD controlled in this way United Timbers proceeded to cheat it of its rightful share of the true FOB price, paid by the end-buyer, by a combination of transfer pricing, undergrading and undermeasuring. It underpaid MTD by approximately USD1,500,000 in the two years of its operation and deprived MTD of its share of that underpayment. MTD's complaints over these practices led to the termination of the agreement with United Timbers and the commencement of proceedings in the National Court. These were settled in 1988 (after the Commission's inquiries made the exact nature of United Timbers' malpractices public) and MTD received a substantial sum in damages.

With these new funds MTD has purchased logging equipment and commenced to log its own timber resource.

Tabar Timber Development Corporation Pty Ltd: (TTDC)  
(Vol. 2 App.2)

TTDC was incorporated in July 1985. It was formed as a landowner company with group leaders as shareholders (for their group) and as directors. One was Sampson Gila the Provincial Government member for Tabar and a Minister in the Seeto Provincial Government. Originally Santa Investments intended to exploit the area and made payments to Sampson Gila and other payments to support TTDC and its directors to ensure TTDC would sign Santa as its contractor. Santa also paid bribes to Premier Seeto to ensure his support for TTDC's LFA application.

After Santa gained access to another LFA (Rasirik Suralil) it lost interest in Tabar and lawyer Sebulon

Watt negotiated briefly to contract TTDC to Lombda Pty Ltd. He then introduced his own Company Byron Consultants Pty Ltd as the contractor (again making substantial payments to Sampson Gila and some to other directors). It was not disclosed to TTDC that Byron Consultants had been completely restructured so as to become a foreign company owned, controlled and financed by HongKong interests.

After Byron Consultants was forced to stop its illegal operations on Tabar because of public disclosure by the Commission, another illegal operation has commenced and this time a National business group Tovutugu Development Inc. has signed a logging and marketing agreement with TTDC, but again there is a secret foreign partner. This time Pacific Rim Holdings Pty Ltd, which appears to be closely linked to Santa Investments, is controlling and financing the illegal operation. (Vol.2 App.2 pp.29-30)

Kotmanse Logging and Development Pty Ltd (Kotmanse)  
(Vol. 4 App. 7)

Kotmanse was said to be a landowner company in the Konos Pue Timber area: Bruce Tsang and Miskus Maraleu were heavily involved in its incorporation and in all applications it made to DOF. They were also involved in obtaining a bank guarantee for it. Tsang's company, Sakai Management became Kotmanse's manager, contractor and marketer. Sakai logged for Kotmanse from February 1984 to February 1985 and obtained a substantial management fee. It marketed through trading companies Gaisho and Shin Asahigawa, both of whom made a handsome profit by transfer pricing (Vol.3 App.6). From the small amount left for Kotmanse it paid expenses including directors' fees of K8,845 and became insolvent. Very few benefits passed to the landowners.

Matimba Logging and Development Pty Ltd: (Vol. 4 App.7)

This company was not studied by the Commission. It was apparently a landowner company which held a Ministerial letter of intent over East Kaut TRP. Sakai Management entered a logging agreement with Matimba and commenced illegal logging. Although Sakai simply marketed through trading companies it still charged an additional 2% commission for marketing, bringing its share of FOB price to 72%. From the records it is quite clear that Tsang and Maraleu had control of Matimba's correspondence, finances and banking. From this phoney and blatantly unfair arrangement Sakai received K27.32 per m<sup>3</sup> and Matimba received K4.67 per m<sup>3</sup>.

Brothers Logging and Development Pty Ltd: (Vol. 4 App.7 pp.21-41)

This company was incorporated on 8 October 1985 by Miskus Maraleu who was also a director of, and lawyer/consultant for, Sakai Management. Brothers Logging included two educated directors in the pay of Tsang and four uneducated subsistence farmers.

Maraleu led Brothers Logging into an unfair agreement with Sakai Management to log in the Kabil area. The agreement was later made even more unfair by Tsang altering it by means of forgery and fraud. Amidst a great deal of turmoil caused by Sakai's commencement of illegal operations in the undeclared Kabil LFA, Tsang managed to export 9 shipments. When distributing the (falsely low) disclosed FOB price of K1,745,719 Tsang paid Brothers Logging only K175,885 which, because of his fraud, cheating and transfer pricing, amounted to an underpayment of between K200,000 and K250,000.

Mareleu claims that he and Tsang fell out over Tsang's cheating of Brothers Logging.

Noatsi Development Corporation Pty Ltd (NDC):

(See Vol. 4 App.7 p.42-61)

NDC was incorporated by Tsang's new lawyer/consultant Sebulon Watt as a vehicle through which Tsang's company Nationwide Consultants Pty Ltd could gain access to the Noatsi area. The appointment of directors was very suspicious and everything about the non-existent LFA, the Dealing and the Certificate of Authority was irregular. (This was due to the rush to persuade the Minister to allocate the resource and to Watt's professional incompetence.)

Tsang then orchestrated remedial actions, in an attempt to regularise the situation, through another new lawyer, Gerard Kassman, and arranged formal legal incorporation of NDC; fraudulently stacking the Board of Directors with his own supporters. Illegal logging commenced with Tsang in effective control of NDC. He organised bogus meetings as necessary and forged alterations to the logging and marketing agreement to increase his share of the FOB price.

The Noatsi operation lasted only six months. In accounting to NDC for the (falsely low) FOB price which he disclosed, Tsang underpaid NDC by more than K110,000. In addition he had already cheated them by transferring part of the FOB price off-shore.

Patpatar Enterprises Pty Ltd: (Vol. 4 App. 7 p.63-82)

Patpatar Enterprises Pty Ltd (Patpatar) was incorporated in June 1986 at the direction of Sebulon Watt acting for Bruce Tsang. At the same time as it was being incorporated, Watt prepared an application for declaration of Napanta Nubui LFA, with the support of Provincial Forests Minister John Sianot. At the same time he also prepared a dealing between Patpatar and the

landowners, a Logging and Marketing Agreement between Patpatar and Nationwide and a Certificate of Authority. All the documents and the procedures for gaining approval were grossly defective and Nationwide's logging operation, which commenced before the LFA was declared, was completely illegal. Tsang used Patpatar as his vehicle to lobby politicians to support the commencement and the continuation of Nationwide's operation. He drafted Patpatar's correspondence in this campaign.

From the beginning it was clear that Patpatar represented only part of the Napanta Nubui area and that the boundary of the LFA substantially overlapped Rasirik Suralil. By the time the LFA was declared on 18 June 1986 an opposing faction of landowners was already being organised by Santa Investments. They incorporated as Daha Na Malit Pty Ltd and a severe conflict developed within the, now divided, community. Eventually, assent to Patpatar's dealing was withdrawn and two separate dealings were later approved. Patpatar's logging area was greatly reduced in the new arrangements and Nationwide had commenced to wind down its operation by the time of the Commission's visit.

During these troubled times however, Nationwide continued to log for Patpatar and exported eight shipments of logs. The agreement between Patpatar and Nationwide was so unfair to Patpatar that DOF refused to approve it until it was rewritten fairly in October 1988. On top of this Tsang took out improper deductions and cheated on royalties payments. Throughout the period Tsang further cheated Patpatar by secretly transferring a substantial portion of the true FOB price through two Hong Kong companies.

Daha Na Malit Pty Ltd: (Vol. 3 App.6 p 74 et seq)

Santa originally sought access to part of the Napanta Nubui LFA as an extension to Rasirik Suralil LFA in which it was contracting. Minister Torato had issued two letters of intent covering the same area. As Santa's proposal for the extension area was unobtainable its lawyers incorporated Daha Na Malit as a landowner company to exploit and widen the rift in the Napanta Nubui community. Through Daha Na malit, Santa arranged for a new dealing to be approved and commenced logging in opposition to Tsang's Nationwide/Patpatar Enterprises combination.

Sopathin Development Pty Limited (Vol. 2 Apps 2 and 3)

This company was orchestrated by former Premier Robert Seeto and Santa Investments as a landowner company through which Santa Investments would exploit the Rasirik Suralil LFA. The company was not investigated in detail in public by the Commission as its whole history was involved in the criminal prosecutions against Robert Seeto, Michael Sia and Francis Sia which alleged large scale and continuous bribery and corruption in connection with this Company and this LFA. This is described in outline in the appendices (Vol 2 Apps. 2 and 3).

5 NATIONAL LAWYER CONSULTANTS

Papua New Guinea's timber resource has given rise to the birth of hybrid lawyer/consultant firms which practice as lawyers to prepare documents, incorporate landowner companies and prepare applications and contracts and to institute court proceedings. They also practice as consultant to those landowner companies and to the foreign contractors. In this role they lobby politicians, deal with the DOF and NIDA and sometimes provide national skilled staff for timber operations and

advise on labour relationships. They do this kind of work on a monthly retainer basis and frequently act, in one or other capacity, for all parties involved in a timber operation. On New Ireland, Sebulon Watt and Miskus Maraleu are the prime examples with their Companies Byron Consultants, Niubils Enterprises and Metepikae Holdings.

Both these men are New Irelanders and have taken advantage of this fact to induce less sophisticated landowners to trust them to advise on their affairs. By simultaneously working for the foreign contractor these lawyers betrayed this trust.

There are many examples described in this report in which each of these lawyers placed himself in situations where his conflict of interests was so acute (and so much to his own benefit) that it constituted professional misconduct of a very serious nature. I have referred both these lawyers' conduct to the Papua New Guinea Law Society.

In addition to the activities described above it is quite clear from the documentary evidence (not all of which has been put to him) that Sebulon Watt was on several occasions party to the official corruption of Provincial politicians. In his own evidence he admitted giving a K2,000 bribe on behalf of Michael Sia to Provincial Minister Sampson Gila.

Maraleu was so deeply involved with Tsang that he deliberately supplied false information and a false return to NIDA (Vol.4A App.7 p.21). He misused his position as FIC Chairman and his association with John Kasaipwalova to gain access to Minister Diro and to circumvent DOF and by this means provided improper and knowingly dishonest advice to the Minister. He sold out

the interests of the Mamirum people to his paymaster Francis Sia and acted improperly and dishonestly to preserve the Mamirum Permit.

Other, non New Irelanders, also performed similar roles. Rod Patterson was involved in a similar role in Mussau; Ian Shepherd has been in a similar role for Santa Investments and Rod Ferguson is involved with Leytrac (the latter two apparently as employees).

Gerard Kassman has acted as a lawyer for Tsang and a legal correspondent/agent for Watt. He does not seem to have involved himself in conflicts of interest and has charged for his services on a legal fees basis. He has however facilitated Tsang's non compliance with NIDA requirements.

## 6 FOREIGN ACCESS TO THE RESOURCE

### **Possession of a landowner company:**

The foreign timber companies' main aim in New Ireland has been to gain access to the timber, to harvest it and, most importantly, to control the marketing of it. Mostly they have avoided the publicly exposed position of being the permit or the LFA applicant or party to the LFA dealing. They have preferred to work through a local so called *landowner company* which is put up front as the company to whom the timber rights are allocated (though sometimes the rights have been allocated to a joint venture company owned by the landowner company and the foreign company). These arrangements suit the foreign company as long as the landowner company is tame or compliant and as long as the foreign company controls the letter of credit arrangements and the division of the proceeds of sales.

In many cases the foreign company or its agent first sold the idea of cleared land, roads and bridges, cash crops and cash flows - all of which it claimed would result from what is very inappropriately called a timber development. In other cases the local landowning group (or some enlightened and acquisitive members of that group) may have approached the timber company with a proposition. Sometimes they approached a timber consultant who in turn sought out the foreign contractor (which is how Mamirum Timbers inflicted Miskus Maraleu and MOI on itself. See Vol.2 App.1).

However the idea may have been first initiated, the follow up procedures have taken a fairly standard pattern. The foreign company infiltrates and takes temporary possession of the landowner company. Often this process commences before birth because the very incorporation of the landowner company is handled by the foreign company's lawyer. If the company already exists however, it is taken over or possessed by offering it the services of the foreign company's lawyer, accountant and consultant. In the case of United Timbers it also installed its own secretary as secretary to the landowner company (Vol 2 App 4). Gaisho provided the lawyer, accountant, consultant and office space to Tasukolak and an employee of their common accountants became secretary to Tasukolak.

Having taken possession of the landowner company the foreign company then prepares all documents and correspondence required to enable the landowner company to apply for a permit or LFA declaration and for a Dealing to be approved in its name. The foreign company will also orchestrate all actions required to conduct resource surveys, initiate timber rights purchase procedures, gain the support of wavering or hostile landowners and to mount an effective lobby through

provincial and national politicians. The lobby is necessary so as to put pressure on the government to do whatever is necessary to enable the foreign company to get hold of the logs and to control their marketing. When necessary this campaign may involve bribes and handouts to politicians, leaders and landowners. If convenient for the foreign company, or if necessary in order to persuade DOF to support the application for the concession, a joint-venture company may be formed as the corporate vehicle, consisting of the landowner company and the foreign company (New Ireland Industries Pty Ltd, Danfu Logging and Agriculture Development Pty Ltd and New Ireland Otsuka Development Pty Limited See Vol 3 Appendix 6 p.4 and p.8 and Vol 2 App.5A).

If no Timber Permit yet existed over the desired timber area, the foreign company may push for the timber rights to be purchased by the State and for a permit to be issued to its landowner company. For preference, however, it will push for the area to be declared a Local Forest Area under the *Forestry (Private Dealings) Act* as this will be quicker and will offer greater benefits (and therefore more incentive) to the landowner company and less restrictive conditions and DOF supervision (and therefore higher profits) for the foreign contractor.

To make sure that the landowner company is and remains its landowner company, it is very common for the foreign company to hand out benefits to its directors and management. These may take the form of cash retainers, paid employment (often as a public relations officer) a vehicle or use of a vehicle, assistance to build houses or driveways, a cash advance against anticipated royalties, election expenses, free overseas trips, store goods and straight-forward bribes. These benefits cease after the resource has been cut out. It is common however for the benefits to be treated as an advance and

to be recouped later from the landowner company out of its entitlement to the proceeds of sale of log exports.

#### 7 THE ROLE OF NATIONAL AND PROVINCIAL POLITICIANS

As the foreign timber companies proliferated, and as the timber resource began to cut out in the accessible areas of New Ireland, there has been increasing pressure on those companies to keep their expensive, loan-financed equipment working. This has led them to become even more active in seeking the allocation of new resources on the mainland and off-shore islands and to compete for resource allocation. If the authorities have been unwilling, or unable, to move fast enough for the foreign companies' needs, the companies have mounted behind the scenes campaigns to short-circuit or to by-pass the official system. The front runners in these campaigns are always the tied local landowner companies and support is sought from, and given by, provincial and national politicians.

(1) Very strong and outspoken support has come from Sir Julius Chan and Noel Levi (the members for Namatanai and New Ireland respectively) in favour of the applications of Gaisho supported landowner companies. (Vol 3 App.6) Sir Julius also supported the Tsang dominated Patpatar Enterprises and Michael Singan supported Santa's Daha Na Malit in the Napanta Nubui LFA. (Vol 4. App. 7).

(2) Gerald Sigulogo MP promised and gave his strong support for MDI in return for very substantial benefits received, promised or sought. (Vol 2 App.1 p.32).

(3) Strong support came from Premier Robert Seeto in favour of Santa Investments supported companies and, sometimes, in favour of Bruce Tsang's Companies.

(4) Provincial Minister Sampson Gila was given substantial benefits by Santa and by Sebulon Watt to support attempts to gain access to the Tabar Island resource. (Vol 2 App 2.p.26).

(5) Provincial Ministers Sialis Sabagas, John Sianot, Edward Togimar and other provincial members have sought to add their weight in support of various ventures.

(6) The support of influential officials such as Michael Cowan and Miskus Maraleu of the Forest Industries Council was sought by, and given to, MOI (PNG) Pty Ltd and Santa Investments as well as to Bruce Tsang.

It does not follow that every local landowner company or politician who actively supports the endeavours of a foreign company to harvest timber has personally benefitted in an improper way. Some may give their support from a genuine desire to see economic development in a local area and they may see that foreign company as the best or only available means to achieve it. On the other hand most, if not all, the foreign companies are prepared to manipulate leaders for their own ends and some will, if necessary, buy support from strategically placed persons. I have found also that some leaders have sought and/or accepted benefits for themselves or for their political parties. This aspect is dealt with more fully in Sections 12 and 15 of this Interim Report and in the appendices.

#### 8 DIVIDING THE COMMUNITY

In recent years, as the scramble to get at the remaining timber has become more intense, very aggressive and very mobile foreign companies such as Santa Investments, Bruce Tsang's companies, Sakai Management and Nationwide Consultants, and Francis Sia's MOI appear to have deliberately created divisions in formerly cohesive local communities. This has been done by promising and giving

benefits to a breakaway group in return for support against the group that remains loyal to an existing rival contractor. Thus the Commission actually witnessed the arrival of Santa equipment into the Napanta Nubui area to work for its newly created landowner company Daha Na Malit against its rival Bruce Tsang's Nationwide which had already commenced logging for Patpatar Enterprises on the same area. (Vol 4A App 7 p.76). Other examples occurred in Danfu Extension TRP where the Santa backed Kamdaha sought to contest the claim of the Gaisho backed Tasukolak and in Konos Pue TRP where Tsang's Sakai Management allied itself with Kotmanse and they were opposed by the true landowners organised as Pezrak Development Company (Vol.4 App.7).

Since my inquiries on New Ireland ceased this same area has witnessed another timber war. The same Konos-Pue community rift is now being exploited by MOI (supported, surprisingly, by the Provincial Government) which is competing with a new Malaysian timber company Hui Ling Engineering Pty Ltd to log for Pezrak and National Court proceedings are in progress. (Meanwhile United Timbers has departed from New Ireland for West Coast Manus to widen and promote a similar split in the Kali Bay community and to commence a timber war against Monarch Investments which is contracted to a rival group of landowners. The background to this timber war is outlined in Vol 2 App.4 p.24-30).

#### **9 THE ROLE OF NATIONAL AND PROVINCIAL FORESTRY OFFICERS**

In New Ireland the National DOF was placed under sustained pressure from the foreign companies, their landowner "puppet" companies and local and national politicians and leaders. In some instances this pressure was led by leaders as powerful as the New Ireland Premier Robert Seeto, the Deputy Leader of the National

Opposition Sir Julius Chan, and other provincial and national politicians. The Secretary and the DOF were being asked to approve or ignore operations which were completely illegal or contrary to National Forestry Policy. The DOF was sometimes slow and inefficient but the conflict situation in which it found itself was often a true reflection of the conflicting interests involved. Those officers who remained honest and dedicated to their job were trying to administer legislation and policy which was designed to protect a continuing forest resource for future generations.

To protect the forest resource required DOF to moderate the scale and methods of exploitation so that the environment was protected and a future timber industry could be maintained. DOF's job also was to ensure that justice was done to all landowners. In regard to Timber Permit Areas, this meant ensuring that a full explanation was given to owners about the effect of selling their timber rights to the State and to ensure that all the true owners understood, agreed and signed the TRP agreement. It meant analysing and discussing the needs of the people and the environment to ensure that proper and appropriate conditions were put in timber permits and enforced. This was absolutely essential as royalty payments were small and soon spent - the main benefits for the people from a timber permit operation would be the side benefits promised by the foreign company and included in the Permit Conditions, such as roads, bridges, sawmills, agricultural projects and reafforestation. In regard to Local Forest Areas DOF's role involved inquiring into the proposal and briefing the Minister on the local and national interests. It also involved checking to ensure that all the true owners were represented by the signatories to the Dealing agreement and covered by the Certificate of Authority

signed by the Prescribed Authority (the Secretary Department of New Ireland). (A full description of the legal requirements associated with the allocation process is given in Section 12 below.)

National Forestry Officers however were pitted against local landowners and leaders who had been sold on the idea that a timber development would mean immediate riches and future economic development as a matter of course.

Few landowners appear to have appreciated the real value of their timber resource and that it was the basis of their living environment and their community's best long-term prospect of providing for a continuing cash income. Once the prospect of selling the timber for immediate cash was placed in their minds they became militant in their desire to see the trees falling and the logs being transported to the beach. At times this misguided militancy has been whipped almost to a frenzy by landowner company directors and officials and so-called Public Relations Officers, all of whom were paid by, or benefited from, the foreign timber company seeking the right to harvest and market the resource. (Such whipped up frenzy is most likely to occur when rival timber contractors have both placed their machines in the same area and it can lead to blocking roads, chasing operators off and burning bulldozers.)

Despite these pressures some national DOF officers stood firm and genuinely tried to enforce the legislation and stated policy. They rarely received support, however, from the provincial Forestry Officers who were no longer responsible to national headquarters but to the Provincial Secretary and the Provincial Government (led at the time by corrupt Premier Robert Seeto). These provincial officers faced immense political pressure and

great financial temptations. Not surprisingly their first loyalty was not to the Secretary DOF in Port Moresby but to the provincial politicians and officials upon whom their job depended.

#### 10 THE ROLE OF THE NATIONAL MINISTER FOR FORESTS

The national officers were however entitled to expect support from the National Minister for Forests in their battle to enforce the policy and the legislation. Unfortunately this was not always forthcoming. I have found instances where a national Minister deliberately undermined the Secretary DOF and worked against legislation and policy. There are other instances where the National Minister simply gave in to pressure as being perhaps (politically) irresistible. These matters are described in the appendices but the following instances of Ministers acting against advice and contrary to law and policy will serve to illustrate the point:

(a) In September 1985, under extreme pressure from Sir Julius Chan and other politicians, and against Departmental and State Solicitor's advice, Minister Waka wrote a letter of intent which promised the issue of a timber permit over Danfu Extension TRP area to Tasutolak and approved the terms of its logging and marketing agreement with Gaisho. In directing Secretary Mamalai, in writing, to prepare the permit documents Minister Waka added the rather rueful comment:

"Secretary, should we have any problem in this project I know the politicians of the area including Sir Julius Chan are equally to be blamed" (Vol 3 App.6 pp 20-21).

(b) In the case of Kabil LFA, Minister Diro rejected advice given in the clearest possible terms by Acting Secretary Dike Kari. The

Minister persisted in approving log exports by a completely illegal operation which eventually proved very profitable to Bruce Tsang's company, Sakai Management, but disastrous for the people. For his correct and courageous stand Mr Kari was severely reprimanded (Vol 4A App.7 p 29-30).

- (c) There is evidence that Minister Torato gave an immediate letter of intent to declare the Napanta Nubui LFA and to approve the logging and marketing agreement between Patpatar Enterprises and Bruce Tsang's Nationwide Consultants after Tsang had promised support for the United Party candidate Lindsay Lailai. (Vol 4A. App.7 p.69 et seq) Mr Torato also gave a letter of intent over the same area to Sopathin, which caused terrible problems.
- (d) Minister Stack also, recently, ignored clear departmental and legal advice which said it would not be lawful to approve two different dealings within the one LFA. To resolve a timber war in the Napanta Nubui LFA he proceeded in October 1988, to approve one dealing for Daha Na Malit (backed by Santa) and another for Patpatar (backed by Tsang's Nationwide Vol 4A App.7 p.79-79).

#### 11 THE ROLE OF THE SECRETARY DEPARTMENT OF FORESTS

The role of the Secretary has varied depending upon who filled the position. Andrew Yauieb who was probably the strongest and most correct Secretary himself issued letters of intent (under great pressure and threats of legal action) over Danfu TRP (Vol 3 App.6 p.9). Under Oscar Mamalai the Secretary's stand fluctuated. In

earlier days, when he was advising Minister Waka, he generally took a firm stand in support of the forestry legislation and policy as he saw it. Under Minister Diro, after some initial confrontations during which Mr Diro, advised by outsiders, over-ruled or by-passed Mamalai's advice, Mr Mamalai appears to have given up the effort and simply gone with the current. From then on he weekly accepted Ministerial orders (whether proper or improper) or gave to his Minister only the advice he wanted to hear. Mr Mamalai has admitted to the Commission that he (and his wife) accepted improper payments and gifts (mostly from Chin Ah Eng of Gasmata Resources) related to timber matters (See Interim Report No 2). On that account his compliant attitude towards clearly illegal requests and directions over New Ireland matters raises the possibility of further payments, but no direct evidence of this has been given.

In recent times, only when Mr Dike Kari was in the position of Acting Secretary was firm and correct advice tendered to the Minister and only under his leadership did instructions regularly go out to national and provincial foresters to bring the foreign companies into line. Mostly it was Kari who recommended or gave cease-work orders, cancellation of Permits, refusal of export permits and seizure of logs.

Mr Tagamasau, as Acting Secretary displayed weakness in his advice to Prime Minister Wingti and a readiness to allow operations to resume in Napanta Nubui LFA before the declaration was formally made (Vol. 4 app. 7). Mr Komtagarea, after a promising start with Minister Horik, was not forceful in his advice to Minister Stack over Napanta Nubui LFA (though accurate, the advice was not forceful (Vol. 4 App. 7).

## 12 ALLOCATION OF TIMBER RESOURCES

Under forestry legislation there are only three ways that the right to harvest and sell logs can be allocated:

- a) Timber Permit - under the Forestry Act
- b) Declaration of a Local Forest Area and approved Dealing - under the Forestry (Private Dealings) Act
- c) Native Timber Authority - under the Forestry Act and Regulations

The procedures and underlying philosophy for each of these methods of allocation will now be briefly described, after which I will report, in general terms, on how New Ireland resources have actually been, and still are being, allocated.

### (A) TIMBER PERMITS

#### Planning

The first step towards issuing a timber permit should be a rational decision that it is appropriate to allow a particular area to be harvested. This decision should take into account such matters as:

- (i) The National Interest: It is necessary to bear in mind the desirable annual cut level, the orderly exploitation of this national forestry resource from year to year and from province to province, the preservation of the forestry resource for future generations, the ability of officials to handle the allocation and subsequent monitoring of timber operations, and considerations of national revenue. These matters are intended to be considered in advance, against reliable resource data, as part of a National Forest Development Plan which in its turn must take into account related matters like National road plans,

alternative land uses, hydro electricity schemes and the views of Provincial Governments.

(ii) **The Provincial Interest:** This requires full and effective consultation with the provincial government, which should have its own list of priorities already prepared in accordance with its own Provincial Forestry Plan. It should take into account the overall provincial planning for social and economic development and the competing needs of local communities. The Provincial government should consider such things as its own infrastructure requirements so that the construction of timber roads, for instance, will facilitate its own road building programme and will not distort that programme by diverting funds to the future maintenance of unwanted roads inherited from the timber companies.

(iii) **Resource Survey:** It is essential to have an accurate assessment of the volume and value of the commercially accessible timber in the area under consideration. Usually this should involve aerial survey followed by strip line definition and adequate strip line survey to obtain accurate, comprehensive information. At the same time the social and physical environment should be assessed so that possible damage can be recognised and averted, or at least minimised, by the careful wording (and later enforcement) of Permit Conditions. It will enable certain areas "to be protected from logging - such as steep slopes, water catchment areas, river banks, swamps, areas of human habitation and usage etc." (Saulei App.6 Sch.8)

as well as important traditional sites and sites of importance to fauna (e.g. rare butterfly breeding grounds).

- (iv) **Land and Water requirements:** The Department of Lands and the Bureau of Water Resources should be contacted at an early stage to ensure that logging rights are not allocated over Government land or over Water Catchment areas or in any way which may damage water resources.
- (v) **Environmental Considerations:** Proposed Permit areas should be referred to the Department of the Environment and Conservation to ensure that the proposed permit will not bring logging to an area in such a way as to cause unacceptable environmental damage or at the expense of a proposed National Park or Conservation area.

**Timber Rights Purchase.** This is an absolutely essential step as it is the only way that the government can ensure that the true landowners:

- (a) understand it is proposed to purchase and harvest their timber;
- (b) understand the benefits and adverse effects which can result from the timber operation;
- (c) agree to the proposal and to the price offered;
- (d) are enabled to request that special conditions be inserted in the permit (such as roads to villages and protection of hunting areas and sacred sites);
- (e) can make a meaningful contribution to the planning which should precede operations on their land; and
- (f) receive their rightful payment.

It should be a slow and careful process involving face to face contact with all the landowners (present and

absent). During this process it should be ascertained if ownership of some areas is disputed and, if so, the dispute should be settled or those areas excised from the proposed permit area.

A properly surveyed map of the area and marking of the boundaries on the ground should be completed at this stage. Where the TRP boundaries are not defined by reference to natural features the prominent marking and definition of boundaries is critical to prevent overcutting and to avoid disputes.

#### Issuing Timber Permit

##### **Consultations:**

After the consultation between the Department of Forests and the Provincial Government, the National Department of Works, and Lands and with Bureau of Water Resources and other appropriate bodies is completed, and after the TRP process has been completed, the DOF should be in a position to draw up and publish guidelines and to invite expressions of interest.

##### **Guidelines, proposals and negotiations:**

The next step should be to send to each company which has expressed an interest a copy of the guidelines and invite them to submit a proposal in outline. Companies should be told at that stage of the requirements for DOF pre-registration and NIDA registration. On receipt of the outlined proposals the companies should be short-listed, after which detailed proposals should be submitted and evaluated and detailed negotiations should commence with the few short-listed companies. Permit (and if relevant - Project Agreement) conditions must be drafted and Provincial Governments should be participating in these procedures..

NEC involvement:

As a final step it is highly desirable (and used to be the practice in earlier years) for the Permit and proposed appointee to be put before NEC (for information or decision as appropriate) before the Permit is issued.

**B LOCAL FOREST AREA DECLARATION AND APPROVED DEALING**

Procedures for allocating timber rights in LFA's under the Forestry (Private Dealings) Act are more likely to be initiated by local landowners (or by their consultant or proposed contractor) and are intended to be less cumbersome than proceedings under the TRP process. Nevertheless there are some essential pre-requisites which should be attended to with great care and this is obvious from a proper reading of the Act. The key sections relating to allocation by way of LFA declaration are Sections 4 and 6.

**"4 Local Forest Areas**

(1) Where the Minister, on application by any interested person and on payment of the prescribed fee, or of his own motion, is satisfied that:

(a) it is proper to do so having regard to -

(i) the interests of the owners by custom of the timber on any land including their interests in having their land cleared and so enabling agricultural development to take place on the land); and

(ii) the national interests; and

(iii) the prospects for the exploitation under this Act

(b) the area is one suitable for exploitation under this Act; he shall, by notice in the National Gazette, declare the area to be a Local Forest Area for the purposes of this Act.

- (2) The Minister shall grant or refuse an application for the declaration of a given area as a Local Forest Area within three months of the application being made.
- (3) If the Minister refuses an application under Subsection (1) he shall, within 21 days of refusing the application deliver to the applicant, in writing, his reasons for doing so.

## 6 Assent to dealings

- (1) An agreement for the sale or disposal of timber under Section 5 is of no force or effect until assented to by the Minister.
- (2) Subject to Section 7, the Minister shall assent to an agreement referred to in Subsection (1) unless he is satisfied that -
  - (a) the agreement does not comply with this Act; or
  - (b) the consideration for the sale or disposal is inequitable; or
  - (c) the agreement does not provide for the sale or disposal of what is a reasonable proportion of the total volume of merchantable timber in the Local Forest Area in question, having regard to -
    - i) the economics of forest operations in the area; and
    - ii) the requirements of the proper exploitation of the timber resources of the Area; or
  - (d) if in the prevailing circumstances it is economically feasible to convert a reasonable proportion of the merchantable timber in the Local Forest Area in question into sawn or hewn timber or veneer, or any like product, the person to whom the timber is to be sold or disposed of does not have the capacity to so convert a reasonable proportion of that timber.

- (3) For the purposes of Subsection (2) (b), any scale of royalties prescribed by or under the Forestry Act shall be taken to be the minimum value of the timber concerned.
- (4) The Minister shall assent, or refuse to assent, to an agreement referred to in Subsection (1) within 60 days of the date of issue of a certificate under Section 7 (2).
- (5) If the Minister refuses his assent to an agreement specified in Subsection (1), he shall deliver to both parties to the agreement, in writing, his reasons for doing so within 14 days of refusing his assent.
- (6) Subject to Subsection (7), on application by the owners by custom of timber the subject of an agreement under Section 5, or of his own motion after consulting the owners, the Minister may withdraw his assent to the agreement if a purchaser of timber rights under this Act, or his assignee, is in breach of a term or condition of the agreement.
- (7) Before the Minister withdraws his assent, he shall deliver to all parties to the agreement a written notice -
  - (a) stating that he intends to withdraw his assent; and
  - (b) stating the grounds on which his assent is being withdrawn; and
  - (c) specifying the date (not being earlier than one month after the giving of the notice) on which he proposes to withdraw his assent; and
  - (d) informing the parties that they may make submissions to the Minister within 21 days of the giving of the notice.

### Application For Declaration of LFA (Section 4)

The application can be made by any interested person and in all cases studied by the Commission on New Ireland, this has been a landowner company or a joint venture company in which a landowner company is included. Once the application is made the Minister is given only three months to approve or refuse it and an appeal lies to the National Court against refusal. Before deciding to approve, the Minister must be satisfied (pursuant to Section 4) that declaration will be in the interests of the landowners and in the national interest and that there are reasonable prospects for the economic exploitation of the timber (i.e. that it can be harvested and sold at a reasonable profit).

#### Interests of Landowners:

To be satisfied of these things I consider that there must have been a full investigation into the ownership of the area, into the desires and best interests of the landowners and into the economic feasibility of the proposed operation. Such an investigation should be of similar care and depth as the TRP investigation referred to above. On this basis the resource survey and mapping should be thorough and accurate and the Certificate of Authority should not be signed unless a full investigation into ownership has been carried out - there must also be an investigation into the wishes and the best interests of the landowners. Experience shows that material submitted by a landowner company or its proposed contractor should not be uncritically accepted and that there is a real need for independent verification.

#### Suitability for exploitation:

The Minister must also decide that the area is one suitable for exploitation under the Act (S 4(1)(b)). The

main consideration here would be the size of the proposed area and whether the landowners are united in their desire to exploit the timber resources and how to do it. The suitability for exploitation requirement should also oblige the Minister to consider how exploitation will fit in with National and Provincial planning, environmental aspects and the views of the Bureau of Water Resources. He should consider whether there are competing alternative uses for the area. As section 6 obliges the Minister to consider the economic feasibility of processing a reasonable proportion of the timber, he should be presented with, or be seeking, data on this possibility also, at this early stage of the application.

**National interest:**

It is important that Section 4 obliges the Minister to be satisfied that declaration of the particular local forest area will be in the national interest. Thus, even though the Forestry (Private Dealings) Act is designed to allow landowners greater freedom to make decisions about the exploitation of their own timber resource, Section 4 still imposes the vital limitation that exploitation of this area, with the loosened government restraints allowable in local forest areas, must be in the national interest.

All the national considerations referred to above for TRP areas are also relevant in Local Forest Areas. The Constitution still imposes a duty on government to protect the forest resource for the benefit of future generations and this means that the Minister must consider broad aspects of forestry planning on such matters as maintaining an assured supply of timber and forest products to satisfy the needs of each province. In a province such as New Ireland, where the resource is nearly exhausted, this aspect becomes acutely important. It will not be in the National interest for New Ireland

to become dependent on expensive imports for its future timber needs or if New Ireland is denied the possibility of developing its own processing industries for the domestic and export market.

The Minister must also consider the immediate effects of a timber operation on neighbouring areas. Logging has very substantial effects on soil stability and water quality. Depending on the terrain and the nature of the proposed logging it can cause slips, erosion and irreversible damage to rivers and streams, with extremely detrimental effects on neighbouring communities. It may well not be in the national interest to allow one group to unleash a severe environmental attack on its own land unless it is subjected to strict conditions and unless the operation, and the degree of compliance with those conditions, is strictly monitored by government officers. Provision of such a monitoring service will put competing demands upon the national and provincial forestry services and this raises another consideration of national interest.

Once a logging operation is commenced it becomes necessary to transport the logs to the sea and this will frequently involve the heavy use of national and provincial roads or, possibly, the use of a river to float logs to the sea. As transportation of the logs will have this effect outside the immediate timber area, and will involve the use of national funds and resources, it raises another consideration of national interest.

Finally the Minister must consider the size of the area involved and the nature and purpose of the logging. If it is a very small area and the exploitation is intended to feed local sawmills, for instance, it may not raise many considerations of national interest. If however the area is very large and the logs are intended for export, and

if there are likely to be disruptive social and environmental effects, then questions of national interest may be very important considerations. In New Ireland, where the Minister will be considering whether to allow exploitation of the few remaining timber areas then any degree of exploitation (by way of LFA declaration, or by TRP process), raises seriously the question - is it in the national interest?

**Departmental and Provincial Government advice:**

The Act gives power to declare LFA's to the Minister alone, and it imposes upon him alone the duty to be satisfied of these matters just discussed. Under our system of government, however, the Minister is provided with a Department to carry out research, make surveys, consult with landowners and investigate the background of applicants .. etc. The Department has access to other specialist government agencies for advice and technical assistance on such such things as economics, environment and alternative land uses.

Although under the Act the Minister for Forests, theoretically, has exclusive power of decision on these matters concerning LFA declarations, it is incumbent on him to seek, and give due weight to, the advice of his departmental officers before making final decisions.

These considerations of the national interest, the interests of the landowners and the possibilities of economic exploitation really require the National Minister to insist that proper evidence is before him that satisfies him as to these requirements. Although the Act puts a three month deadline on the Minister to reach his decision whether or not to declare the LFA, I believe he would be upheld by the National Court if the ground for his refusal or deferral of an application was

that this evidence had not been put before him. The burden of providing that evidence would fall on the applicant. If the applicant supplies no evidence, or supplies only unreliable evidence, the Minister cannot be satisfied that the requirements of Section 4 have been fulfilled. If there is any duty on the Minister to seek out the evidence himself the three month deadline would often be impossible to meet in a responsible manner. The Minister would have to seek the information through his departmental officers who may be legitimately occupied with other matters of equal or greater importance. These factors would surely move the National Court to uphold a Ministerial decision to defer consideration until the evidence can reasonably be made available.

#### The Dealing

The completion of the Allocation process under the Forestry (Private Dealings) Act occurs when the Minister approves (ie assents to) a Dealing between the landowner company and the local landowners. Again he is given a deadline to approve or reject the Dealing - this time within 60 days of receiving the Certificate of Authority (Section 6(4)).

Pursuant to section 6(2) the Minister must assent to a Dealing unless he is satisfied that the dealing does not comply with the Act, or that the sale price is inequitable or that the agreement does not provide for the sale of what is "a reasonable proportion of the total volume of merchantable timber". These requirements involve a careful study of the volume and value of the timber (which data should have been supplied with the application for declaration), then the terms of the dealing must be considered to see if the price offered to the landowner by the landowner company is fair. The only guide to what is an equitable price set out in the Act is at section 6(3) which sets the royalties prescribed under

the Forestry Act as the minimum. These are, however, notoriously low and should not be applied automatically.

To decide what is equitable the Minister will also need to know what will be the cost of harvesting and disposing of the timber and what will be the fair anticipated price which the landowner company should receive. This in turn will probably involve studying the proposed logging and marketing agreement with the proposed contractor to ensure that the landowner company will retain a fair share of the FOB price.

Section 6 also emphasises that the prime consideration in the mind of the Minister should be the question of local processing of the timber if that is possible. The section provides that if it is economically feasible to process a reasonable proportion of the timber into sawn timber or veneer ... etc. the Minister is not obliged to assent to a dealing if the proposed purchaser does not have the capacity to undertake such local processing.

There is no evidence on DOF files studied by the Commission or elsewhere that this provision has ever been properly considered by DOF or by a Minister before assent has been given to a dealing. No data has been presented to or sought by any Minister on this vital aspect.

#### **Certificate of Authority:**

The issuing of a Certificate of Authority is an absolutely essential part of the process of approving the commencement of an operation in a Local Forest Area. Once the dealing is signed between the company and persons described as the landowners or their agents it is necessary for a prescribed authority to certify that the signatories genuinely are the owners or that they represent all the owners by custom of the land described in the LFA declaration. In New Ireland it seems the

former Provincial Commissioner was gazetted as the Prescribed Authority and it is assumed that this appointment was granted to the Office holder for the time being and has been inherited by the Provincial Secretary as successor to the District Commissioner. These assumptions present some legal difficulties and it would be highly desirable for an appointment and gazettal to be made in clear terms. (In some other provinces it is definite that no prescribed authority has been appointed.)

It is essential that the Prescribed Authority takes his task seriously and that a proper investigation of ownership and consent by the owners is carried out before the certificate is issued. There should be no need to hurry in this task as the Minister is under no legal pressure to allocate rights to the resource at this stage. Only after a carefully investigated Certificate has been handed to the Minister is the time pressure applied to the Minister.

Thus once the Minister has declared the LFA (which only takes effect upon publication in the National Gazette) the Act puts no pressure on him to assent to the dealing until 60 days after receiving the Certificate of Authority. He then must assent unless he is satisfied that one of the section 6(2) grounds for refusal exist. Whereas the wording of section 4(1) puts the burden of satisfying the Minister (regarding Declaration of the LFA) onto the applicant, Section 6 seems to reverse the onus and obliges the Minister to assent to a dealing unless he has found grounds which justify refusal under Section 6(2). After receiving the Certificate of Authority he has only 60 days to find or to be made aware of those grounds. For this reason it is desirable for him to insist that an applicant for a Declaration

provides him, right at the start, with full and reliable information before he declares the LFA.

### C NATIVE TIMBER AUTHORITIES (TA)

There is some scant authority in the Regulation making section (Section 34) of the Forestry Act permitting regulations regarding the purchase of forest produce from natural citizens by persons other than natural citizens. Pursuant to this power the Forestry Regulations (Regulations 16 to 18) provide for the grant of timber Authorities (TA).

In commercial terms the regulations permit a TA to authorise the purchase of logs not exceeding 40 cubic metres in volume.

Historically the Timber Authority had its origins in early times, under the colonial administrative system when the old Transactions with Natives Ordinance provided paternalistic protection to natural citizens in their dealings with outsiders. I have no doubt the TA was intended to cater for situations where the *kiaps*, missionaries and traders needed to buy timber to construct stations, churches and trade stores.

From these humble and small scale origins the DOF actively developed a practice whereby larger scale and commercial timber operations were authorised by the issue of a succession of TA's or multiples of TA's at one time. Such a practice led to the TA system in fact becoming a defacto "Timber Permit" system and the origins and statutory authority for TA's were lost sight of. The DOF developed and issued guidelines for TA's which permitted the issue of multiple TA's to authorise the purchase and extraction of up to 5,000m<sup>3</sup> of logs under one series of multiple TA's issued at one time. But the guidelines prohibited the export of the logs harvested under TA's.

The royalty rates fixed under the Forestry Regulation for TA's were ignored and the royalty system applicable to Timber Permits was applied and provisions were imposed whereby royalties payable were split between the National and Provincial Government. This whole utterly irregular process was then taken even further by the issue of multiple TA's for volumes in excess of the guideline limit of 5,000m<sup>3</sup> and by the issue of multiple TA's to authorise export log shipments.

The grossest examples of the perversion of the system and the extent of the irregularity include:-

- (a) issue on 30.9.87 to Amazon Bay Sawmilling Pty Limited of NTA No 23574 for "1200 TA's" covering 48,000m<sup>3</sup>; of "saw and export logs".
- (b) issue on 29.9.86 to Varagardi Resources Dev. Pty Ltd of NTA No 23566 for "875 TA" covering 35,000m<sup>3</sup> of teak thinnings.
- (c) issue on 29.9.86 to Amazon Bay Sawmilling Pty Limited of NTA No. 23565 for "600TA's" covering 24,000m<sup>3</sup> of "saw and export logs".

The Native Timber Authority books for 1986 and 1987 produced to the Commission by the PFO in New Ireland disclose:

- (i) The issue of 71 Native Timber Authorities Nos 12602 to 12650 and 6001 to 6022 to Sakai Management in April and May 1986 covering 2840m<sup>3</sup> of logs from Kabil area (Vol 4A App 7 p.21 of seq);
- (ii) The issue of 55 Native Timber Authorities No's 30102 to 30150 and 18652 to 18657 to Lenai Enterprises on 9.1.87 covering 2200m<sup>3</sup> of logs from Lenai Village in Namatanai District;
- (iii) The issue of a further 21 Native Timber Authorities Nos 10601 to 10621 in March 1982 to Lenai Enterprises covering a further 840m<sup>3</sup> of logs;
- (iv) The issue to Nationwide Consultants of 29 Native Timber Authorities Nos 10622 to 10650

in May 1987 covering 1160m<sup>3</sup> of logs from Punam and Kisela Villages in Namatanai District. (Vol 4A App.7 p.62 et seq)

The NTA's issued to Sakai Management were issued after the fact of felling, on the instructions of DOF Secretary Mamalai, in an attempt to legitimate log exports from the Kabil Area. A total of 24,762m<sup>3</sup> of logs was exported from Kabil and only 2840m<sup>3</sup> were in fact authorised by the NTA's issued after the event. The balance of 21,922m<sup>3</sup> were harvested and exported without any legal basis at all. (Vol 4A App 7 p.21 est seq)

The NTA's issued to Nationwide Consultants were issued by PFO Masu (without DOF knowledge) to enable it to continue to log in Napanta Nubui LFA at a time when its operations in that LFA were suspended by DOF.

#### THE DEFACTO ALLOCATION PROCESS

In the light of the overwhelming evidence of irregular allocation of resources in New Ireland Province I am forced to the conclusion that there has been little genuine attempt by successive Ministers and DOF Secretaries since 1985 to properly administer the legislation and stated policy on allocation by way of Timber Permit, LFA or Timber Authority. The one exception has been Acting Secretary Kari. The fault has been not so much the inadequacy of the legislation and policy (though it is inadequate) but in not enforcing it.

Reading the introductory sections on allocation of Resources in all the accompanying volumes of appendices will clearly demonstrate how very far removed actual practice has been from the proper procedures and considerations I have just described.

The following is a list of some of the irregularities which have occurred in the TRP procedures, in the issuing of permits, LFA Declarations and Certificates of

Authority; and in assenting to Dealings, and issuing Native Timber Authorities.

Timber Permits

- (a) failure to complete TRP in all cases; Under the legislation the consent of all landowners to the timber rights purchase is required and this was not achieved in any of the TRP procedures studied by the Commission on New Ireland.
- (b) issuing Timber Permit despite 47% of landowners not having signed the TRP agreement and over half the agents having shown their disapproval by returning the deposit monies (Vol 3 App.6 p.22)
- (c) issuing letters of intent to issue a permit without any investigation and before the TRP is completed or documentation has been prepared;
- (d) approving commencement of the operation before the TRP is completed and even allowing an operation to finish before the Timber Permit was issued.

Local Forest Areas

- (e) assenting to dealings before the LFA is declared;
- (f) issuing instant letters of intent to declare LFA and assent to dealings;
- (g) assenting to Dealings before a Certificate of Authority is issued;
- (h) assenting to Dealings in which the agents listed do not coincide with those listed on the Certificate of Authority;
- (i) Assenting to dealings and agreements where the company concerned is not incorporated;
- (j) Assenting to dealings where the Certificate of Authority has been issued on the spot with no investigation by the prescribed authority;

- (k) Assenting to dealings where the area involved differs substantially from the area of the LFA;
- (l) Issuing letters of intent to declare LFA with no description or map of its boundaries;
- (m) Issuing Certificate of Authority and assenting to a Dealing both of which omitted a large group of landowners;
- (n) Issuing two letters of intent to two different groups for rights over the same area;
- (o) Allowing operation to commence and to continue and to export logs before there is any legal basis because -
  - (i) no LFA
  - (ii) no dealing
  - (iii) no Logging and Marketing Agreement
  - (iv) no approved logging and marketing agreement;
- (p) Approving grossly unfair agreements;
- (q) Approving dealings and agreements for landowner companies which are clearly mere fronts for a foreign contractor and which have no independent capacity to conduct a logging and marketing operation, to honour dealing conditions or even to supervise the activities of its contractor;

#### Native Timber Authorities

- (r) Approving (even directing) that Native Timber Authorities be issued to allow harvesting and exporting of many thousands of cubic metres of logs and then recommending the issue of export license;
- (s) directing that NTA's be issued to legalise the exporting of illegal forest produce;
- (t) the PFO issuing NTA's without DOF knowledge to permit a contractor to log in an LFA area under the authority of TA's at a time when its operations in the LFA were suspended.

### Logging and Marketing Agreements

Similar irregularities have occurred regarding logging and marketing agreements.

Once the Permit has been issued (over a TRP area), or a Dealing over an LFA has been assented to, the next step, obviously, is to arrange for the area to be logged and then for the logs to be marketed. In New Ireland the rights have been allocated by Permit or assented Dealing to a landowner company in all cases except the three Joint Venture operations previously referred to (NII, DLAD and NIOD).

The landowner companies in New Ireland have had no capacity to carry out the work themselves, in fact, in most cases, they have had hardly any existence independent of their foreign mentor. Invariably they have contracted the logging to a foreign timber company which usually also contracts to do the marketing. It is this foreign company which is the substantial entity behind the operation and it was often involved in promoting the whole thing from the beginning.

The standard conditions of permits and dealings require that the approval of the Secretary DOF be obtained before logging and marketing rights are contracted out. No criteria are set out for the Secretary's guidance in this matter but, logically, he should consider:

- (a) whether the logging and marketing agreement passes on the crucial Permit or Dealing conditions to the contractor. As the landowner companies themselves have had little financial substance or forestry experience it is essential that the DOF and the landowners can look to the contractor to enforce conditions;
- (b) whether the contractor has the financial capacity and experience to carry out the operation and to honour the conditions;

- (c) whether the contractor has a good record as regards transfer pricing, logging practises and environmental impact;
- (d) whether the contractor is pre-registered and NIDA registered;
- (e) whether the agreement is fair to the landowner company.

Fairness: The extent of the State's responsibility to protect the landowner company from entering into an unfavourable agreement with the contractor is not clear. Under the legislation the Minister must be satisfied that the timber development will be in the best interests of the landowner and there are obligations upon him to consider the feasibility of economic exploitation of the resource.

Normally the foreign contractor is in a stronger bargaining position when the agreements are made and often has a monopoly of expertise and legal advice. In these circumstances, I consider that the Secretary should examine the agreement and consider the likely market price, the cost of extracting the timber and performing the conditions imposed on the operation and then assess whether the way the agreement apportions the profits is fair.

Under the standard conditions of permits and dealings, then, the Secretary's approval to logging and marketing agreements is required and, as a matter of administrative law and common sense the exercise of his discretion, whether or not to approve an agreement should be based on some criteria similar to those set out above. In practice however the following situation has prevailed:

- (a) The majority of logging and marketing agreements submitted to DOF were rejected in their original form as being unfair.

- (b) Nevertheless it was common for the operation to commence on the basis of that original agreement and for several shipments to be made and the proceeds divided under the unfair agreement. DOF simply tolerated that situation.
- (c) In instances where the agreement was later revised in more fair terms, the landowner company was unable to recoup the share it lost under the previous unfair agreement.
- (d) In the few cases when an agreement received DOF approval that approval was not given on the logical grounds set out above. Thus approval has been given to unsuitable contractors and the fairness was not based on a proper assessment of the value of the standing timber and the cost of extracting it. The approved agreements consequently seem greatly in favour of the foreign contractors.
- (e) Some of the unapproved agreements did not impose the permit or dealing conditions onto the contractor (Vol. 2 App. 1 and Vol. 4A A.p. 7).
- (f) In almost all of the logging and marketing agreements there were conditions to protect the landowner companies from transfer pricing and to ensure that all letters of credit were opened in their favour. These conditions were simply ignored by the contractor companies, as control of the letter of credit and distribution of the proceeds was the very basis of their illegal profits. These breaches of contract conditions occurred with the full knowledge of DOF yet no action was taken.

#### **Effect of Irregularities in Allocation of Resource**

There were serious irregularities with the allocation and commencement of almost every New Ireland operation studied by the Commission and these were not merely

technical defects of form. They were irregularities which had effect on substantial matters. For instance:

- (a) serious defects in TRP procedures meant that the consent of some of the landowners was dispensed with;
- (b) proceeding by way of letter of intent meant vital DOF investigations, advice and technical assistance (in drafting conditions for protecting the interests of landowners and governments) were bypassed by the Minister in order to give a quick approval to one company;
- (c) irregularities in LFA Declarations, Dealings and Certificates of Authority have meant opening the door to total confusion and injustice with overlapping boundaries, owners missing out on royalty payments, the commencement of timber wars and to conflict and division being caused in local communities;
- (d) issuing NTA's for massive volumes of log exports meant sanctioning illegal activities, and encouraging future illegal operations. It allowed large scale unmonitored exploitation of the resource with no conditions protecting and benefitting the landowners.
- (e) the existence of unapproved, or wrongly approved, logging and marketing agreements deprived landowner companies of hundreds of thousands of kina directly and the failure to enforce their marketing conditions provided the foundation for the multi-million kina transfer pricing schemes.

Permeating through many of these irregular allocations there has been the smell of impropriety, described elsewhere as an air of dishonesty. The smell comes from a bubbling brew of many mixed ingredients and the aroma

changes depending upon which ingredients surface at the particular allocation. The ingredients include corruption, improper benefits, political lobbying and manipulated demands, threats and outcries from unrepresentative landowner companies, (or from a genuine landowner company which has been "possessed" by a foreign contractor who has bribed its directors and infiltrated it by introducing its own lawyer, consultant and accountant).

The predominant smell arising from allocations to Gaisho tends to be from the ingredients of "political lobbying" and demands from "possessed" landowner companies. The stronger smell which arises from allocations to Tsang, MOI and Santa includes also a strong blend of corruption and improper payments.

From the foreign timber companies' viewpoint the factor which overrides everything else is the urgent need to keep its machines and men operating, as one dwindling resource area after another cuts out. With its expensive machines on lease, it simply cannot afford to stop work - especially as all its reserve funds have already been transferred tax free, overseas. For such desperate companies it is an easy task to play upon the shortsighted desires of (often poorly educated) landowners for quick cash returns for their timber, and to play upon the greed of landowner company directors and officials for quick personal gains.

From the point of view of successive national government Ministers the rapid, unplanned, allocation "handout process" which has resulted from the intense pressure from landowners and foreign companies is acceptable because, in the short term, it reduces electorally damaging discontent amongst their cash-starved constituents. When some of the foreign companies also adopted the policy of

bribing or giving favours to national and provincial politicians and officials in exchange for support for their timber operations, the restraining influence of DOF over unauthorised and excessive exploitation was simply bypassed.

Knowing full well that the foreign companies were transferring secret funds into overseas accounts, several provincial and national politicians attached themselves to those Companies like leeches, making repeated demands for personal benefits and for political campaign funds. Indications that politicians were receiving such funds arose frequently at the Commission's public hearings and from studying files and documents. It is usually difficult to obtain direct evidence of such payments or demands for payments but it was available in the following instances about which I have made finding of fact against the following politicians:

E.R. Diro: requested the sum of USD127500 from Francis Sia of Santa Investments for funds for his political party. (Vol 2 App.1 p.4 and Schedule 2). He said that he received nothing from this request.

Gerald Sigulogo: Member of the National Parliament and current Minister for Housing, requested USD 30,000 from Francis Sia (of MOI) and received at least the sum of USD 2,000 and a return trip to Singapore and a promise to pay K2,000 towards his election expenses. (Vol 2 App.1 p. 28-31).

Sampson Gila: Provincial Government Member and former Minister who received at least K2000 from Michael Sia of Santa (and probably more). (Vol 2 App.1)

Lindsay Lailai: United Party secretary and election candidate for Kavieng Open seat in the 1987 National elections received campaign assistance from

Bruce Tsang in exchange for a promise by his Party Leader, Forestry Minister Torato, to speed up the declaration of Napanta Nubui LPA. (A letter of intent was issued immediately.) (Vol 4 App 7)

Robert Seeto: Provincial Premier. He received payments and benefits in excess of K40 000 from Bruce Tsang in respect of his timber operations (Vol 4 Appendix 7 p.94-97). He requested from the Sia brothers of Santa Investments personal payments of salaries of "K1,600 per month payable fortnightly in cash - not banking possibly collected" and other payments in excess of K58,000. In addition he requested many thousands of kina as contributions to Peoples Progress Party funds. In his coded requests a "cabbage" meant K1,000 and an "apple" meant K100 (Vol 2 App 2 Schedules 2-7).

It is also quite clear that other substantial funds were collected from timber operators for the funds of political parties including the United Party and particularly the New Ireland Branch of the Peoples Progress Party. Evidence given in the Angus investigation indicates Santa also made substantial contributions to the National Party.

#### OVER-ALLOCATION OF RESOURCE

With key Ministers and members of the National and Provincial governments and political parties seeking, and in some instances gaining direct personal benefits from the exploitation of timber resources one would expect that there might be a tendency to over allocate the resource. In regard to New Ireland however overallocation has been institutionalised as a matter of National Government policy.

#### Government Policy:

Since 1979 the major emphasis of government policy has been to increase the volume of log exports and this was

the expressed objective of Minister Diro (speaking of vastly increased log exports) and Minister Torato (with the stated objective of doubling log exports, in a year). Under Mr Wingti as Minister and then under Minister Horik the DOF worked to an imposed tight schedule to increase the rate of allocation for log export purposes. Under Minister Stack this tempo of allocation seems to have increased even further. In Mr Stack's 1988 NEC submission, which gained NEC approval for the National Forest Development Programme 1987 - 1991 NFDP), it was claimed:

"that an additional 1,200,000 cubic metres over the 1988 harvest will be added on in 1989. Approximately 900,000 cubic metres of the above volume will be exported in log form".

"Over the last 5 years the volume of log export increased by about 45% to 1,400,000 cubic metres in 1987. This year this can increase to 1,550,000 m<sup>3</sup> and up to 2.3 million m<sup>3</sup> at the end of 1989 or early 1990."

Any careful analysis of the basis on which DOF resource surveys have been conducted, and the way in which estimates have been calculated, will show that the figures used by DOF and its Ministers as justifying the incredible rate of log export increases which have occurred over the last five or six years are totally unreliable and widely overstated.

Making these unrealistic resource estimates and applying this increased log export policy to New Ireland has resulted in a scandalous overcommitment of its dwindling forest resource which is described in detail in Schedule 1 to this volume. DOF's estimate is that approximately 3,837,374m<sup>3</sup> of resource remains for harvesting if the balance of unharvested timber remaining on allocated areas is added to the volume left on unallocated areas.

From my detailed studies of New Ireland timber areas it is quite obvious that the calculations are vastly over optimistic (See Schedule 1).

Even if DOF's unrealistic figures are accepted, for that remaining resource to be managed on a sustained yield basis would require the annual harvest to be dropped to 95,934m<sup>3</sup>. For 1988 alone, however, the permitted level of cut was 603,560m<sup>3</sup> and on DOF's own figures and projections the cut rates already committed for the years 1988 - 1994 will be three times the sustained yield cut rate (based on a sustained yield cycle of 40 years). Even if there is no new resource allocation at all there are present commitments to harvest the New Ireland forests during the next five years at a rate which will be 1.5 million m<sup>3</sup> above the sustained yield cut rate. If the NFDP approved by the NEC is implemented, and virtually all the remaining unallocated resource is allocated according to that programme, the rate of harvest and the margin above sustained yield cut rates will be vastly increased.

If a realistic set of figures is used to make these projections the situation is that the already allocated resource areas will be cut out completely in about three years. That leaves (even on DOF's exaggerated figures) a total of only 1,627 660m<sup>3</sup> remaining on unallocated areas, all of which are planned for allocation before 1991/92. At the rate of cut planned, that remaining resource will be cut out at the end of the various allocation periods (three, six or perhaps ten years).

These official estimates and plans are what has led me to state that the pressure to overcut the forests, which is caused by a combination of landowner pressure, and foreign company manipulations and payments (helped by bribes and hand outs to politicians and officials), has

been institutionalised by official government policy. In New Ireland, at least, the reaction to unprogrammed demands for new allocation of harvesting rights and the commencement of illegal operations has been to adapt policy to accommodate those pressures. These pressures are referred to specifically in the 1988 NEC submission.

*"There has always been pressures from politicians, landowners and the private sector to have projects other than those in the Programme (NFDP) established. The Programme is therefore essential to ensure orderly development of the forest resource."*

For New Ireland the Government has cured the problem of demands being made for unprogrammed areas by simply programming all areas for allocation and log export commitment before 1991/92.

The overallocation of resources would not be so serious if a healthy young growing forest was left surviving after timber operations. Unfortunately, adequate conditions to ensure protection of young trees, natural regeneration and reafforestation have not been standard conditions in Timber Permits and LFAs in New Ireland. Even such conditions as existed have not been properly monitored and enforced (See below) and the result is that we may have to wait 70 years or more for the next harvest (if any). (See summary of Vatasan's evidence Vol. 3 App. 6 p.37-8)

### **13 PERMIT CONDITIONS, DEALINGS AND AGREEMENTS**

In New Ireland Province most of the timber areas have been comparatively small and allocated for periods of short to medium duration. With the exception of New Ireland Otsuka there have not been attempts to draft up detailed conditions, reflecting the needs of the people

of the particular area, which are commonly found in the negotiated Project Agreements accompanying the issuing of timber permits in some of the larger timber areas in other provinces.

The Central New Ireland permit obliged New Ireland Otsuka Development Company to build substantial infrastructure in exchange for the logging rights to some 700 000m<sup>3</sup> of timber. When it failed to build a kiln dry plant, a wharf, a town, a furniture factory and a planing mill on schedule it was ordered to stop work. The contract promises had proved to be a worthless sham designed to win the permit and to permit large scale log exports. When the State imposed pressure to fulfil infrastructural obligations by limiting log exports, the operation wound down and went into liquidation.

Such specialised conditions in other New Ireland agreements were few and limited to such things as clearing land for agricultural development and possibly to provide assistance to get it started. In some areas (such as Danfu Extension) a contribution to an agricultural trust fund was made a condition of the permit.

The result of these attempts to stimulate agriculture by imposing such conditions on timber companies is described in Section 16.

For the most part permit and dealing conditions have been fairly standard and, usually, were passed on to the foreign contractor by the logging and marketing agreement. Common requirements regarding good logging practices, environmental protection, road and bridge construction, reafforestation and natural regeneration techniques and royalties were imposed as conditions in permits and dealings. The degree to which each company

carried out these obligations is described in the appendices.

In general terms it can be said that the logging practices and environmental protection conditions have been broken by all companies studied and that supervision by forestry officers has been very weak. Road and bridge construction conditions have been performed somewhat more conscientiously and there have been occasions when provincial forestry officers have applied pressure and even threatened to refuse export permits until roads were improved. The standard of lesser logging roads, however, has been poor and most such roads and bridges are designed only for the life of the operation in that area. Reafforestation and regeneration conditions, where they exist, have not been fulfilled. These operational matters are discussed in more detail in Section 16.

The Commission discovered numerous examples of sustained undergrading by timber companies which had not been detected by the Provincial Forestry Officers. The worst example was United Timbers on Mussau Island where substantial undergrading occurred throughout the whole of 1986 when up to 80 percent of some shipments were graded at the lowest category of low grade sawmill log (SS3). The underpricing caused by down grading is very significant. For instance the difference in the MEP schedules between a pencil cedar log graded SS1 and a pencil cedar log graded SS3 is USD 20 per m<sup>3</sup>. Another bad example was Gaisho operating for Djaul Development Corporation where, after hearing complaints of undergrading against Gaisho, the Commission made an unscheduled visit by helicopter and discovered a ship loading logs, none of which had been graded at all. (Vol.2 App.6 p.36).

The Commission also found numerous instances of other undetected but long standing breaches of permit conditions such as:

- (a) uncompleted agricultural projects;
- (b) non existing reafforestation plots;
- (c) taking undersized trees;
- (d) logging on slopes;
- (e) massive wasteage;
- (f) pollution of streams and beaches;
- (g) reckless logging practices;
- (h) failure to submit monthly log returns;
- (i) delayed royalty payments;
- (j) below standard roads.

It was clear that the provincial forestry office was provided with inadequate funds and transport and that its morale was low. A major problem was that the Assistant Secretary, Mr Jack Masu, was thoroughly compromised by his close association with one of the most blatantly corrupt, dishonest and illegal loggers (Bruce Tsang).

There were indications that the foreign companies could be made to respond to firm monitoring and enforcement of Forestry legislation, policy and permit conditions (e.g. once confronted by DOF, United Timbers did correct its undergrading on Mussau island during 1987).

(See comments on monitoring generally in Schedule 2).

The Commission discovered that monitoring a timber operation is very difficult when the forestry officer is dependent on the company for transport, because he is shown only what the Company wishes him to see at that time.

When the Commission inspected operations by hired helicopter, however, the situation was completely different. Accompanied by a forest inspector (Mr Mantu) the Commission was able to drop in unexpectedly on every operation in New Ireland in one day (except Mussau Island

which was too far). The arrival took the operators completely by surprise and gave the initiative to the officer to decide what part of the bush to visit, which roads to inspect, when to drop down at the log pond and when to visit the office to inspect records. In this way a very good idea of an operation could be gained in one hour.

#### 14 MARKETING

With only a few exceptions the marketing practices of every exporter of logs from New Ireland during at least 1985 -1987 were studied. The companies not studied were Groomes, Channel Timbers (which, it is said, exported through Traders) and two very small exporters Lopanga and Lenai Development which exported an insignificant volume of logs. The marketing of Timbersales and NIOD was not studied as they were not marketing New Ireland logs during the period 1985 - 1987.

The marketing of several of the companies is fully reported in the appendices to this Interim Report and the marketing of others reported upon here only in outline. Full reports are appended on Bruce Tsang (Vol 4 App.7) Gaisho (Vol 3 App. 6), and in Volume 2, United Timbers (App.4) MOI (App 1) Santa (App 3) and Lusco - for Leytrac (App.5).

The marketing of New Ireland logs by the big trading companies Shin Asahigawa, Sumitomo, Lusco, Nam Yang and Nissho Iwai will be fully reported in a future interim report dealing specifically with Marketing. A proportion of Santa's marketing has been studied and that study will not be completed until the matters disclosed during the police raids on Santa's offices are followed up.

Without exception I have found that all foreign companies selling New Ireland logs, which I have studied, were

transfer pricing - mostly by at least USD 10 per m3. In this report the evidence is carefully described in the appendices; in many cases, it is also documented in schedules.

It is difficult to quantify the amount which has been lost to PNG by way of foreign exchange earnings, company tax and export levies as a result of the devices employed by the foreign exporters to transfer tax free profits offshore. My findings have been based on a combination of investigation techniques. These include comparing disclosed PNG FOB price with end invoices in the few instances when these were available; studying detailed shipping documents and answers to questionnaires; studying price margins above MEP; obtaining admissions in public hearings; comparing one company's disclosed price with another's admitted end buyer price for a similar shipment; and detecting, and pursuing, evidence of third party marketing structures through shipping documents and Letters of Credit.

In all cases the companies hotly denied transfer pricing and sought to explain the clear evidence in a variety of ways. The evidence against them however, coming from the various sources, was quite overwhelming. In some cases I have since been able to confirm my findings by oral evidence and by summoning a company's tax records from its tax advisors. Thus:

- (i) United Timbers admitted transfer pricing and pricing at below market values. It was assessed to have transfer priced about K1.1 million into Hong Kong in two years of operation and tax and penalties of about K1.5 million were imposed. Base tax (without penalties) was agreed to as a compromise and in the result base tax of K385,000 (assessed on transfer pricing of

K1.1 million) was paid. (Vol 2 App.4).

(ii) Shin Asahigawa was assessed to have transfer priced about K6,123,250 between 1981 and 1986. Due, quite clearly, to Shin Asahigawa's financial position these assessments were reduced and a compromise was reached to accept final assessments of K3,380,142 having been transfer priced between 1981 and 1987.

Details are:

<u>Year</u>	<u>Original</u>	<u>Final Assesment (K)</u>
1981	913,459	615,885
1982	1,223,464	447,152
1983	757,369	356,639
1984	1,443,365	578,934
1985	1,077,843	517,186
1986	707,750	499,107
1987	<u>365,643</u>	<u>365,463</u>
	<u>K6,488,713</u>	<u>K3,380,366</u>

In the result Shin Asahigawa accepted tax liability of K1.7 million for the years 1981 to 1986 and additional undisclosed taxable income from transfer pricing of K365,463 in 1987. It also accepted Group Tax liability for K200,000 for undisclosed payments made to its expatriate employees in their home country (Japan) between 1982 and 1987 taking its admitted tax liability to K1.9 million plus tax on the additional income for 1987. (This will be detailed in an Interim Report on Marketing but see Schedules 3.1 (tax liability) and 3.2 (group tax liability);

(iii) Santa Investments has agreed to adjustments to its tax losses which involve its acceptance of having transfer priced in 1986 alone K1.235 million and which has been taken into account

for tax purposes. This means that Santa transferred at least K1.2 million million offshore in a single year. (Vol. 2 App.3)

(iv) Gaisho Co (PNG) Pty Ltd This company's marketing practices are described in very great detail in Vol 3 App.6 of this Interim Report p.38-63. I have found that the main reason for incorporating Gaisho (NG) in the first place was to enable it to provide a regular supply of logs, at well below market price, to four large Japanese companies; at least three of which had financed the establishment of Gaisho's PNG operations. The small proportion of logs which were surplus to the requirements of those four companies, was either sold to a few small Japanese buyers (through Gaisho Japan) or to one large Korean buyer (and two part shipments to Taiwan) at prices 20 percent or more above the prices paid to the PNG producers. When Gaisho applied its transfer pricing techniques to logs purchased from landowner companies with whom it had entered logging and marketing agreements, each stage of the marketing process was flawed by illegality. Firstly Gaisho (NG) was in breach of its contract with the landowner company when it purchased the harvested logs in its own name. Secondly, when it invoiced them to its parent company Gaisho (Japan), at about 10 percent mark up it was in further breach of a contract which obliged it to gain the best price for the local producer and not to sell to itself or to a related company. Failure to disclose this mark up was fraudulent cheating of the landowner company. When Gaisho (Japan) on sold to the Korean or Taiwanese company at an additional 10 percent mark up, it constituted an additional illegality. The resulting markup of over 20 percent above the price paid to the producers amounted to transfer pricing of at least USD 10 per cubic metre. As it exported over 900,000m<sup>3</sup> of logs between 1974 and 1987

Gaisho NG must have transferred at least K6 million in 14 years of operation.

Bruce Tsang admitted carrying out substantial transfer pricing (Vol4A App.7) as did Mr Bataranata of United Timbers (Vol.2 App.4). The transfer pricing of Lusco Enterprises was proved conclusively before me and will be reported on in detail in a future interim report. It is outlined here in Vol.2 App.5 dealing with Leytrac. The substantial transfer pricing by Francis Sia of MOI. is described in Vol.2 App.1.

All the transfer pricing schemes described in the appendices amounted to fraudulent cheating of the landowner companies. It cost the country millions of kina in foreign exchange earnings and also amounted to fraudulently evading export duty and to fraudulently understating income for tax purposes.

### **15 IMPROPER BENEFITS**

My detailed studies of resource allocations and timber operations on New Ireland indicate that bribery, corruption and the buying of support are so widespread that they have become a major social sickness. The speedy decisions on forestry matters by National and Provincial Ministers, Provincial Government members and public servants, without bothering to consult other authorities or to check the facts, and without regard to due legal process, raises serious suspicions that benefits have been given. This was confirmed on many occasions by oral and documentary evidence. I have made firm findings of fact only when the evidence is overwhelmingly strong.

I have found that the following persons received improper benefits relating to the timber industry in New Ireland.

They are listed in the order in which they are referred to in the appendices and page references to the relevant appendix is given.

<b>Gerald Sigulogo</b>	Vol 2 App.1 p.32
<b>Francis Sia</b>	Vol 2 App.1 p.31,35
<b>Miscus Maraleu</b>	Vol 2 App.1 p.34; Vol 4A App.7 p.92
<b>Robert Seeto</b>	Vol 2 App.2 p.21; Vol 4A App.7 p.94-97
<b>Sebulon Watt</b>	Vol 2 App.2 p.21; Vol 4A App.7 p.92
<b>Sampson Gila</b>	Vol 2 App.2 p. 26-29
<b>Paul Torato</b>	(benefits for United Party) Vol 4A p.69 and 91
<b>Lindsay Lailai</b>	Vol 4A. p.69 and 91
<b>Edward Ramu Diro</b>	Vol 4A App.7 p.92
<b>John Kasaipwalova</b>	Vol 4A App.7 p.93
<b>Jack Masu</b>	Vol 4A App.7 p.101
<b>Gabriel Velegamus</b>	Vol 4A App.7 p.103
<b>Robert Galis</b>	Vol 4A App.7 p.103
<b>Peter Nathan</b>	Vol 4A App.7 p.103
<b>Bruce Tsang</b>	Vol 4A App.7 (generally)
<b>The Peoples Progress Party (New Ireland Branch)</b>	Vol 4A App.7 p.99-101

**Landowner Company Directors.** There is widespread evidence of improper payments to directors and staff of landowner companies to ensure their support for foreign contractor companies. This is referred to throughout the appendices.

As a result of my inquiries I recommend that the following persons be referred to the authorities listed for follow up investigations and action as appropriate.

**TO THE COMMISSIONER FOR POLICE**

For investigation whether to lay charges relating to:

**Bruce Tsang:**

- (a) Possible forgery of the signature of C.Rangatin on a share transfer and directors resignation form (Vol 4 App.7 p.19);
- (b) Possible offences arising from systematically cheating and defrauding Brothers Logging and Development Pty Ltd and Noatsi Development Corporation Pty Ltd (Vol 4 App.7 pp.21 - 62 and p.105);
- (c) Possible offences of official corruption arising from
  - i) payments to Premier Robert Seeto (Vol 4 App.7 p.94-97);
  - ii) Providing continuous beer supply to PFO Jack Masu (Vol 4 App.7 p.101-2);
- (d) Possible forgery and uttering of three letters dated 19th, 27th and 28th August (Vol 4 App.7 p.36-37);
- (e) Possible forgery and uttering of logging and marketing agreement between Sakai Management and Brothers Logging (Vol.4 app.7 p.53-55)

**Sebulon Watt**

Commissioner of Police to assess his role as an accomplice in payments by Bruce Tsang and Santa Investments to Robert Seeto

**Gerald Sigulogo:**

- (a) possible offence under Section 61 (a) Criminal Code for attempting to receive the sum of K30 000 from Francis Sia on the understanding it would influence him in Parliament; (Vol.2 (App.1 p.32)
- (b) possible offence under section 87 of the Criminal Code for asking for benefits as a public office holder on account of creating a situation where his interest in helping the donor could result in, or

appear to result in, a conflict with the discharge of his public duty as a Member of Parliament. (Vol.2 App.1 p.32-33)

Francis Sia:

- (a) Possible cheating and fraudulent accounting to Mamirum Timbers over Shipment No 1 (Vol 2 App.1 p.10 et seq);
- (b) Possible forgery and uttering in relation to the fraudulently altered copy letter of credit on Shipment No 2 (Vol 2 App.1 p 15-16)

Francis Sia:

Michael Sia:

Robert Seeto:

These persons have already been referred by the Commission to the Commissioner for Police for investigations into corrupt practices. The two Sias have been committed to the National Court on 27 charges and Mr Seeto (against whom the Magistrate found no case to answer on a technical question of law) now faces the possibility of an ex officio indictment.

Michael and Francis Sia have also been committed to the National Court on charges of cheating and defrauding both the State and Ahia Development Pty Limited

In addition I am concerned at the roles played by Paul Torato and Lindsay Lailai at the Travelodge meeting on 12 February 1987 (Vol 4 App.7 pp.69-71 and 91) where there is a strong suggestion of possible official corruption. The evidence before me probably warrants referral but I am mindful that such a referral would be based on the evidence of Sebulon Watt and Bruce Tsang which I consider of dubious reliability. On balance I consider I should stop short of recommending referral and recommend that

the available information should be passed on to the Commissioner of Police.

REFERRAL TO NIDA to investigate and take action as necessary.

**Bruce Tsang:**

Regarding avoidance of NIDA registration for Sakai Management Pty Ltd (Vol 4A App.7 p.16) and for Nationwide Consultants (Vol 4A App.7 p.17 et seq.)

Sebulon Watt for assisting Bruce Tsang to avoid NIDA registration for Nationwide Consultants.

Miscus Maraleu for assisting Bruce Tsang to avoid NIDA registration for Sakai Management (including supply of false information and filing a false return) (Vol 4A App 7 p.21).

Gerard Kassman for assisting Bruce Tsang to avoid NIDA registration for Sakai Management and Nationwide Consultants.

Francis Sia regarding failure to obtain NIDA registration for MOI to engage in activities related to timber (Vol 2 App.1 p.4,6 & 31).

**Sebulon Watt**

**Benson Lee**

**Kong Wai Fan (June Kong)**

Regarding failure to obtain NIDA registration for the restructured Byron Consultants Pty Limited (Vol.2 App.2 p.12-14).

#### **REFERRAL TO REGISTRAR OF COMPANIES**

**Bruce Tsang:**

- (a) For possible breaches of section 69 Companies Act Ch. No. 146 Vol 4A App.7 p.16 and 104);
- (b) For possible breaches of the Companies Act regarding bogus directors meeting and false company documents

regarding transfer of Nationwide shares held by C. Rangatin (Vol 4A App.7 p.19).

**REFERRAL TO OMBUDSMAN COMMISSION**

**Gerald Sigulogo:** For investigations into a leadership offence in relation to his acceptance of an overseas trip and cash gifts from Francis Sia and his request for payment of K30,000 from Francis Sia occurring while he was a Member of the National Parliament.

In addition I am concerned at the role played by Lindsay Lailai as a member of Ministerial staff at the meeting at the Travelodge on 12 February 1987 (Vol.4 App.7 p.69-71). I consider the evidence before me would probably warrant referral of Lindsay Lailai to the Ombudsman Commission but I am mindful that the basis for such a referral is the evidence of Sebulon Watt and Bruce Tsang which I consider of dubious reliability.

I am also concerned at the receipt by Angus (PNG) of a fee of K5,000 in connection with the Kabil area in light of Mr Diro's covert interest in that company. (Vol.4 App.7 p.28-32 and 92-94). Though the payment was clearly made and is well documented, and thus represents a benefit, I have no evidence that Mr Diro knew of the payment. On balance I consider that I should not recommend referral but rather that the available information should be passed on to the Ombudsman Commission.

**REFERRAL TO THE PRESIDENT PNG LAW SOCIETY**

**Sebulon Watt** for professional misconduct (as summarised Vol 4A App.7 p.21)

**Miscus Maraleu** for professional misconduct (as summarised Vol 4A App 7 p.21)

## 16 FIFTEEN YEARS OF LOGGING ON NEW IRELAND

### (a) Loss of Resource:

The most obvious result of the timber operations is that over two thirds of the accessible timber resource has gone (already cut or committed for cut); almost all of it overseas as round logs. At most (on DOF's overstated estimates) only 3.8 millionm<sup>3</sup> remains and of this amount 2.2 millionm<sup>3</sup> has already been committed for export as logs. The remaining as yet uncommitted volume is less than 2 millionm<sup>3</sup> and it is programmed for allocation by 1991/92.

### (b) Royalties:

The total royalties paid to the State from TRP areas between 1978 and 1988 was approximately K5,591,800. This should have been shared between landowners, provincial government and national government. The landowners' shares should have been paid by the State, in modest instalments, after ships departed and these amounts were intended to be distributed by the PFO to the landowner agents. It has not been possible to make a thorough check on how meticulously the payments were in fact made under LFA Dealings to landowners' agents. Under both LFA Dealings and Timber Permits it was not possible to check how the agents made the payments, eventually, to the individual landowners. Agents changed frequently and the system of recording changes in agents, amounts paid to agents and amounts paid by them to landowners is frequently non-existent and always inadequate.

The occasions when the Commission's attention was drawn to the adequacy of these systems of payments arose when Commission staff examined Royalty Records in the provincial forestry offices (which were often not up to date) or when it inquired how log shipments were allowed

to leave when royalty payments were long overdue (Vol 2 App.1 Mamirum/Moi). At Public Hearings there were frequently complaints of non-payment or non-receipt of royalties and of excessive delay in payments.

Some companies adopted the practice of paying a proportion of royalties into trust funds for community purposes (eg Vol 3 App.6 - Danfu/Gaisho). At public meetings there were repeated allegations that these funds had not been distributed fairly and for proper purposes.

As it was not strictly within its terms of reference, the Commission did not make a thorough study of what was done with royalties received, but answers to general questions, informal information supplied and the Commission's own observations suggest that most of the money has been spent on conspicuous short-term consumption such as alcohol, food, motor vehicles and outboard motors. Even when it was intended to finance some economic project from royalty payments, there are few signs of successful continuing projects. On the other hand there is plenty of evidence of frustration, bitterness and a sense of hopelessness; as the timber has gone and there are few lasting benefits.

According to DOF royalty ledgers the total royalties paid on New Ireland logs during 1978-1988 were divided between National Government, Provincial Government and landowner's agent (and therefore hopefully to landowner) as follows:

National Government	K1,288,996
Provincial Government	2,731,327
Landowner's agents	<u>1,571,481</u>
	<u>5,591,800</u>

That total royalty figure over a ten year period should be considered in the context of the massive amounts of tax free illegal profits being transferred by the foreign

companies, by various devices to overseas tax havens. Thus for instance I have been able to estimate fairly accurately that in two years United Timbers, transferred about USD1.5 million; Gaisho in fifteen years of operations has extracted about 900,000m<sup>3</sup> of logs which even at a comparatively modest USD5.00 per m<sup>3</sup> would yield US 4.5 million. I estimate Bruce Tsang has transferred in 1986 and 1987 about USD 400,000 - USD 450,000. Santa has admitted to the Tax office a transfer price of K1.2 million in a single year (though this came mainly from Gulf Province and not New Ireland). All other marketing companies in New Ireland appear to have been doing the same thing at about the same rate. At a rough estimate, between 1978 and 1988, the K1.5m actually paid out in royalties to landowners on New Ireland logs must be compared with an illegal transferred, tax free, revenue in the order of USD6 million for Gaisho, United Timbers and Tsang alone.

#### (c) Roads and Bridges

There have been some lasting benefits in the form of highway construction and some secondary roads which have been built by some timber companies. Thus the Gaisho joint venture company Danfu Logging and Agriculture Development Corporation fulfilled part of the roading conditions in the Danfu Timber area by completing 36 km of road from Muliama to Mimias which was accepted by the Works Department. There is however not much traffic on the road, as the local community still finds it easier to ship their copra to Rabaul instead of making the long road journey to Namatanai and then shipping it to Rabaul. Possibly for this reason the Provincial Government has allocated only a small proportion of its available road maintenance funds to this road and it is now deteriorating rapidly and its wooden bridges are said to be in very poor shape. Gaisho (as contractor for

Tasukolak) has also upgraded the road from Hima to Sohun village.

A long 90 km stretch of road has been constructed by Leytrac between Palabong and Lamasa as part of its road-making obligation and this has been accepted as up to the required standard by the National Government. Since completion however there has been inadequate maintenance and the road is fast deteriorating. Two bridges have already been washed away. The same fate has befallen the unofficial trans-island highway built to Kaut, for its own purposes, by Channel Timbers. When the Commission drove along it the road was overgrown and almost impassable in several places.

In Central New Ireland the road, which was part finished at the time the New Ireland Otsuka Development Co ceased its operation, was not maintained and fell into disuse. Bruce Tsang is presently trying to re-open the road in exchange for commencing an illegal operation at Ugana. Minor road construction obligations have also been completed on some other permit areas.

In all timber areas a potential exists for the company's logging roads to be used for wider community purposes. The problem with such road-construction away from the main highway however is, firstly, that the roads are built only for the life of the operation (thus bridges and culverts are often temporary or inadequate and drainage is poor). Once completed, the roads become a maintenance burden for the provincial government which it cannot (and does not usually try to) handle. Unless maintained regularly, such roads quickly rut away and become impassable. On the flat they become overgrown with vegetation and sources of stagnant water-ponding. On the hills they become artificial watercourses, scouring eroded soil into the creeks and rivers. These

matters are described in the Saulei/Nagari Report (Vol 3 App 6 Sched.8) and were adequately confirmed by my own visual observations during frequent trips into areas of current and abandoned logging operations.

It appears that when permit conditions are being negotiated by DOF, not only is there inadequate liaison with the National Department of Works to ensure that road alignments match up with the relevant roadmaking programme, but also there is inadequate liaison with the Provincial Government and insufficient thought is given to future road maintenance problems. To build a new road is a vote-catching political achievement but to divert funds from popular new development projects to spend on unobtrusive road maintenance brings far less prestige and wins few votes. Thus although fulfilled road building conditions are potentially a real benefit flowing to a community from a timber operation, that benefit is undermined if the road becomes impassable or difficult through lack of maintenance. It may even become a liability if its existence causes environmental problems. When communities are promised roads to be built by timber companies it must therefore be realised that, when the company's roadmaking equipment moves on, the Provincial Government, which is demonstrably unable to maintain the existing road network, will be also unable to maintain the new roads.

#### **(d) Local Profits and other cash benefits**

The foreign timber companies have marketed the produce in such a way that minimal prices are received by the producer in PNG. The various ways this has been done are described in Section 14 and in the appendices. The result for the landowner company or other corporate body acting as the producer has been that it has received a price approximately 20 per cent below that which it

should have received if the marketing had been done fairly. The landowners long ago came to accept that their main benefit would be royalty payments (after the State's purchase price had been recouped four times over) and whatever physical benefits the foreign company chose to provide in terms of such things as roads, bridges, reafforestation plantations and agricultural projects. The foreign contractors however have generally disclosed a loss each year for tax purposes and the landowner company was always starved for funds. Moreover such funds as it managed to get its hands on were mainly spent on its own administration costs (mainly directors' allowances, management salaries and trips) and not on community development. The shining exception to the depressing lack of initiative and success which characterised landowner companies over the period of logging on New Ireland is the Djaul Development Corporation. Another possible exception (which was not studied) was Tasukolak which obtains wide publicity for its dividend payments. Whether it has paid tax is not known. During the last 12 months or so other such companies have begun to show some profit-making initiatives and these are reported below.

#### (e) Foreign profits - transfer pricing

In all cases the foreign contractor took control of the marketing of the logs it harvested and ensured that Letters of Credit were always opened in its own name - even when the permit conditions and/or terms of its contract specified that Letters of Credit must be opened in the name of the local landowner/producer company. The marketing strategies varied but the aim was always the same: to transfer approximately USD10 per m<sup>3</sup> of the true price paid by the end buyer so that it was received by an overseas vehicle in Hongkong, Japan or elsewhere.

Thus Gaisho NG transferred these funds to its parent company in Japan by a system of back to back invoicing or by selling direct to related Japanese creditor companies at concessional rates approximately USD 10 per m<sup>3</sup> below the true market value. The full nature of the relationship between those creditor companies and Gaisho Japan is not known, but the uncharged USD 10 per m<sup>3</sup> probably was set off against Gaisho's loan repayments to those companies.

Shin Asahigawa transferred its USD10 to a variety of Hong Kong companies the latest of which was Sam On Company.

Lusco Enterprises transferred to a Hongkong company, (Holdcrown Limited) owned by Lusco's Rex Grattidge and his wife, to which it invoiced almost all sales of logs shipped direct to the end buyers in Korea, Taiwan or Japan during 1986 and 1987. (In 1987 a related intermediary company, Mayshan Trading, was introduced).

Sumitomo Forestry HongKong is in effect an overseas buyer with a limited physical presence in PNG, carefully constructed so as not to attract tax liability in PNG. It transacts its resales of logs from Hong Kong and the logs go direct from PNG to its destination buyer. In this way it avoids any PNG tax on its profits on resale.

Bruce Tsang admitted to an arrangement with two Hong Kong Companies through which he transfer priced. His arrangement with Rex Grattidge's Holdcrown Limited enabled him to pick up his share of the transferred profit while on visits to Hong Kong. His arrangement with Latchford Co. was to repose the proceeds from reinvoicing in Hong Kong. In my findings (set out in Volume 4A at App.7.) I have estimated that he transfer priced in 1986 and 1987 in the order of USD 400,000 - 450,000. He also cheated the landowner companies and the

landowners themselves, by making improper deductions (involving in some cases criminal forgery) and by cheating on royalty payments.

Santa Investments Pty Ltd built up very substantial funds in overseas accounts by way of transfer pricing. There is clear evidence that National and Provincial politicians knew of these illegal profits and took advantage of the situation by demanding contributions to election campaigns, to political party funds and for personal benefits. There is also clear evidence of payments actually made by Santa to Premier Seeto, provincial Minister Sampson Gila and other politicians and government officials.

Francis Sia of MOI served his transfer pricing apprenticeship with Santa Investments and when he branched out with MOI clearly utilised what he had learned. He also cheated the landowner Company Mamirum Timbers by imposing (with assistance from Miscus Maraleu) a singularity unfair logging and marketing agreement.

**(f) Transfer Pricing and Government Revenue.**

Transfer pricing occurred so universally in New Ireland, and on such a large scale, that it cannot be considered as an occasional windfall profit or as a profitable sideline. Transfer pricing is what the timber industry in New Ireland is all about. Its effect on government revenue has been enormous and is felt through loss of income tax and underpaid export duties.

Before a foreign company establishes itself it works out its cash flow projections and its profit and loss estimates on the basis of the profit to be taken in its chosen tax haven. It is the profit to be disclosed in PNG which is really the side profit (or more usually the side loss).

Thus, as previously mentioned, Gaisho (NG) was established for the main purpose of supplying logs at under market price to its Japanese financiers. United Timbers had its arrangements with Mitsubishi in place before it moved from Indonesia to PNG. Its parent company United Kalimantan Pte Ltd had already been acting as its transfer pricing agent for its Indonesian operations.

When the chief executive of Gaisho or United Timbers negotiates the conditions of a new timber permit the unseen party to the negotiations is Gaisho Japan (and its powerful creditor buyers) and Mitsubishi. When Gaisho (NG) or Rex Gattridge (Lusco) offer to buy logs as traders, the calculations in their mind which matter are those which are balanced by the amount secretly retained by Gaisho Japan (or crossed off its repayment schedule to Imanaka) or which are retained by Holdcrown (Hong Kong).

#### Obscene greed:

The difference between the foreign timber companies in New Ireland is not that some did not transfer profits because they all did. The difference is that in addition to cheating the landowner companies of about USD10 per m<sup>3</sup> by standard transfer pricing devices, operators like Francis Sia (MOI) and Bruce Tsang (Nationwide and Sakai Management) could not restrain themselves from also plundering the landowners of their share of the falsely low FOB price which the contractor company had chosen to disclose in PNG. A combination of natural greed and dire domestic financial necessity drove them to cut into the landowner company's profits by unlawful deductions involving fraud and forgery in such an unrestrained way as to be actually obscene. Soemantri Bataraanata (United Timbers) achieved the same degree of cheating against Mussau Island Timbers by adding unbelievably excessive undergrading and undermeasurement profits to his routine transfer pricing devices, so as to transfer off-shore the

amazing sum of about USD1,500,000 in two years of operation. (The sum of K1.1 million was accepted for tax purposes - see Vol. 1 App. 4.

I have an impression that the more established Japanese companies like Gaisho, Shin Asahigawa and Sumitomo were content to take their regular USD10 per m<sup>3</sup> illegal mark up and saw that it was in their interest to allow or, in the case of Gaisho (recently) to even assist, their landowner companies to make a small profitable investment with their modest share of the FOB price disclosed in PNG.

#### **(g) Economic Development**

The Commission did not make a detailed study of economic development which was a direct result of the exploitation of the timber resource but the following general comments can fairly be made:

(i) There has been no overall development in local processing of timber. The sawmills at Panamana and Karu were not in operation during my visit and the production of sawn timber was on the decline at that stage. Indeed Timbersales was transporting sawn timber from Rabaul to Kavieng. Panamana Sawmill has now commenced to operate at low production levels (capacity 10-12,000m<sup>3</sup> of log input per year on a one shift basis). There is no other significant local processing of timber occurring in the province.

(ii) Agricultural Development: Undoubtedly some land has been cleared by timber companies and planted with cash crops. No significant plantings have been sustained however and the benefits of small-scale plantings tend to be unevenly distributed amongst those whose timber has been harvested.

(iii) *Industrial and business "side benefits":*

Most of the timber operations on New Ireland have been comparatively small-scale and of fairly short duration. The timber companies were not obliged to promote, and have not been deliberately promoting, national businesses in such fields as transport, chain-saw maintenance, catering and contract tree-felling (such obligations were imposed elsewhere upon such big companies as Vanimo Forest Products for instance). There is little evidence of the existence of successful national businesses in those or related fields. On-site inspections of operations disclosed that few nationals were employed by the foreign timber companies in skilled jobs. There were, on the other hand, many Malaysian and Japanese chain-saw operators and truck and bulldozer drivers. One exception was Channel Timbers at Kaut which employed only one expatriate (as sawmill manager and chief mechanic) in its small operation. That company however has recently ceased operating.

(h) *Future Timber Industry*

On the evidence of the Saulei/Nagari Report, and of Gaisho's witness Mr Vatasan, (Vol 3 App.6 Sch. 8) it seems unlikely that there will be any possibility of further harvesting of the heavily logged out areas of New Ireland in the foreseeable future. The most favourable estimate seems to be that there is a possibility of some sort of economically viable harvesting in about 70 years if the remnant of the forest is not further disturbed. Even then, no-one is able to predict the nature of the forest which may then be available for harvesting; many of the presently available species are unlikely to be still predominant. These findings were confirmed verbally to me by members of an FAO team of forestry experts who inspected the effects of logging operations during a short visit to New Ireland, at my request.

Almost no attention has been given to reafforestation in New Ireland and there are no significant commercial plantations maturing for future exploitation. The only reafforestation attempts which Forestry officers were able to point to were a small plot near Kaut, financed by the New Zealand Government, and a few hectares of balsa wood planted by Leytrac.

/It is a tragedy that timber, which is New Ireland's one durable crop that is assured of future high demand and high prices, has been removed in such a reckless way that there is little prospect for a future industry. The forest is an existing renewable and valuable crop, with an assured future on the domestic and world markets. In areas where it has been replaced with cocoa, and oil palm, it has placed the landowners in financial jeopardy as these crops are now shown to be subject to disease and falling prices on the world market. (Where the valuable forest timber has been replaced by regrowth trees of little or no economic value, they remain nevertheless, a valuable protective component of the physical environment).

With large-scale mining ventures looming, a rapid increase in urban development can be expected and, with it, a rise in demand for sawn timber. There should be prospects for landowners to start timber projects with walk-about sawmills and forest mills and with less expensive logging equipment based, perhaps, on modified farm tractors. Such developments could supply the domestic sawn timber and firewood requirements of the province and perhaps, with co-ordination from a clear-headed provincial government, also allow for exporting sawn timber and logs on a very modest scale.

The chance for such small-scale, environmentally sound, local timber developments has probably been lost however,

as the accessible timber resource has been vandalised to satisfy the financial thirst of the foreign timber companies described in this report. It would be fair to say, of some, that they are now roaming the countryside with the self-assurance of robber-barons; bribing politicians and leaders, creating social disharmony and ignoring laws and policy in order to gain access to, rip out, and export the last remnants of the province's valuable timber.

These companies are fooling the landowners and making use of corrupt, gullible or unthinking politicians, lawyers and leaders. It down-grades Papua New Guinea's sovereign status that such rapacious foreign exploitation has been allowed to continue, with such devastating results to the physical and social environment, and with so few positive benefits to weigh against the irreplaceable loss which has been occurring. It is doubly outrageous that these foreign companies, having got the logs so cheaply for themselves, but at such high cost to the people and to the environment, have then transferred offshore, secret and illegal extra funds, at a rate of about USD 10 per cubic metre at the expense of the landowners and the PNG government.

#### 17 VIEWS OF THE NEW IRELAND PROVINCIAL GOVERNMENT

On 21 February 1988 I held a meeting with Premier Pedi Anis and his Ministers for Forests and for Finance. They expressed certain views on Forestry in New Ireland which are included as Schedule 4 to this Interim Report. The Premier indicated that his government would make a formal submission to the Commission but this was not forthcoming.

18 CURRENT SITUATION

All the matters reported upon in this interim report were raised in public hearings in New Ireland in 1987 and in Waigani during 1988. The issues which raised immediate or significant issues of policy or administration were also discussed with senior DOF officers in a series of five policy conferences organised by the Commission and attended, fairly regularly, by the then Minister for Forests Mr Tom Horik and other relevant national Government Ministers and Departments. They have also been reported on in a series of Progress Reports and some have been touched upon in three major Interim Reports which have been tabled in Parliament (this one being the fourth).

On 21 February 1989 I conducted a short public hearing to update the evidence taken during 1987 and 1988. The Senior Officers of DOF gave evidence on the current situation which is so disturbing that I report on it in tabular form as Schedule 5 to this report. A brief summary of previously disclosed irregularities is listed in the left hand column and the present situation is set out in the right hand column. For some matters it was possible to include this recent evidence in the relevant appendix in Volumes 2-4 of this interim report. In other cases it was not possible as the appendix had already been completed and printed in its final form.

The updated evidence given on the 21 February indicates that the irregularities publicly disclosed twelve months ago are still continuing and very bad offenders such as United Timbers, Gaisho, Bruce Tsang (Nationwide), MOI, Santa Investments, Sebulon Watt and Miskus Maraleu are continuing to operate or practice and are obtaining or seeking access to new resources. Areas which were

previously abused by improper timber operators are being abused in the same way all over again.

Unscrupulous operators continue to force the hands of the Department by stimulating the expectations of landowners or a breakaway group of landowners by simply commencing an illegal operation. Directors of landowner companies are still being bribed by gifts and favours and, by the looks of it, the same goes for some politicians and public servants.

People publicly exposed by the Commission for fraudulent (and in some cases criminal) malpractices, such as Bruce Tsang, Francis Sia, Soemantri Bataranata, Sebulon Watt and Miskus Maraleu, continue those same malpractices. Thus Watt's signature witnesses the Certificate of Authority for yet another illegal operation on Tabar Island, Francis Sia is again involved in a timber war over an illegal operation, Tsang is again forcing open an opportunity by putting his machines to work illegally and by performing legal sleight of hand with landowner agreements. Maraleu, who admitted serious professional malpractice for personal gain and abuse of public office, has again found favour with the provincial government and has been appointed chairman of its Development Corporation.

During the last twelve months the pressure being applied by timber companies is increasing as the New Ireland forests are rapidly being cut out. A new trend is now becoming apparent as the foreign operators such as Gaisho and United Timbers abandon operations in New Ireland and search for timber elsewhere. I fear that they will take with them the "New Ireland Disease" of bribery, cheating, subversion of landowner companies and transfer pricing. Thus for instance United Timbers has orchestrated an invitation from Kali Bay landowners on

Manus Island to commence an illegal operation and its equipment has now arrived on Manus. Gaisho has applied (and was on the short list) for the Arave resource in West Britain. The application was in the name of a company (A.T.D) including Gaisho (NG) Pty Ltd and its transfer pricing partners Maruni Mokko and Imanaka. (This combination transferred approximately USD 10 per cubic metre on sales of New Ireland logs from the beginning of Gaisho's operations). As was the case in New Ireland with applications by Gaisho and its joint venture and/or landowner companies, ATD's application for Arave was said to be strongly supported by politicians and other lobbyists. Santa's presence in Napanta Nubui LFA has been legitimated and Acting Minister Genia has sought (and perhaps succeeded) in permitting Santa Investments to resume its operation in Central Province (West Gadaisu).

As the remnants of the New Ireland resource are becoming less commercially attractive to the foreign companies they are selling off their second hand equipment to local companies that are (or claim to be) national companies and they are commencing to log their own resource, or that of their neighbours. Thus Djaul Development Corporation has bought Channel Timber's equipment, Mussau Timber Development Pty has bought Luaba Logging Company's equipment, Tasukolak has bought an old sawmill from Channel Timbers. One hopes that they can keep these machines working profitably without adopting the same practices as the foreign companies, because it will be politically very difficult to resist demands from genuine landowner companies to exploit their own resource now that they are committed to repayments on expensive equipment. One also hopes that they don't have to turn to foreign traders to do their marketing, because they

will then again face the possibility of loss by way of transfer pricing.

#### 19 CONCLUDING COMMENTS

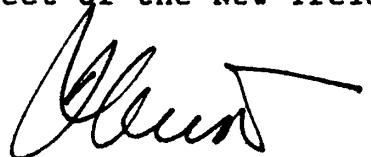
The most appropriate way to conclude this Interim Report is to refer again to the imminent extinction of New Ireland's commercial timber resource. The detailed reasons for my claim that the total resource will be doomed to destruction at the end of the 1987 - 1991 programme of allocations are set out in Schedule 1 to this report. The situation is absolutely critical and if there is to be any hope for managing the remaining unallocated resource on a sustained yield basis, there should be no further allocation which will allow for log exports.

In addition Permit and Dealing conditions should be monitored and enforced. Lack of monitoring by the Provincial Forestry Officers has been a major contributing factor to the present critical situation. Timber companies have been allowed to carry out destructive operations, to log the slopes and to remove undersized trees with virtually no effective monitoring (see Schedule 2). All existing operations should now be examined most critically and wherever the breaches of operating conditions would warrant closing down the operation then that should be done as soon as possible.

The situation has been allowed to occur because the Ministry of Forests had no clear policy on allocation and preservation of the resource, because the Department of Forests did not prepare an accurate inventory survey and because some of the timber companies involved made substantial payments to national and provincial politicians, and to political parties, to ensure support for their operations and applications.

The Ministry of Forests still has no clear policy, the Department's resource estimates and calculations are still absurdly inaccurate and the same timber companies which previously bribed politicians are still receiving political support and, it is alleged, are still offering substantial payments.

Mr Prime Minister I present this weighty report on the New Ireland timber industry to you with a heavy heart. There is, though, very little which is light in this aspect of the New Ireland scene.

A handwritten signature in black ink, appearing to read "T.E. Barnett".

Mr Justice T.E. Barnett OBE  
Commissioner

Djaul LFA

(Gaisho Operation  
for Djaul  
Development Corporation)

Opening of forest  
canopy caused by  
over -logging



Danfu Extension

(Gaisno operation  
for Tasukolak)

Opening of forest  
canopy caused by  
over -logging

Danfu Extension

More over -logging



Djaul LFA

Excessively wide  
snig tracks

Loading ramp and  
logging at edge  
of water course  
in erosion prone  
area



Danfu Extension

Side view of  
recently logged  
area showing  
damage to and  
removal of  
residual trees

Wastage in  
foreground

Danfu Extension

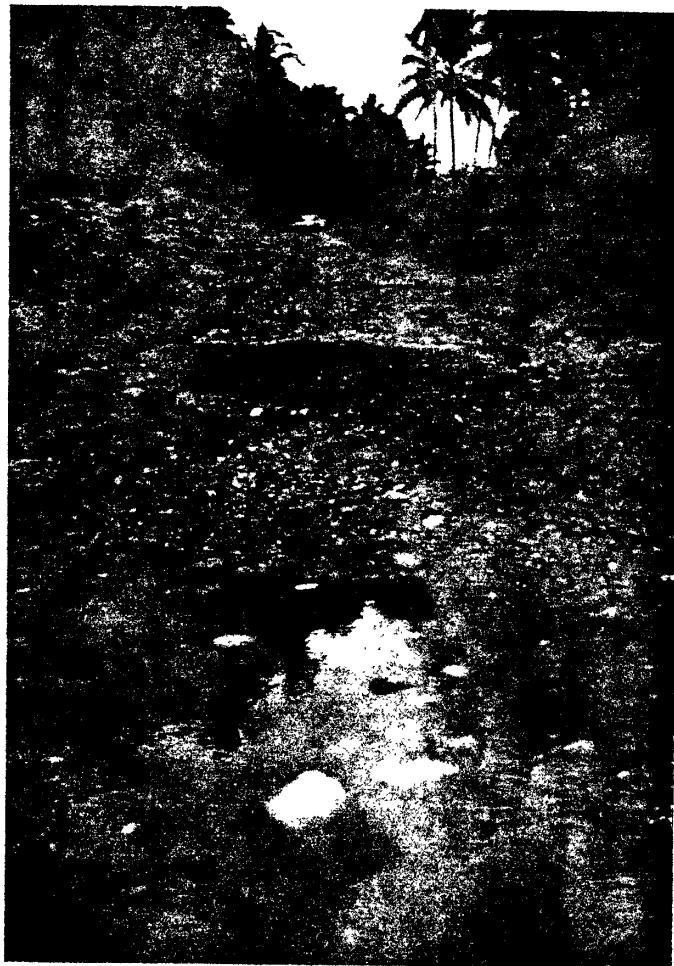
Log wastage



Danfu TRP Area

(Gaisho's operation  
for Tasukolak Pty Ltd

Washed out culvert



Djaul LFA

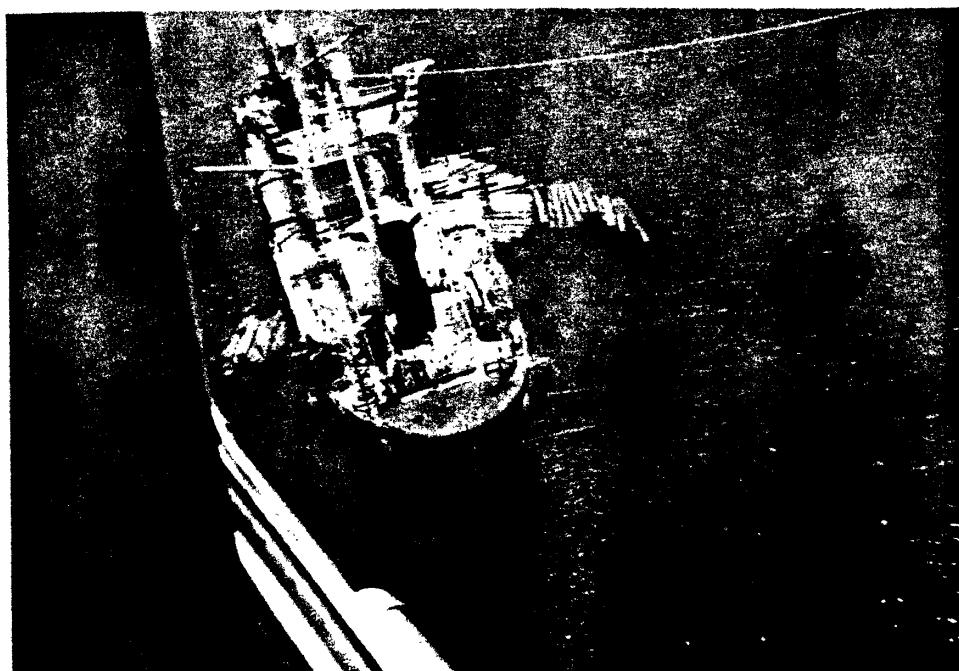
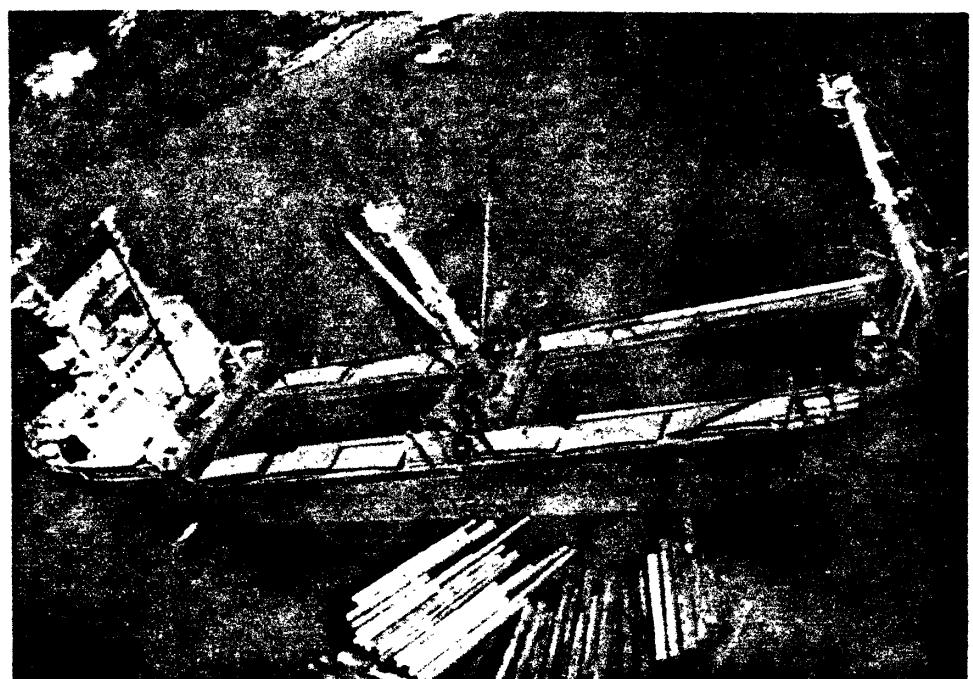
(Gaisho operation  
for Djaul  
Development Corp.)

Ponding caused by  
lack of culvert



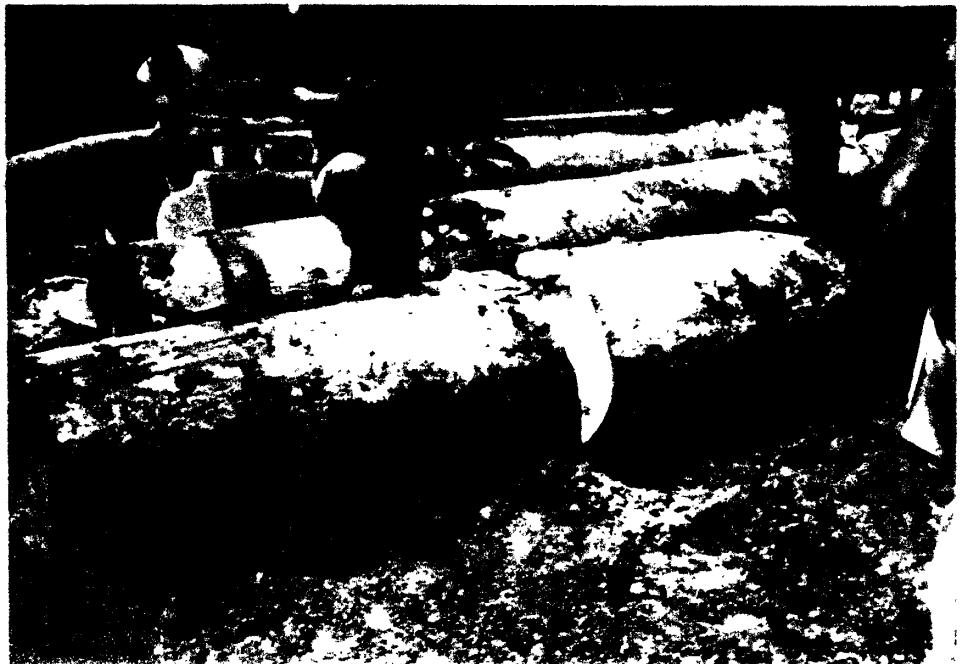
Loading ungraded logs

Djaul LFA



Excessive Docking

Djaul LFA





Mamirum TRP Area

(MOI's operation  
for  
Mamirum Timbers)



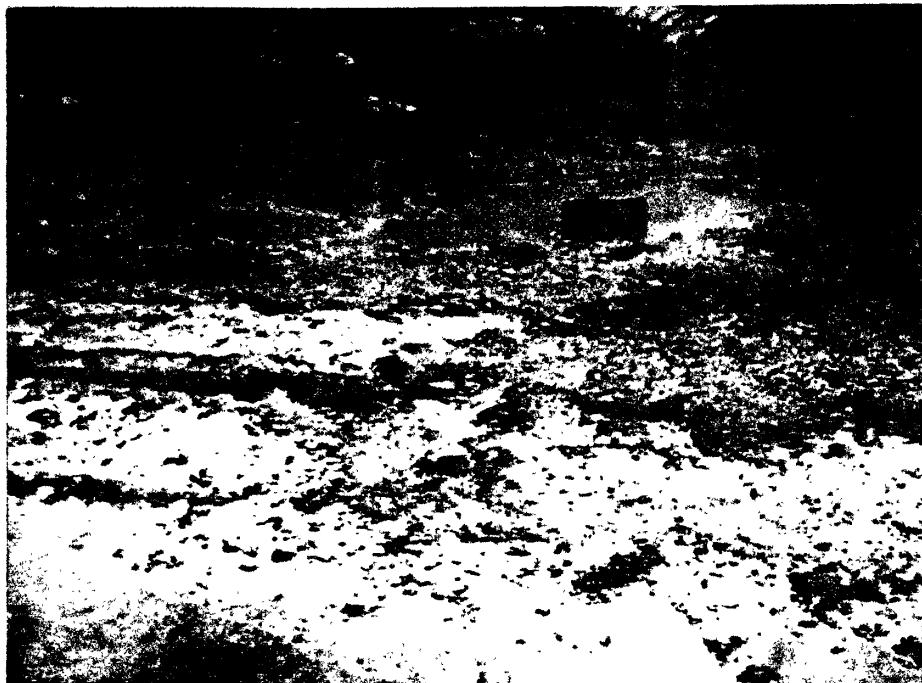
Views of the partly demolished Tabut Village  
New Hanover Island. Off cut pollution caused  
by Malaysia Overseas Investments (PNG) Pty Ltd



Oil pollution

on beach

Djaul LFA



SCHEDULE 1NEW IRELAND FOREST RESOURCE INVENTORY, ALLOCATION  
AND MONITORINGA NATIONAL CONSIDERATIONS

The back to front approach to resource assessment, allocation and monitoring of DOF is well illustrated by the facts:

(a) On 25 July 1988 an NEC Submission entitled "National Forest Development Programme 1987-1991" was completed recommending that NEC approve a five year program of assessment and TRP acquisition with a view to allocation of resources (Attachment 1). The NEC endorsed the National Forest Development Programme (NFDP) on 18 August 1988 (Decision NG 23/88) (Attachment 2). Resources were proposed to be allocated in the year after TRP acquisition.

(b) DOF set about vigorously pursuing the NFDP. It realised that there was a severe lack of monitoring staff to supervise existing allocations, let alone the additional proposed allocations, but it proposed to cater for that lack by budgetary provisions in 1989 and subsequent years. As at 1988 there was a shortfall of 35 monitoring officers and budget provision was therefore sought for -

- (i) 105 additional officers (including the 35 shortfall) in 1989
- (ii) 65 further officers in 1990
- (iii) 65 further officers in 1991

Monitoring is a function of DOF's Resource Development Division.

In the 1989 budget, far from being strengthened, the Resource Development Division of the DOF was in fact very significantly reduced in strength. (See Schedule 2)

(c) After the NEC approval of NFDP the DOF - mindful, amazingly, that PNG has "no National Forest Development Plan as such" advised Provincial Staff on 30 November 1988 that an immediate exercise was being embarked upon "to have a National Forest Development Plan in place by 1989". (Attachment 3)

(d) The first step towards preparation of such a plan was a comprehensive forest inventory on a Province by Province basis to establish the available resource. This exercise was begun in early 1989.

Comprehensive inventory data should of course have been a prerequisite of any planning.

One must ask how, in the absence of such data, a programme could responsibly be recommended to NEC which involves (see pages 8-12 of Attachment 1) allocation of resource areas pursuant to the NFDP involving:

1988	1,589,827 ha
1989	2,016,712 ha
1990	898,449 ha (and four resources of which the land area is unknown)
1991	321,000 ha (and ten resources of which the land area is unknown)
	<hr/> <u>4,825,988 ha</u> (and fourteen resources of which the land area is unknown)

The NEC Submission makes no mention of the impact that approval of the NFDP will have on the total National Forest Resource and it could not do so because, in the absence of a comprehensive reliable inventory, the resource is not known and the impact is thus unknown.

#### B NEW IRELAND DATA

The initial data for a comprehensive forest inventory for New Ireland Province had been recently prepared and was presented in computer printout format to the Commission on 21 February 1989.

In terms of data it is in four parts:

- (i) Areas over which Timber Rights Purchase has been completed detailing date of timber rights purchase; land area (in hectares) and total original resource volume (in m<sup>3</sup>).
- (ii) Timber Permits over TRP areas with the original land area (in hectares) and total original resource volume (in m<sup>3</sup>) and then the remaining resource volume (in m<sup>3</sup>) assessed at 31.12.88. The annual committed cut of the remaining volume is then shown from 1988 to 1995 when the remaining resource will have cut out at committed cut rates.
- (iii) Declared Local Forest Areas with the original land area (in hectares) and total original resource volume (in m<sup>3</sup>) assessed at 31.12.88. The annual committed cut of the remaining volume is then shown from 1984 to 1994 when the remaining resource will have cut out at committed cut rates.
- (iv) Other Resource Areas being proposed resource areas which are unallocated where the land area (in hectares) and resource volume (in m<sup>3</sup>) is set out.

This printout was used by DOF officers in a public hearing to describe the resource position in New Ireland. The data must be considered in detail.

(i) Timber Rights Purchase Areas

The data on Timber Rights Purchase Areas is listed as follows:

<u>AREA</u>	<u>TRP DATE</u>	<u>AREA (HA)</u>	<u>TOTAL RESOURCE (M3)</u>
EMIRAU	PREWAR	830	12500
DANFU EXT	30.07.87	25400	145700
TSOI UMBUGUM	07.05.53	50	-
TSOI KAWILIKIAU	14.05.53	30	-
KONOOGOGO	22.04.69	1320	39600
KAUT	03.06.69	11200	207000
EAST KAUT	03.06.69	6410	30000
KAMDARU EXT	10.11.73	1910	33040
WATPI RUTRUT	12.11.73	1600	28230
NASKO EXT	13.11.73	3450	47200
LAMARAMOKO	05.12.73	540	9910
KABAMAN KOKO	05.12.73	2070	37760
SIAMAN DANMAS	06.12.73	620	9449
MUSSAU ISL	01.03.74	35736	210000
MAMIRUM	13.10.74	12270	95820
KONOS	05.02.75	8890	94400
PUE	11.02.75	1080	42840
KABAMAN	11.03.75	2490	24070
SEMALU	01.11.76	2160	42840
KING	09.03.77	4770	86700
CENTR NEW IREL	14.06.77	98100	840000
DANFU	30.08.79	59565	300000
		<u>280491</u>	<u>2337059</u>

Thus the resource within a total 280,941 ha was acquired under Timber Rights Purchase with an original estimated volume of 2,377,059 m3.

All the resource under Timber Rights Purchase has cut out or is presently allocated save for Central New Ireland TRP as to which see (iv) Other Resource Areas below.

(ii) Timber Permit Areas

The remaining TRP resource (except Central New Ireland TRP) is allocated in total pursuant to Timber Permit with data listed as follows:

PERMIT HOLDER	ORIGINAL	ORIGINAL	RESOURCE AT	CUT
	AREA (Ha)	RESOURCE (M3)	31.12.88 (M3)	OUT YEAR
(a) Leytrac	11,060	230,000	35,500	1988
(b) Mimirum	12,270	95,820	78,651	1990
(c) Lopanga	6,410	30,000	30,000	1988
(d) Tasukolak	83,965	595,000	437,349	1995
(e) Channel T.	11,200	207,000	138,000	1991
(f) Pezrak	9,970	137,240	71,184	1989
(g) Mussau	<u>35,736</u>	<u>210,000</u>	<u>143,900</u>	1990
	<u>170,611</u>	<u>1,505,060</u>	<u>934,584</u>	

The data listed as remaining resource at 31.12.88 is inflated and so unrealistic and contrary to clear evidence before the Commission as to be very misleading. All allocations in Timber Permits are geared to log exports with minimal (if any) onshore processing. The true position is as follows:

- (a) Leytrac has cut out its resource, ceased operations in the TRP area and is salvage-logging small pockets on steep slopes as a contractor for Tasukolak in Danfu TRP. (See Vol.2 Appendix 5)
- (b) Mimirum's Permit expires in September 1989 by which time the PFO says the resource will have cut out. Its contractor MOI is already seeking new areas. (See Vol.2 Appendix 1)
- (c) Bruce Tsang logged this area for Lopanga's predecessor Matimba. He left the area, indicating clearly it has been virtually cut out. (See Vol.4 Appendix 7)

Lopanga in East Kaut has Groomes logging out pockets of resource. Most of this is sent out in the form of log exports with a small volume being transported to the Panamana Sawmill. The resource is not sufficient to sustain an export

log operation of other than short-term duration but the small resource remaining will support sawmilling beyond 1989.

(d) Tasukolak has taken over Danfu TRP and operates Danfu Extension TRP. Danfu TRP has effectively cut out (See Vol.3 Appendix 6). Leytrac (and its sub-contractor Lombda) are salvage-logging small pockets on steep slopes whilst seeking an alternate re-source. (See Vol.2 Appendix 5).

Danfu Extension TRP had an estimated (unsurveyed) resource of 145,700m<sup>3</sup>. The volumes cut have been 63,944.169m<sup>3</sup> in 1987 and 74,408.248m<sup>3</sup> in 1988 aggregating 138,352m<sup>3</sup>. The resource should thus be almost exhausted. The PFO says the total resource will cut out in mid 1989. (See Vol.3 Appendix 6).

The contractor Gaisho NG is seeking new areas. To suggest a residual volume of 437,349m<sup>3</sup> remained at 31 December 1988 is to indulge in fantasy.

(e) The Channel Timbers Permit over West Kaut TRP has cut out and Channel Timbers has abandoned the operation and sold off its sawmilling and logging equipment. No commercial resource remains and an estimated residual resource of 138,000m<sup>3</sup> is ridiculous.

(f) Operations under the Pezrak Permit over Konos-Pue TRP are frozen by a National Court injunction whilst Hui Ling Engineering and Malaysia Overseas Investment fight for contracting rights. Some resource remains to sustain a

short-term (estimated two years) log export operation. The operation is a salvage operation involving cutting small pockets in difficult areas and cutting over the area for a third time. The remaining resource is minimal. (See Vol.4 Schedule 7).

(g) The Mussau Island resource has prospects but it is committed for a log export operation and the Permit Holder has by equipment purchases committed itself to a log export operation on a large scale. The residual resource, if accurately assessed, will cut out by the end of 1991. (See Vol 1 Schedule 4).

As can be seen all Timber Permit resources are or will be exhausted by the end of 1989 except Konos-Pue and Mussau Island. Those two resources are committed to log exports and will cut out with no worthwhile commercial resource remaining after 1991.

(iii) Local Forest Areas

The LFA resource (except Tabar LFA and Anir LFA) is committed in total pursuant to Dealing Agreements and Logging and Marketing Agreements with data listed as follows:

	AREA (COMPANY)	ORIGINAL AREA (Ha)	ORIGINAL RESOURCE (M3)	RESOURCE AT 31.12.88 (M3)	CUT OUT YEAR
(a)	Tabar	22,500	195,000	195,000	1991
(b)	Nakmai	110,000	800,000	600,000	1994
(c)	Patpatar	13,200	67,000	28,060	1988
(d)	Ugana	9,000	77,000	60,000	1990
(e)	Sopathin	23,000	320,000	276,190	1992
(f)	Dahanamalit	8,800	186,000	115,880	1989
		186,500	1,645,000	1,275,130	

Again the data listed on remaining resource as at 31.12.88 is inflated and so unrealistic and contrary to clear evidence before the Commission as to be very misleading.

All resources committed in LFA's are geared to log exports with minimal (if any) onshore processing.

The true position is as follows:

- (a) Tabar is the subject of two illegal attempts to log one of which is current. The proposed exploitation is geared to log exports and there is real doubt whether it would attract other than a "desperate" operator and whether it would sustain other than a short term "hit and run" log export operation. Pressure to allocate under the Forestry (Private Dealings) Act is intense though the area is not included in the NFDP. (See Vol 2 Appendix 2).
- (b) Nakmai LFA is cut out after exploitation by Gaisho NG (see Vol.3 Appendix 6) Bruce Tsang (see Vol.4 Appendix 7) and recent efforts by Lenai Development which saw the last 2,000m<sup>3</sup> "squeezed" out. To suggest there was a residual resource of 600,000m<sup>3</sup> at 31.12.88 is sheer fantasy. This resource is commercially exhausted. (See Vol.3 and 4 Appendices 6 and 7)
- (c) The Patpatar Enterprises resource in part of Napanta Nubui LFA (the area is now reduced to 3,000 ha) is virtually exhausted and will cut out in 1989. The contractor Nationwide Consultants (Bruce Tsang) is already looking to greener pastures in the Ugana LFA. (See Vol.4 Appendix 7)

(d) Ugana LFA has been exploited by Gerald Gee of Fangalawa Plantations on a small scale. Gaisho NG ended Mr Gee's exploits as a result of moneys owed to it (see Vol.3 Appendix 6). The whole arrangement is geared to log exports and there must be some remaining resource as Nationwide Consultants (Bruce Tsang) is presently reported to be roading through Central New Ireland TRP (illegally logging valuable species as it proceeds with roading) to Ugana LFA.

Doubtless if there is a worthwhile resource contractors will rush to exploit it for log exports and it will cut out within three years.

(e) The Rasirik Suralil LFA exploited by Sopathin Development is said by the P.F.O. to be virtually logged out. The surveyed resource (said to total 110,000m<sup>3</sup>) was destined to cut out rapidly. (See Vol.1 Appendices 2 and 3)

To suggest there was a residual resource of 276,190m<sup>3</sup> at 31.12.88 is again sheer fantasy. The resource is all but cut out.

(g) The Dahanamalit resource is part of Napanta Nubui LFA. Whilst it is considered the residual estimate of 115,880m<sup>3</sup> at 31.12.88 is high at permitted cut rates this resource will cut out in 1990. (See Vols 1 and 4 Appendices 3 and 7 to this Interim Report). The contractor Santa obviously considers both this resource and the adjacent Rasirik Suralil LFA will cut out shortly

and is seeking involvement in the Central New Ireland TRP area to sustain its operations with a suspected indirect attempt through Pacific Rim Holdings to seek involvement in Tabar LFA as well.

As can be seen all LFA resources (except perhaps Tabar LFA, Ugana LFA and Anir LFA) are or will be exhausted by the end of 1990. Great pressure is already present to exploit Tabar LFA for log exports with a projected operation life of 3 years if the resource estimate is accurate. Anir LFA is dealt with under "Other Resource Areas" below.

**(iv) Other Resource Areas**

The other resource areas with data listed are as follows:

AREA	AREA (Ha)	RESOURCE ESTIMATE (M3)
(a) Lihir	3,500	70,000
(b) Central New Hanover	33,000	495,000
(c) Malendok (Tanga)	2,717	87,200
(d) Yalu Valley	14,760	230,460
(e) Urulum	10,460	136,000
(f) Upper Kamdaru	24,600	290,000
(g) Umbukul	20,300	319,000
	109,337	1,627,660

**(h) In fairness the Central New Ireland TRP resource should be added to these resources.**

In a recent conference DOF added that there is a possible resource area in West New Hanover. Anir LFA is dealt with under this Section.

The future of these remaining unallocated resources must be considered in light of the NFDP and other available evidence. It is quite clear the programme recommended to NEC in the NFDP stresses log exports and log export

earnings with only 25% processing requirement (see Attachment 1 Page 3).

The facts on these resources are:

(a) Lihir

Lihir was the subject of a resource assessment by DOF in 1976 which identified a prospective area of 1,430 ha with an estimated resource (at 40m<sup>3</sup> per ha) of 57,200m<sup>3</sup>. This was the gross volume estimate and a 20% deduction for defects and inaccessible resource was recommended reducing the commercial resource to about 45,760m<sup>3</sup>. The next step taken was a guess that an area of 5,400 ha at 25m<sup>3</sup> per ha would yield a resource of 135,000m<sup>3</sup>. A further survey was to be carried out in 1985 and has presumably yielded the estimate of 3,500 ha with a resource volume of 70,000 m<sup>3</sup>. Lihir Island is the site of a proposed very large mining project and it seems common ground the total available forest resource should be utilised in conjunction with the mining venture. In the NFDP the Lihir resource (shown incorrectly as having an area of 20,000 ha) is included for TRP work in 1989. With its intended utilisation the resource will be absorbed by the mining project and is irrelevant in broad forestry planning.

(b) Central New Hanover

The data describes a resource of 33,000 ha with a resource volume of 495,000m<sup>3</sup>. In the NFDP the area is shown as 82,000 ha and is programmed for allocation in 1990. The Commission was told that assessment design work is being finalised now and assessment and TRP work will begin soon. The Commission was also told there is a more ambitious programme to "develop" the whole of New Hanover as a single resource in the near future which is said to be supported by the National Member (Gerald Sigulogo) and Premier (Pedi Anis). The resource is

clearly planned for allocation in the NFDP and will clearly be allocated by the end of 1990.

(c) Anir Island and Malendok (Tanga)

These are small islands to the north of New Ireland mainland. In the early 1970's appraisal work was carried out on Anir and by the mid 1970's a sawmilling enterprise was proposed. Finance of K25,000 to establish a small mill could not be obtained and by 1976 plans were abandoned. By 1980 NPEP funds were to be made available to support a small operation using an Austin travel mill. What occurred since is not known. The area was declared an LFA on 2 March 1987 and the resource is of so little significance that it has not yet attracted an exploiter and is not even included as a residual resource in the DOF data.

On Malendok or Tanga Island the Commission has no resource data but the estimated area and resource seem by comparison to other off-shore islands to be overstated.

(d) Yalu Valley

The data describes a resource of 14,760 ha with a resource volume of 230,460m<sup>3</sup>. The NFDP includes under the name Lamasa Lambon a resource area of 15,000m<sup>3</sup>. These areas are identical. Resource work is to be undertaken in 1991 under NFDP and on the evidence before me allocation is proposed in 1992. The basis of the resource estimate and its accuracy are not known but, because survey is scheduled for 1991 I suspect that little is known of the area and that the figures are guesses. The area is in steep rugged country with a narrow coastal strip and it would be difficult to log.

(e) Urulum

The data describes an area of 10,460 ha with a resource volume of 136,000m<sup>3</sup>. The NFDP includes a resource area of 10,000 ha under the name West Coast Namatanai. These areas are identical. The position is the same as for Yalu Valley though the terrain may not be as difficult.

(f) Upper Kamdaru and Weitten Valley

The data describes Upper Kamdaru as an area of 24,600 ha with a resource volume of 290,000 ha. This is a steep and difficult area which Leytrac sought to exploit to sustain its operations (see Vol.1 Appendix 5). Efforts have been made to have an area in the extremities of Namatanai declared as an LFA (Lak LFA) and the proposal was met by DOF plans to secure TRP rights over a large area known as Weitten Valley. The Weitten Valley area of 60,000 ha is included in the NFDP. When one looks at the NFDP Schedule (Attachment 1) the Upper Kamdaru area of 25,000 ha is scheduled as a new project allocation in 1990 and the Weitten Valley area of 60,000 ha is scheduled as a new project allocation in 1991. The total area is thus clearly planned for allocation in the NFDP and will be allocated by 1991. It is to be hoped suggestions to preserve the area or a large part of it as a National Park will not be overwhelmed by the compulsion to exploit the timber resource.

(g) Umbukul

The data describes an area of 20,300 ha with a resource volume of 319,000m<sup>3</sup>. The NFDP includes this area for allocation in 1991. The basis for the resource estimates and its accuracy is not known but it is suspected the figures may be based on "guesses".

(h) Central New Ireland

This TRP area is of 98,100 ha and was said to contain an original estimated resource of 840,000m3. A Permit was granted to the failed and abandoned New Ireland Otsaka joint venture which extracted over 400,000m3 of logs before the operation was halted for disgraceful non-compliance with Permit conditions. An attempt by Timbersales to exploit the resource for the NIFA group has come to nothing. (See Vol 1 Appendix 5A).

Under the NFDP this area is proposed for allocation as a new project in 1989. The resource is now being evaluated for allocation and the Provincial Government has under active evaluation at present a proposal from the Santa Group to exploit the resource through a landowner company, Central New Ireland Development Corporation. There is a dispute between the NIFA group (or more accurately the Basoma Group within NIFA) supported by Provincial Forests Minister Sabagas and the Santa backed Central New Ireland Development Corporation about allocation of the resource.

The resource is clearly planned for early allocation in the NFDP and will clearly be allocated in the short term. The PFO says the residual resource (based on the original estimated volume) is 400,000m3. Santa says, in its proposal, that it is 300,000m3.

As can be seen from the foregoing the total available unallocated resource on New Ireland (save for Malendok (Tanga) Island) is planned for allocation under the NFDP and the major residual resources in New Hanover and Central New Ireland are planned for early allocation followed by Lihir and Upper Kamdaru in 1990 and then Weitten Valley and Umbukul in 1991 and finally Yalu Valley (Lamasa Lambon) and Urulum (West Coast Namatanai) in 1992.

All that will be left is (Anir) which is not included in the NFDP because it is already a declared LFA (waiting for an exploiter to come along and exploit it) and Malendok (Tanga) Island which is a small, very remote, resource.

**C NEW IRELAND SUMMARY AND ANALYSIS**

(i) Original Resource and Remaining Resource (Summary)

The computer printout, after listing the base data, proceeds with the following summary:

ITEM	ORIGINAL TOTAL AREA	ORIGINAL TOTAL RESOURCE(M3)	AREA AT 31.12.78	RESOURCE AT 31.12.88
Timber				
Permits	170,611	1,505,060	-	934,584
TRP's	280,491	2,337,059	-	-
LFA's	186,500	1,645,000	-	1,275,130
Others	-	-	109,337	1,627,660
	637,602ha	5,487,119m3	109,337ha	3,837,374m3

The summary clearly cannot be meant to show what it does and that follows as a matter of elementary logic. The position must be as follows:

**Total Original Resource Area and Volume**

The total original resource area must logically consist:

ITEM	AREA (Ha)	VOLUME (M3)
(a) the total TRP area (which includes that presently under Timber Permit plus Central New Ireland TRP)	280,491	2,337,059
(b) the total LFA area	186,500	1,645,000
(c) the total Others	109,337	1,627,660
	576,328ha	5,609,719m3

To this one would have to add Weitten Valley of 60,000 ha with an unknown resource volume, resolve the discrepancy as to whether Central New Hanover has an area of 33,000 ha or 82,000 ha and ascertain what the resource volume is as a result and to confirm the Lihir resource area is 3,500 ha and not 20,000 ha as shown in the NDFFP. The total resource area was clearly well over 600,000 ha and the volume apparently over 6 million m<sup>3</sup>.

Remaining Resource Area and Volume (Summary)

The summary cannot be completed as to land area as it is not known what hectarages of resource remain in timber Permit areas and in LFA's.

The volumes of resource said to remain are:

<u>ITEM</u>	<u>VOLUME (M3)</u>
Timber Permit Areas	934,584
LFA Areas	1,275,130
Others	<u>1,627,660</u>
	<u>2,837,374</u>

This is what was put to the Commission by DOF officers in evidence - that 3,837,374m<sup>3</sup> of timber resource remains in New Ireland.

The figure would be subject to adjustment for Weitten Valley and perhaps for New Hanover and a figure in the order of 300,000m<sup>3</sup> would be added to cover Central New Ireland TRP. That the figure is a very false figure is plain from the above analysis.

The Timber Permit figure is vastly inflated and exaggerated. Worthwhile residual resources only exist on Mussau Island and small residual resources in Konos-Pue TRP with fantastic figures being included for Tasukolak, Channel Timbers, Mamirum and Leytrac.

The LFA figure is again vastly inflated and exaggerated. Worthwhile resources remain only on Tabar and Ugana LFA's and fantastic figures are included for Nakmai LFA and Sopathin's Rasirik Suralil LFA.

All of these Timber Permit and LFA resources (except Tabar LFA and Central New Ireland TRP) are committed and are destined to cut out within the next few years.

I also have very severe reservations about the residual resource in unallocated areas and particularly whether the volumes stated are commercially extractable.

#### Sustained Yield Analysis

With this data base - which I consider is dubious in the extreme - calculations are made in the printout based on a 40 year sustained yield period.

The estimated unallocated resource of 1,627,660m<sup>3</sup> is calculated to be exploitable at a sustained yield rate of 40,692m<sup>3</sup> per year.

The clearly overestimated total residual resource (including the unallocated resource) aggregating 3,837,374m<sup>3</sup> is calculated to be exploitable at a sustained yield rate of 95,934m<sup>3</sup> per year.

From this theoretical data based on dubious premises the following projections are calculated:

YEAR	COMMITTED CUT LEVELS IN TP'S AND LFA'S (M <sup>3</sup> )	SUSTAINED LEVEL OF CUT IN TOTAL RESIDUAL RESOURCE (M <sup>3</sup> )	LEVEL OF OVERCUT (M <sup>3</sup> )
1988	603,560	95,934	507,626
1989	497,000	95,934	401,066
1990	363,000	95,934	267,066
1991	253,000	95,934	157,066
1992	205,000	95,934	109,066
1993	150,000	95,934	54,066
1994	150,000	95,934	54,066
	2,221,560	671,538	1,550,022

What this means is that on DOF residual resource estimates and a sustained yield cycle of 40 years the New Ireland forest resource will be harvested on presently committed cut rates at over three times the sustained yield cut rates and that between 1988 and 1994 the committed rates of cut will be over 1.5 millionm<sup>3</sup> in excess of sustained yield levels of cut.

In addition these figures assume no new resources are allocated between now and 1994. If they are then the position worsens. The seriousness of the position is clear and is in fact more serious than is stated.

First the resource base is dubious and overstated. One result is that the sustainable cut rate is lower than that used and the overcut is greater than that stated.

Second the sustained yield period of 40 years is dubious. Much of the resource exploitation on New Ireland has involved radical opening of the forest canopy and drastically severe logging. Many areas have been cut over up to three times. In such circumstances Mr Vatasan has said (see Vol.3 Appendix 6 Schedule 9) that it may be up to 70 or 80 years before the forest regrows from seedlings. If a longer sustained yield period is involved then the sustainable cut rate is yet again lower than that used and the overcut is greater yet again than that stated.

#### D THE PRACTICAL SCENARIO IN NEW IRELAND

The practical reality is that the resource base in existing Timber Permit areas and existing LFA areas should be disregarded for planning purposes as those resources are committed and will all cut out in the next few years. The real resource base is the unallocated areas.

Even if the dubious aggregate resource base of 1,627,660m<sup>3</sup> is accepted and augmented by a further estimated resource of 300,000m<sup>3</sup> in Central New Ireland TRP the base is less than 2 million m<sup>3</sup> (or one third of the original resource base of 6 million m<sup>3</sup>). On the presumed (and I consider dubious) sustained yield period of 40 years a total resource of 2 million m<sup>3</sup> will support a sustained yield cut rate of only 50,000m<sup>3</sup> per year or about one-tenth of the present committed rate of cut.

If the residual unallocated forest resource base was responsibly managed on sustained yield terms the aggregate annual cut limit would (until resource data has been accurately verified) have to be fixed well below 50,000m<sup>3</sup> per year. To expect this will occur is a "pipe dream".

The expressed policy adopted in 1979 was to increase foreign revenue earnings by increasing log exports. The tempo of this endeavour has been increased at an incredible rate since 1985 and has been the all consuming driving preoccupation of the Department of Forests and successive Ministers of Forests since that time.

Minister Diro spoke in his time as Minister of vastly increased log exports. Minister Torato continued the thrust with his stated objective of doubling log exports in a year. Prime Minister Wingti and Minister Horik, while less vocal on the subject, did nothing to slow the momentum. Minister Stack has continued and perhaps

accelerated, that momentum. In the NFDP Submission itself the following passages show the thrust:

"However, it can be assumed that an additional 1,200,000 cubic metres over the 1988 harvest figure will be added on in 1989. Approximately 900,000 cubic metres of the above volume will be exported in log form."

"Over the last 5 years the volume of log export increased by about 45% to 1,400,000 cubic metres in 1987. This year this can increase to 1,550,000m<sup>3</sup> and up to 2.3 million m<sup>3</sup> at the end of 1989 or early 1990."

The Submission also recognised the thrust in politics and the community that this policy position has created saying under the heading "POLITICAL IMPLICATIONS":

"There has always been pressures from politicians, landowners and the private sector to have projects other than those in the Programme (NFDP) established. The Programme is therefore essential to ensure orderly development of the forest resource."

The policy thrust is for a massive increase in log exports and in volumes of timber cut and has provided impetus for political, landowner and commercial pressure in support of that thrust.

The result has been seen to date in New Ireland in that the Provincial Government, National Department of Forests and National Ministers for Forests have not only been unwilling and unable to resist the pressure but have been so consumed in the rush as to ignore proper steps required by legislation being taken in proper order. The whole of the remaining unallocated forest resource of New Ireland has in reality been included in the NFDP to meet the stated objectives of NFDP. There need be no concern

about activity outside the NFDP in New Ireland as there is simply no other resource left except minor remote island resources. The pressure to exploit these remaining unallocated resources for quick log exports will prove irresistible and they will be allocated, on all the indications, for exploitation on the basis that they will cut out over the period of a two or five or ten years at the most and that most will be exported in log form.

It seems no regard will be paid to principles of sustained yield management which require a regulated cut over the sustained yield period of at least 40 years.

Unless immediate and drastic action is taken the NFDP already approved by the NEC is the "death warrant" by which the Forest resource of New Ireland is condemned to extinction.

#### **E SUBSEQUENT DEVELOPMENTS**

When the foregoing matters were pointed out and became clear at a further Commission hearing on 7 March 1989 the immediate reaction of DOF was threefold:

- (a) the computer printout was said (despite the earlier evidence) to be only a working document which remained to be discussed and refined.
- (b) the National DOF staff sought to place the blame on the PFO Jack Masu for supplying unreliable information.
- (c) Secretary Komtagarea was visibly furious and said his officers would return forthwith to New Ireland to obtain accurate information and check discrepancies.

The reactions were almost predictable and doubtless a large part of the responsibility falls on the PFO. I advised Mr Komtagarea that he need not have his officers return to New Ireland on the Commission's account as I had quite a clear picture of the situation on New Ireland.

I also heard quite unconvincing explanations of a further document which had been supplied to the Commission for preparation of its final report showing the National resource position (Attachment 4). I decided to test this by applying the data to New Ireland.

On the New Ireland figures:

(a) Total Resource - 492,000 ha.

I cannot reconcile this figure with anything. The total original resource area of New Ireland seems to be well over 600,000 ha and I have no evidence of remaining resource land areas with which to make comparisons.

(b) Allocated Resource - 276,000 ha.

Again I cannot reconcile this figure. The evidence I have is that at 31.12.88 a total of 357,111 ha was allocated of which 170,611 ha was under Timber Permit and 186,500 the subject of LFA declarations and Dealings.

(c) Proposed Allocations under NFDP by 1992 - 107,000 ha

Again I cannot reconcile this figure. The approved NFDP allocations are as follows:

1989

Central New Ireland (New Investment Project) 100,000 ha

1990

Central New Hanover (New Investment Project)	82,000 ha
Upper Kamdaru (New Investment Project)	25,000 ha

1991

Umbukul (New Investment Project)	20,000 ha
Weitten Valley (New Investment Project)	<u>60,000 ha</u>
	<u>287,000 ha</u>

In addition the NFDP encompassed allocation of Lihir (said to be 20,000 ha) in 1990, Tanga (Malendok) (said to be 3,000 ha) in 1991, Lamasa Lambom (Yulu Valley) (said to be 15,000 ha) in 1992 and of West Coast Namatanai (Urulum) (said to be 10,000 ha) in 1992.

(d) Balance - 109,000 ha.

Even if the areas encompassed in the NDFFP and listed immediately above aggregating 48,000 ha are added to the omitted and small Anir Island resource the total is less than half that given. The only explanation given was that there is a possible resource in West New Hanover which is undefined and unsurveyed which may take up the difference.

The document is thus very inaccurate in all known respects and quite misleading in the context in which it was requested and supplied.

The situation was one of acute embarrassment to the DOF officers present and in that context the clear truth about New Ireland emerged in the following discussion.

#### REQUIREMENT FOR URGENT ACTION

The situation in New Ireland is urgent and critical. It is plain even with questionable resource data, that drastic and immediate action is required if New Ireland is to have a viable medium to long term forest inventory susceptible of commercial exploitation.

Without drastic and immediate action there will be no significant commercial resource remaining in New Ireland within a time frame of 3 to 6 years.

If sustained yield resource management (the expressed policy) is the true policy then the action required is quite clearly to immediately:

1. Place a ban on any further forest resource allocation in New Ireland until steps 2 to 5 are completed.
2. Embark on compiling an accurate inventory of the remaining unallocated resource which is realistically commercially extractable.
3. Review all committed resource areas on New Ireland and where just cause is available to terminate as many Timber Permits and withdraw assent from as many LFA dealings as can fairly be subjected to such action. (Any areas subjected to this action should be added into the inventory.)
4. Compile and analyse the best available data relevant to New Ireland on natural forest growth patterns and rates in order to determine as accurately as possible what the realistic sustained yield period is.
5. Use the inventory and sustained yield data, to calculate the sustainable annual cut from the commercially extractable residual resource and then evolve a carefully constructed Provincial Forest Development Plan of allocation and rates of exploitation of the available residual resource so as to limit allocation and extraction in accordance with sustained yield principles.

6. Lift the allocation ban in order to implement the Provincial Forest Development Plan and monitor its implementation with singular care and vigilance.

INDEPENDENT STATE OF PAPUA NEW GUINEA

"C O N F I D E N T I A L"

MINISTER FOR FORESTS

FILE: 3-2-2/301-2-2

DATE: 25 JULY 1988

CABINET PAPER NO. /

FOR THE MEMBERS OF THE NATIONAL EXECUTIVE COUNCIL

NATIONAL FOREST DEVELOPMENT PROGRAMME

A. PURPOSE

The purpose of this paper is to seek the National Executive Council's;  
(i) endorsement of the National Forest Development Programme, and  
(ii) approve corresponding manpower and funding supports to effectively implement the Programme.

B. FACTS AND CONSIDERATIONS

Under the 1979 White Paper "Revised National Forest Policy" a Forest Development Plan was to have been drawn up, the objective of which was to facilitate the orderly development of various forest areas within the country giving priority to least developed areas. Such a plan, which is now in the form of the National Forest Development Programme 1983-1990, was produced in 1983 but it was not successfully implemented for a variety of reasons mainly relating not only to inadequate resources within both the then Office of Forests and Provincial Divisions of Forests but also to pressures from National and Provincial politicians and landowners for the commencement of "their" forestry projects in such manner which was not in accordance with the Programme.

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To make an improvement to the manner the first programme was drawn up, the Department of Forests in 1985 requested provinces to submit a priority list of forestry development projects in their respective provinces with the view of re-drawing the previous Programme. On the basis of the provincial submissions, with minor adjustments, the 1986-1990 National Forest Development Programme was drawn up.

In September 1986 the Department of Forests requested the provinces once again to 'relook at the National Forest Development Programme with the view of accommodating any changes or revision of priorities. After receiving feedbacks from the provinces a Revised National Forest Development Programme was drawn up in January 1987 and the 12 projects to be implemented in 1988 are part of that Programme.

In April this year the Department requested the provinces once again to review the priority listing in order for an NEC submission to be drawn up which has their support.

The Programme should be considered dynamic and a "rolling" Programme, to be reviewed and updated on an annual basis, with projects phased out of the Programme as activities are completed. The Council is, however, now asked to formally endorse the 1987-1991 Programme (Attachment 1). Please note that as the Projects are implemented, e.g. those for 1987 they have been omitted.

**C. VIEWS OF OTHER MINISTRIES AFFECTED**

Views of other National Ministers have not been obtained, however, it is not expected that there will be major opposition to the Programme. The Provincial Governments have been consulted.

D. FINANCIAL IMPLICATIONS  
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As the project conditions and requirements for each project will be subject to negotiations it is difficult to assess the financial returns. However, it can be assumed that an additional volume of 1,200,000 cubic metres over the 1988 harvest figure will be added on in 1989. Approximately 900,000 cubic metres of the above volume will be exported in log form. Using current rent F.O.B. price of around 'K70.00/cubic metre, such exports should generate additional revenue in the vicinity of:-

- K63.00 million in foreign exchange earnings;
- K 6.3 million in export duties;
- K 3.5 million in Timber Royalties;
- K10.5 million in wages; and

various other returns relating to income tax, import duties, etc. not to mention the provision of infrastructure, mainly roads, airstrips, wharves, school buildings, bridges, aidposts, etc. which cannot be quantified at this stage.

Over the last 5 years the volume of log export increased by about 45% to 1,400,000 cubic metres in 1987. This year this can increase to 1,550,000 m<sup>3</sup> and up to 2.3 million m<sup>3</sup> at the end of 1989 or early 1990. Last year's foreign exchange earnings of about K113 million can be increased to about K118 million this year and K176 million by 1989 given the staffing level the department requires.

E. STAFFING IMPLICATIONS

The above targets can be attained and maybe surpassed substantially if monitoring activities are expanded and sufficiently manned with financial and transport supports.

The Department of Forests had for the last 5 years experienced serious staffing shortage immensely affecting the control and monitoring of logging and other forestry operations. Efforts over the years to increase its manpower were not successful. It is estimated that as much as 80% of the total revenue going on timber money have been lost due to lack of monitoring on the ground.

For the department to attain this year's and the future year's targets and to catch up with the existing backlog in its monitoring and other activities the following manpower and financial requirements is necessary:-

<u>MANPOWER</u>	1988	1990	1991
Monitoring (field inspectors)	- 57	30	45
Support Staff (Headquarters)	13	5	7
<b>Total</b>	<b>70</b>	<b>35</b>	<b>52</b>
<b>Accumulated Total</b>		<b>105</b>	<b>187</b>

#### BUDGET

Salary	- 630,000	270,000	405,000
Materials & Supplies	- 95,000	40,000	70,000
Transport	- 456,000	114,000	228,000
Capital Assets	- 38,000	19,000	19,000
Others	38,000	19,000	19,000
Wages, O/Time, Leave Fares	- 160,000	90,000	120,000
<b>Total</b>	<b>1,417,000</b>	<b>552,000</b>	<b>861,000</b>
<b>Accumulated Totals</b>		<b>1,969,000</b>	<b>2,830,000</b>

Explanation of the above estimates is in Appendix 2.

F. LEGISLATIVE IMPLICATIONS

Nil

G. CONSTITUTIONAL IMPLICATIONS

Nil

H. DECENTRALISATION IMPLICATIONS

Forestry is a concurrent function. All Provincial Governments were consulted before this Programme was finalized. Their Departments in general are found with overall shortage of staff as well as not performing to their best because they are not representing to my Department anymore.

I. POLITICAL IMPLICATIONS

There has always been pressures from politicians, land owners and the private sector to have projects other than those included in the Programme established. The Programme is therefore essential to ensure orderly development of forest resources.

J. PLANNING IMPLICATIONS

The implementation of the Programme once endorsed by Cabinet should allow the Department of Forests to plan for the establishment of forestry projects in an orderly manner.

K. PREVIOUS POLICY REFERENCE

Nil.

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L. RECOMMENDATION

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It is recommended that the National Executive Council:-

- (I) endorses the National Forest Development Programme (as in Appendix 1) and
- (II) allow for some corresponding increases in the staffing and financial resources of the Department of Forests to fully implement the Programme for the next 5 years.

HON K.W. STACK MP  
MINISTER FOR FORESTS

NATIONAL FOREST DEVELOPMENT PROGRAMME1987 - 1991I. PRE-INVESTMENT ACTIVITIES (RESOURCE ASSESSMENT AND T.R.P. WORK)

PROVINCE	PROJECT AREA	HECTARAGE	ACTIVITY ASSESSMENT		T.R.P.	1988	89	90	91
			1988	1989		1988	1989	1990	1991
<u>WESTERN</u>	Wawoi Guavi Blk. 3	180,000	X	X	X				
	Agrim Extension		X	X	X				
	Makapa	300,000			X				
	East Awin	100,000	X				X		
	Suki	*	X	X				X	
	Oriomo-Buturi	16,000							X
	Kiunga	225,000	X	X					X
<u>GULF</u>	East Kikori	80,000	X	X	X				
	Vailala Ext. Blk. 1	100,000	X	X	X				
	Purari	195,000			X				
	Malalaua	180,000			X				
	Kerema	270,000	X	X				X	
	Kaintiba - Kape Robe	*	X	X				X	
									X

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\*Extent of project area still to be sorted out.

NATIONAL FOREST DEVELOPMENT PROGRAMME

1987 - 1991

**I. PRE-INVESTMENT ACTIVITIES (RESOURCE ASSESSMENT AND T.R.P. WORK)**

PROVINCE	PROJECT AREA	HECTARE	ACTIVITY		1988	89	90	91
			ASSESSMENT	T.R.P.				
<b>CENTRAL</b>	Gorohu	30,000		X	X			
	Ormand-Lako-Imila	23,000		X	X			
	Asiaro-Woworo	*					X	
	Trans-Angabanga	*						X
	Tanu	*					X	
<b>MILNE BAY</b>	Gurney West	22,000		X	X			
	Gara-Modewa	70,000		X	X			
	Woodlark	26,000		X		X		
	South Kiriwina	*		X		X		
	Rossel	*					X	
	Tagula	*					X	
	Normanby	*						X

PG

\*Extent of project area still to be sorted out

NATIONAL FOREST DEVELOPMENT PROGRAMME

1987 - 1991

**I. PRE-INVESTMENT ACTIVITIES (RESOURCE ASSESSMENT AND T.R.P. WORK)**

PROVINCE	PROJECT AREA	HECTARE	ACTIVITY		1988	89	90	91
			ASSESSMENT	T.R.P.				
<u>ORO</u>	Collingwood Bay	160,000		X	X			
	Musa	50,000		X		X		
	Ioma 3 and 5	200,000				X		
<u>SOUTHERN HIGHLANDS</u>	Koia-Wekomini	640		X	X			
	Ibe-Pouro	1,187		X	X			
	Mt Giluwe	30,000		X	X			
	Yakena	812		X	X			
	Nokoli	30,000	X	X				
	Kuvulu-Nipa	*					X	
	Tari Gap	*						X
<u>EASTERN HIGHLANDS</u>	Binamaria	1,000	X	X	X			
	Mt Otto	900	X	X	X			
	Habagabeda	50	X	X			X	
	Okasa	54	X	X				X
	Andandara	800	X	X				X
	Okapa	*	X	X				X
	Wononara	*	X	X				X

\*Extent of project area still to be sorted out.

NATIONAL FOREST DEVELOPMENT PROGRAMME1987 - 1991I. PRE-INVESTMENT ACTIVITIES (RESOURCE ASSESSMENT AND T.R.P. WORK)

PROVINCE	PROJECT AREA	HECTARAGE	ACTIVITY		T.R.P.	1988	89	90	91
			ASSESSMENT	T.R.P.					
<u>CHIMBU</u>	Karamui	*		X	X		X	X	
<u>ENGA</u>	Mariamanda	360			X	X			
	Porgera	630			X			X	
	Walya	600			X				X
<u>WESTERN HIGHLANDS</u>	Kigen Extn.	*		X	X			X	
	Kum Extn.	1,700		X	X			X	
<u>WEST SEPIK</u>	Wutung-Musu	94,000			X	X			
	Aitape East Coast	*		X	X	X			
	Aitape Inland	*		X	X	X		X	
	Kaburi-Romei	*		X	X			X	
	Amanab	*		X	X				X

\*Extent of project area still to be sorted out

## TIONAL FOREST DEVELOPMENT PROG MME

1987 - 1991

I. PRE-INVESTMENT ACTIVITIES (RESOURCE ASSESSMENT AND T.R.P. WORK)

PROVINCE	PROJECT AREA	HECTARAGE	ACTIVITY		1988	89	90	91
			ASSESSMENT	T.R.P.				
<u>EAST SEPIK</u>	Wewak Angoram	90,000		X	X			
	April-Salumei	487,000	X	X	X	X		
	Hawain-Sawon	70,000		X			X	
	Mid Sepik	*	X	X		X		
	Urimo	*	X	X			X	
	Upper Sepik	*	X	X				X
<u>MADANG</u>	Rai coast	75,000		X	X			
	Biges	10,000		X	X			
	Josephstaal	90,000		X	X → X			
	Usu-Begesin	*	X	X		X → X		
	Ramu Blk 1,2,3	*	X	X				X
<u>MOROBE</u>	Cromwell	60,000		X	X → X			
	Morobe Coast	90,000		X		X		
	Ioma Blocks	73,000		X		X → X		

\*Extent of project area still to be sorted out.

NATIONAL FOREST DEVELOPMENT PROGRAMME

1987 - 1991

I. PRE-INVESTMENT ACTIVITIES (RESOURCE ASSESSMENT AND T.R.P. WORK)

PROVINCE	PROJECT AREA	HECTARAGE	ACTIVITY		1988	89	90	91
			ASSESSMENT	T.R.P.				
<u>WEST NEW BRITAIN</u>	Arawe	220,000		X	X			
	Kandrian Gasmata	100,000	X	X		X → X		
<u>EAST NEW BRITAIN</u>	Tokai-Matong	26,000		X	X			
	Gaulim Extn.	8,000		X	X			
	Toriu Headwaters	30,000		X	X → X			
	Inland Pomio-Nutuve	68,000	X	X	X			
	West Pomio	84,000	X	X	X → X			
	Pomio-Unung	21,000	X	X	X → X			
	Cape Orford	40,000	X	X	X		X	
	Cape Borgan	28,000	X	X	X		X	

NATIONAL FOREST DEVELOPMENT PROGRAMME

1987 - 1991

**I. PRE-INVESTMENT ACTIVITIES (RESOURCE ASSESSMENT AND T.R.P. WORK)**

PROVINCE	PROJECT AREA	HECTARAGE	ACTIVITY		T.R.P.	1988	89	90	91
			ASSESSMENT	T.R.P.					
<u>NEW IRELAND</u>	Central New Hanover	82,000 ✓	X	X	X				
	Umbukul	20,000 ✓	X	X		X			
	Weitten Valley	60,000 ✓	X	X			X		
	Lihir	20,000 ✓	X	X			X		
	Tanga	3,000 ✓	X	X			X		
	Lamasa Lambom	15,000 ✓	X	X				X	
	West Coast Namatanai	10,000 ✓	X	X					X
<u>NORTH SOLOMONS</u>	Torokina	34,000		X		X			
	Wakunai	*	X	X			X		
	Siwai	*	X	X				X	
	Boku	*	X	X					X
<u>MANUS</u>	West Coast Manus Extn	20,000	X	X	X	X	X		

\*Extent of Project area still to be sorted out.

INVESTMENT ACTIVITIES (TENDERING, EVALUATION OF PROPOSALS,  
NEGOTIATIONS, ISSUANCE OF TIMBER PERMIT AND LOGGING AND  
MARKETING AGREEMENT)

1988

Bo.

A. NEW INVESTMENT PROJECTS

1. Turama	- Gulf	-	188,000 HAs
2. Manus	- Manus	-	32,000 HAs
3. Ioma 4	- Oro	-	29,000 HAs
4. Bonua Magarida	- Central	-	67,000 HAs
5. Rai Coast	- Madang	-	75,000 HAs
6. Sogeram	- Madang	-	56,000 HAs
7. Iva-Inika	- Central	-	13,000 HAs
8. Kui	- Morobe	-	12,000 HAs
9. Buhem-Mongi	- Morobe	-	26,000 HAs
10. Jimi	- Western Highlands	-	110,000 HAs
11. Arawe	- West New Britain	-	<u>220,000</u> HAs
	<b>Sub-Total</b>		<b>828,000 HAs</b>

B. RENEGLIOTIATED ON-GOING PROJECTS

1. Stettin Bay	- West New Britain	-	410,000 HAs
2. Kapuluk	- West New Britain	-	<u>170,000</u> HAs
	<b>Sub-Total</b>		<b>580,000 HAs</b>

C. DEFUNCT PROJECTS TO BE REVIVED

1. Ulingan Development	- Madang	-	25,000 HAs
2. Central Pomio Logging	- E.N. Britain	-	26,000 HAs
3. Ahia Development	- Gulf	-	13,000 HAs
4. Mussau Development	- New Ireland	-	36,000 HAs
5. West Gadaisu	- Central	-	<u>25,000</u> HAs
	<b>Sub-Total</b>		<b>125,000 HAs</b>



PAPUA NEW GUINEA GOVERNMENT

NATIONAL EXECUTIVE COUNCIL

Decision No: NG 23/88

Meeting No: NG 8/88

**NATIONAL FOREST DEVELOPMENT PROGRAMME.**

Subject.....

On 18th August, 1988, Council:-

1. endorsed the National Forest Development Programme (as in Appendix 1 of Policy Submission No. NG 20/88; and
2. directed that recommendations 2 and 3 be included in the Forests Departments 1989 budget process as part of its programme.

I certify the above to be a correct record of the  
Decision reached by National Executive Council.

*R. Namaliu*  
R. NAMALIU Chairman

*M. Eka*  
P.M. EKA Secretary, N.E.C.

Date: 19 August 1988

Distribution: FOREST/FINANCE AND PLANNING/PERSONNEL MANAGEMENT/  
PRIME MINISTER & NEC/JUSTICE/

ATTACHMENT THREE

CIRCULAR

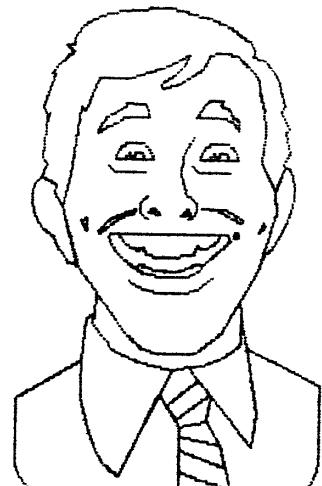
TO: PROVINCIAL SECRETARIES,  
PROVINCIAL PLANNERS,  
PROVINCIAL FOREST OFFICERS.

DATE: 301-2-2/31-2-1

DATE: 30-11-88

RE: **NATIONAL FOREST DEVELOPMENT PLAN**

As all of us are aware, there is no National Forest Development Plan as such for Papua New Guinea.



MERRY XMAS AND A  
HAPPY NEW YEAR

There are however, Development Strategies and annually rolling, 5-year Programmes which many of us are familiar with at this stage. There is however, one main danger and it is that there are no set limits or parameters set.

Countrywise, we have yet to feel the adverse effect of shortfalls in woodflows, but as we may be aware there are Provinces that are getting in this situation. One of the effects could be in not being able to secure long term benefits such as infrastructure developments and sustainable industries, because forest resources have been allowed to be exploited without proper planning.

In order to sort this out, we are mounting an immediate exercise to have a National Forest Development Plan in place by 1989.

The exercise will initially involve officials from my Planning Branch physically visiting all the provinces between the months of January and April 1989. A series of workshops preferably on regional basis will be organised in the May-June period. These will be followed by actual drafting of the Plan, circulation of such draft, assessment of comments received and finally a submission from the minister for consideration and adoption by National Executive Council.

For this exercise, it is suggested that you assign an officer as Forest Management Officer of your Forestry Division. Provinces will be advised individually of the travel itinerary of my officers under separate cover.

Michael Komtagarea  
SECRETARY

<u>Department</u>	<u>Officer</u>	<u>Address</u>	<u>Department</u>	<u>Officer</u>	<u>Address</u>
CENTRAL	Secretary Prov Planner AsF	Free Mail Bag Services Kone -do-	ENB	Secretary Prov Planner AsF	Box 714, Rab -do- -do-
ES	Secretary Prov Planner AsF	-do- Wwk -do- -do-	EH	Sec Prov Planner AsF	Box 880, Gka -do- Box 765, Gka
M`BAY	Sec P Planner AsF	-do- Alotau -do- -do-	GULF	Sec P Planner AsF	Box 87, Krm -do- -do-
MAG	Sec P Planner AsF	Box 2108, Yomba -do- Box 2116, Yomba	MAS	Sec P Planner AsF	Box 37, Lor -do- -do-
NI	Sec P Planner AsF	Box 103, Kvg -do- -do-	NS	Sec P Planner AsF	Box 124, Ara -do- -do-
ORO	Sec P Planner AsF	Free M Bag, Pop -do- Box 69, Pop	SIMBU	Sec P Planner AsF	Box 192, Kun -do- -do-
SH	Sec P Planner AsF	Box 249, Mendi -do- -do-	WNB	Sec P Planner AsF	Box 430, Kimbe -do- Box 447, Kimbe
WS	Sec P Planner AsF	Private M Bg Val -do- -do-	WH	Sec P Planner AsF	Box 17, Mt Hgn -do- Box 31, Mt Hgn
WESTERN	Sec P Planner AsF	Box 24, Daru -do- -do-	MOR	Sec P Planner AsF	Box 572, Lae -do- Box 638, Lae
ENGA	Sec P Planner AsF	Box 109, Wabag -do- Box 99, Wabag			

17

73

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C. **DEFUNCT PROJECTS**

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Bo:

D. **AREAS TO BE ALLOCATED AS ADDITIONAL RESOURCE TO EXISTING OPERATORS**

1. Andamara
2. Okapa

TABLE SHOWING DEPARTMENTAL STAFFING REQUIREMENT AND EXPECTED REVENUE EARNINGS

YEAR	ANNUAL CUT (MILL. CU.M.)	CURRENT MONITORING OFFICERS **	ACTUAL REQUIREMENT ***	ADDITIONAL STAFF REQUIRED	ADDITIONAL FUNDING REQ. (MILL. KINA)	FOREIGN EXCHANGE EARNINGS (MILL. KINA)
1984	1.558	not available	74			82
1985	1.517	not available	74			67
1986	1.727	74	82	8		77
1987	2.000	74	95	21		113
1988	2.300	74	109	35		118
1989	3.500*		179	105	1.417	176
1990	4.700*		244	170	1.115	236
1991	5.900*		309	235	1.229	296

\* PROJECTED VOLUME OF CUT AS PER PROGRAMME

\*\* PROVINCIAL STAFF = 66, NATIONAL STAFF= 8

\*\*\* BASED ON THE FAO UN STUDY (21,000 CU. M. / officer) PLUS SUPPORT STAFF AT HEADQUARTERS

**APPENDIX 3****ADDITIONAL STAFFING REQUIREMENT AT FOREST HEADQUARTERS**

<b>YEAR</b>	<b>NO. OF INVESTMENT PROJECTS</b>	<b>NO. OF HQ STAFF INVOLVED IN PROCESSING PROJECTS</b>	<b>ACTUAL REQUIREMENT</b>	<b>ADDITIONAL STAFF REQUIREMENT</b>
<b>1985</b>	<b>4</b>	<b>5</b>	<b>3</b>	
<b>1986</b>	<b>5</b>	<b>5</b>	<b>3</b>	
<b>1987</b>	<b>5</b>	<b>5</b>	<b>3</b>	
<b>1988</b>	<b>23</b>	<b>7</b>	<b>16</b>	<b>9</b>
<b>1989</b>	<b>23</b>		<b>21</b>	<b>14</b>
<b>1990</b>	<b>20</b>		<b>26</b>	<b>19</b>
<b>1991</b>	<b>18</b>		<b>31</b>	<b>24</b>

- The basis of the manpower is a report on "Manpower Assessment: Forestry Sector, PNG" prepared for the government of Papua New Guinea by FAO (Food and Agriculture Organization) of the United Nations in 1986.
- The report recommended that to effectively monitor logging operations a technician (forester) is required for every 550 hectares of forest to be harvested. In view of the anticipated transport support the above figure is adjusted to 700 hectares per forester.
- At a national average rate of harvest per hectare of 30 cubic metres it means that a forester is required for every 21,000 cubic metres to be harvested.
- In 1989 the annual log harvest will be increased by 1,200,000 cubic metres over the 1988 figure. Therefore, we will need 57 foresters to monitor new projects.  
Calculation is as follows:-

$$\frac{1,200,000}{21,000} = 57$$

- The additional support personnel required is for Headquarters staffing to undertake pre-investment activities (e.g. mapping, resource assessment, TRP, TP, Forest Working Plans, Planning and Project evaluation etc).
- For every three field officers it is estimated that one 4 Wheel Drive vehicle is required to make them mobile and effective. Thus,  $\frac{57}{3} = 19$  officers = 19 vehicles in 1989
- Increased manpower and funding requirements in 1990-1991 are corresponding additional needs over the 1989 figures. Therefore, the total manpower requirement over three years is 187 with corresponding funding requirement of K2.3 million.

**D. AREAS TO BE ALLOCATED AS ADDITIONAL RESOURCE TO EXISTING OPERATORS**

1. Manetai	-	North Solomons	-	24,000 Ha
2. West Gurney	-	Milne Bay	-	23,000 Ha
3. Koia-Wekomini	-	Southern Highlands	-	640 Ha
4. Ibe-Pouro	-	Southern Highlands	-	1,187 Ha
5. Gaulim Extn.	-	East New Britain	-	<u>8,000</u> Ha
		Sub-Total		56,827 Ha
		<b>GRAND TOTAL</b>		<b><u>1,589,827 Ha</u></b>

**1989**

**A. NEW INVESTMENT PROJECTS**

1. Makapa	-	Western	-	300,000 Ha
2. East Kikori	-	Gulf	-	80,000 Ha
3. West Giluwe	-	Southern Highlands	-	30,000 Ha
4. Gorohu	-	Central	-	30,000 Ha
5. Gara-Modewa	-	Milne Bay	-	72,000 Ha
6. Collingwood Bay	-	Oro	-	160,000 Ha
7. Morobe Coast	-	Morobe	-	90,000 Ha
8. Central New Ireland	-	New Ireland	-	100,000 Ha
9. Torokina	-	North Solomons	-	34,000 Ha
10. Pomio Consolidated	-	East New Britain	-	165,000 Ha
11. Josephstaal	-	Madang	-	90,000 Ha
12. Wutung-Musu	-	West Sepik	-	94,000 Ha
13. April-Salumei	-	East Sepik	-	200,000 Ha
14. Malalaua	-	Gulf	-	<u>180,000</u> Ha
		Sub-Total		1,625,000 Ha

**B. ON-GOING PROJECT TO BE REVIEWED**

1. Vanimo Forest	-	West Sepik	-	<u>290,000</u> Ha
		Sub-Total		<u>290,000</u> Ha

**C. DEFUNCT PROJECTS**

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**D. AREAS TO BE ALLOCATED AS ADDITIONAL RESOURCE TO EXISTING OPERATORS**

1. Agrim Extn.	- Western	-	26,000 Has
2. Yakena	- Southern Highlands	-	812 Has
3. Ramandu	- East New Britain	-	16,000 Has
4. Seraji	- East New Britain	-	17,000 Has
5. Biges	- Madang	-	10,000 Has
6. Binamaria	- Eastern Highlands	-	1,000 Has
7. Mt. Otto	- Eastern Highlands	-	900 Has
8. Nokoli	- Southern Highlands	-	<u>30,000</u> Has
	<b>Sub-Total</b>		<b>101,712 Has</b>

**GRAND TOTAL**

**2,016,712 Has**

**1990**

**A. NEW INVESTMENT PROJECTS**

1. East Awin	- Western	-	100,000 Has
2. Purari	- Gulf	-	195,000 Has
3. Kerema Bay	- Gulf	-	270,000 Has
4. Woodlark	- Milne Bay	-	26,000 Has
5. Musa	- Oro	-	50,000 Has
6. Ioma 3 & 5	- Oro	-	200,000 Has
7. Central New Hanover	- New Ireland	-	<u>82,000 Has</u> ←
8. Upper Kamdaru	- New Ireland	-	<u>25,000 Has</u> ←
9. Wakunai	- North Solomons	-	* Has
10. Pondo	- East New Britain	-	12,000 Has
11. Cromwell	- Morobe	-	60,000 Has
12. Aitape Inland	- West Sepik	-	- Has
13. Aitape East Coast	- West Sepik	-	* Has
14. Hawaiian-Sawom	- East Sepik	-	* Has
	<b>Sub-Total</b>		<b>841,140 Has</b>

**B. ON-GOING PROJECTS TO BE REVIEWED**

08

**NIL**

**C. DEFUNCT PROJECTS**

**NIL**

**D. AREAS TO BE ALLOCATED AS ADDITIONAL RESOURCE TO EXISTING OPERATIONS**

1. Orman-Lako-Imila	- Central	-	26,000 Has
2. Torfū Headwaters	- East New Britain	-	30,000 Has
3. Birik	- Morobe	-	845 Has
4. Ilabagabeda	- Eastern Highlands	-	50 Has
5. Okasa	- Eastern Highlands	-	54 Has
6. Meriamanda	- Enga	-	<u>360</u> Has
	<b>Sub-Total</b>		<b>571,309 Has</b>
	<b>GRAND TOTAL</b>		<b>898,449 Has</b>

1991

**A. NEW PROJECTS**

1. Suki	- Western	-	*
2. Asiaro-Woworo	- Central	-	*
3. South Kiriwina	- Milne Bay	-	*
4. Kavulu-Nipa	- Southern Highlands	-	*
5. Manus Extn.	- Manus	-	*
6. Umbukul	- New Ireland	-	20,000 Has ←
7. Weitten Valley	- New Ireland	-	60,000 Has ←
8. Siwai	- North Solomons	-	*
9. Cape Orford	- East New Britain	-	40,000 Has
10. Cape Borgan	- East New Britain	-	28,000 Has
11. Usu-Begesin	- Madang	-	*
12. Ioma Blocks	- Morobe	-	73,000 Has
13. Kandrian-Gasmata	- West New Britain	-	100,000 Has
14. Amanab	- West Sepik	-	*
15. Kaburi-Romei	- West Sepik	-	*
16. Mid-Sepik	- East Sepik	-	*

**B. ON-GOING PROJECTS UNDER REVIEW**

08

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\*EXTENT OF PROJECT AREA STILL TO BE SORTED

FOREST RESOURCE OF PAPUA NEW GUINEA

TOTAL LAND AREA - 46,886,000 HECTARES  
 TOTAL CLOSED FOREST AREA - 36,000,000 HECTARES  
 TOTAL OPERABLE FOREST AREA - 15,000,000 HECTARES\*

## STATUS OF FOREST RESOURCE BY PROVINCE AS AT 28/2/89 ('000 HECTARES)

PROVINCE	TOTAL FOR RESOURCE	ALLOCATED AS AT 28/2/89	PROPOSED AREAS TO BE ALLOCATED BY 1992 **	BALANCE
1. WESTERN	3,689	317	426	2,946
2. GULF	1,969	240	725	1,004
3. CENTRAL	393	302	26	65
4. MILNE BAY	425	245	100	80
5. ORO	757	200	410	147
6. S.H.P.	116	43	61	12
7. E.H.P.	86	2	2	82
8. CHIMBU	168	NIL	NIL	168
9. W.H.P.	211	6	110	95
10. W.S.P.	935	327	150	458
11. E.S.P.	998	40	220	738
12. MADANG	612	115	221	276
13. MOROBE	750	107	223	420
14. W.N.B.	2,036	728	296	1,012
15. E.N.B.	621	261	301	59
16. N.I.P.	492	276	107	109
17. N.S.P.	285	116	84	85
18. MANUS	140	51	NIL	89
19. ENGA	150		1	148
	14,833	3,377	3,463	7,993

\* ESTIMATE BY FAO IN 1974

\*\* AS PER NFDP APPROVED BY NEC

## SCHEDULE 2

MONITORING TIMBER OPERATIONS

It is self evident that the timber industry must be subject to official monitoring of its operation's if these operations are to be conducted in the best interests of PNG and if the National interest is to be protected.

Forestry staff must monitor to ensure that:-

- (a) infrastructural obligations are completed in the time span provided by the Timber Permit or Dealing Agreement;
- (b) agricultural and other follow up land use obligations are carried out within the time span provided by the Timber Permit;
- (c) logging activity is in conformity with the permit conditions and with good logging practices, that it is causing minimal damage to the residual resources and that it does not involve harvesting undersized trees.
- (d) all logs felled are entered in the logging record (FD66) and that royalties are promptly assessed and paid;
- (e) logs felled are not abandoned or excessively docked and that wasteage is within reasonable limits;
- (f) the environment is protected by preventing logging on slopes where erosion may become a problem, by preventing cutting in close proximity to streams and by preventing pollution and damage to watercourses by debris or improperly constructed crossings obstructing watercourses;

- (g) logs are correctly identified by species, correctly scaled (measured for volume) and correctly graded.
- (h) loading of logs for export is carefully monitored to ensure disclosure of the full quantity of logs shipped in every respect;
- (c) monthly log returns are up to date, all assessed royalties and export duties are paid and that customs clearance has been obtained before any export log shipment is allowed to depart.

With the advent of Provincial Government, and as part of the decentralisation process, the great majority of the forestry officers stationed in the Provinces were, without much thought, simply transferred from the National Department (then Office) of Forests to become staff of the Department of the relevant Province.

In the result the National Departmental Staff levels were drastically cut and concentrated at headquarters, in teaching or research institutions (mainly in Lae) and in various National forest plantations or project areas - such as Wau/Bulolo and Kapuluk.

The monitoring responsibility thus became formally vested in Provincial staff responsible, through the PFO, to the Provincial Secretary. These provincial officers had no direct reporting responsibility to the Secretary of the National Department of Forests. It has become clear, during the course of this enquiry, that many problems in the forestry sector result from an almost complete breakdown in the monitoring of forest operations and the lack of power vested in the Secretary of Forests over provincial forestry staff.

Examples of this breakdown are manifold in New Ireland and are thoroughly detailed in the appendices.

The deficiencies in the monitoring area were well recognised by DOF as was the problem regarding control of Provincial staff. This aspect was squarely raised in the NEC submission on the NFDP.

Secretary Komtagarea said in evidence that the solution perceived was that the shortfall in monitoring officers should be filled at National Departmental level to ensure that the additional monitoring staff were not only responsible to DOF but responsive to National DOF requirements. The NFDP submission plainly set out the position.

As at 1988 there were six DOF monitoring officers and there was a shortfall of 35 monitoring officers. In the NFDP submission provision was therefore sought in DOF's budget for:

- (i) 105 additional officers  
(including the 35 shortfall) in 1989;
- (ii) 65 further officers in 1990;
- (iii) 65 further officers in 1991.

Monitoring is a function of DOF's Resource Development Division.

Budgetary provisions:

- 1) In 1988 the Resource Development Division received an allocation for Items 1 to 10 of K444,600 and project allocations aggregating K726,000 (for Wau/Bulolo Project K545,000, Kapuluk Project K37,000 and Vanimo Project K144,000).

- ii) In 1989 the Resource Development Division received an initial allocation of K38,000 for Items 1 to 10 and no project allocations although it continued to be responsible for the Wau/Bulolo, Kapuluk and Vanimo Projects.
- iii) The 1989 allocation for Items 1 to 10 was revised to K438,000 but no project funds were allocated for Wau/Bulolo, Kapuluk or Vanimo.

The Resource Development Division thus has to carry out in 1989 all the responsibilities it had in 1988 (with a total 1988 allocation of K1,170,600) plus monitoring of new projects flowing from the NFDP with a reduced total allocation of K438,000. Rather than having the much needed increased monitoring, its capacity has been reduced. On a reduced budget six National DOF officers are expected to do the work of 111 men.

Secretary Komtagarea gave evidence that the Department of Finance had refused to allocate further funds and that it had advised DOF to find savings by readjustment within its own total budget.

At the time this evidence was given (on 7 March 1989) nothing had been done to identify the savings which could be redirected to the monitoring responsibilities of the Resource Development Division.

I was unable to obtain a clear answer as to whether this serious situation had been fairly and forcefully brought to the attention of Minister Stack. I was told the question of the NFDP and its dependence on the non-existing additional monitoring staff has not been referred back to the NEC.

Judging by what is occurring I am compelled to report that Government policy treats the vitally important monitoring role in the timber industry so lightly that no responsible attention is presently being directed to it.

The only apparent response of the Secretary DOF to the need for internal reorganisation to make up the monitoring deficiency has been to post the FAS in charge of the scandalously understaffed and underfunded Resource Development Division (Mr Johnson Mantu) to other work. From records on DOF files that officer was one of the very few officers who genuinely tried to enforce strict monitoring of operations, and I witnessed this on several occasions myself.

Whether the National Government's decision to improve monitoring by increasing National, rather than Provincial, staff levels was right is not my concern here. Whichever level of government is to control those officers, the fact remains that the officers were considered to be necessary by the FAO experts who recommended the increase and by the NEC which approved it.

Without some such increase in staff numbers (whether national or provincial) the vastly increased level of logging approved in the NFDP cannot be monitored.

I believe that the fact of there being no effective monitoring capacity, and consequently that the forests, the landowners and the Government will be left without protection against the foreign timber companies should be referred back to the NEC so that the National Forest Development Programme can be reconsidered as a matter of urgency.

# COPY

Touche Ross

Our Ref: ABF/BC

2nd March 1989

The Chief Collector of Taxes  
P O Box 777  
PORT MORESPY  
National Capital District

ATTENTION: MR H.P. KOCHANNEK

Dear Sir,

R: SHIN ASAHIKAWA NEW GUINEA PTY LIMITED

This is to confirm the settlement agreed in respect of all outstanding income Tax, Group Tax and any other taxes payable to the Chief Collector of Taxes up to and including the year ended 31st December 1986.

The terms of settlement being Shin Asahikawa New Guinea Pty Ltd will agree to accept a total tax liability in respect of all taxes due and payable up to and including the year ended 31st December 1986 amounting to One Million Nine Hundred Thousand Kina (K1,900,000).

The Chief Collector acknowledges he is holding the amount of Two Hundred & Eighty Two Thousand Three Hundred and Eighty Seven Kina 48t (K282,367.48) of the Company's funds which will be offset against the K1,900,000. The balance of One Million Six Hundred & Seventeen Thousand and Six Hundred & Twelve Kina 52t (K1,617,612.52) to be paid by the following instalments.

YEAR ENDED	AMOUNT	PAYABLE
31.12.88	K317,612.52	By 31st December 1988
31.12.89	K400,000.00	By equal quarterly instalments of K100,000
31.12.90	K450,000.00	By equal quarterly instalments of K112,500
31.12.91	K450,000.00	By equal quarterly instalments of K112,500

The instalment for year ended 31st December 1989 has been calculated in order to allow the company to lease additional plant to increase its production from 46,000 cubic meters presently produced to 54,000 cubic meters as allowed under the agreement. This will generate additional income in future years and assist its cash flow to meet the instalments of Tax.

In addition to the above instalments the company undertakes to pay all future income and group instalment taxes as and when assessed.

In undertaking to pay the taxes stated the company will be relying on its ability to generate sufficient cash each year to meet the liability. Should in any year its cash availability be insufficient to meet the liability when due the company will advise the Chief Collector with a view to obtaining an agreed extension of time.

Your confirmation of the terms of settlement and the issue of amended assessments would be appreciated in due course.

Yours faithfully,

*Malcolm J. A. T.*

INT: YEN

SAMO O., LTD

29.7.78

		KIMADA	FUTAGAMI	KUROKAWA	TOMIWATSI	ASAKAWA	ONODRA	HAYAMI	SUB-TOTAL	SAGAWA	TOTAL	
1982	133.18	SALARIES	4,500,000	2,800,000	2,500,000	2,200,000	2,200,000	1,800,000	17,800,000	2,600,000	20,400,000	
		BONUS	400,000	290,000	200,000	200,000	150,000	130,000	310,000	1,100,000	1,100,000	
1983	134.2	SALARIES	4,500,000	3,200,000	2,750,000	2,400,000	2,400,000	1,800,000	19,190,000	2,910,000	22,100,000	
		BONUS	400,000	334.3	K 5334.4	K 7225	K 7225	K 5176	K 5176	K 8760		
1984	135.2	SALARIES	4,500,000	2,800,000	2,500,000	2,200,000	2,200,000	1,800,000	17,800,000	2,600,000	20,400,000	
		BONUS	400,000	300,000	290,000	200,000	200,000	150,000	475,000	4,200,000	900,000	
1985	136.2	SALARIES	4,500,000	3,800,000	3,350,000	2,900,000	2,900,000	2,900,000	2,275,000	22,000,000	3,900,000	25,500,000
		BONUS	400,000	11529	K 11927	K 19324	K 19324	K 9711	K 9711	K 13376		
1986	137.2	SALARIES	4,500,000	2,800,000	2,500,000	2,200,000	2,200,000	1,800,000	17,800,000	2,600,000	20,400,000	
		BONUS	400,000	380,000	850,000	700,000	700,000	475,000	4,200,000	900,000	5,100,000	
1987	138.2	SALARIES	4,500,000	3,200,000	2,750,000	2,400,000	2,400,000	1,800,000	17,800,000	2,600,000	20,400,000	
		BONUS	400,000	323.34	K 1925.7	K 1634.0	K 1634.0	K 1400.5	K 1400.5	K 2130.0		
1988	139.2	SALARIES	5,400,000	3,500,000	2,900,000	2,500,000	2,500,000	2,000,000	21,000,000	3,200,000	24,000,000	
		BONUS	500,000	400,000	300,000	200,000	200,000	150,000	1,300,000	310,000	1,700,000	
1989	140.2	SALARIES	5,400,000	4,050,000	3,300,000	2,800,000	2,800,000	2,400,000	1,950,000	19,190,000	2,910,000	22,100,000
		BONUS	500,000	900,000	700,000	550,000	550,000	400,000	350,000	3,400,000	800,000	
1990	141.2	SALARIES	5,400,000	4,400,000	3,600,000	3,050,000	3,050,000	2,350,000	2,350,000	4,000,000	28,200,000	
		BONUS	500,000	324.5	K 2294.6	K 1964.0	K 1964.0	K 14978	K 14978	K 26495		
									K 59930	K 59930		
									K 11130	K 11130		
									K 7466.6	K 7466.6		
									K 2396.6	K 2396.6		
									K 3753	K 3753		
									K 684	K 684		
									K 25%	K 25%		

SCHEDULE 4

VEIWS THE OF PROVINCIAL GOVERNMENT OF PREMIER PEDI ANIS  
ON NEW IRELAND FORESTRY.

On the 7 September 1987 at a meeting with Premier Anis and the provincial Forestry and Finance Ministers the Ministers expressed the following Provincial Government views.

- a) There is inadequate consultation by the National Minister for Forests before declaring a Local Forest Area.
- b) The legislation should be amended to ensure that all applications for allocation should be routed through the Provincial Executive Council and that the Provincial Government should be given power to veto a proposed timber development if it considered it was not in the best interest of the Province.

- c) The National government is not honouring its responsibility to see that the lost resource is replanted or to help the Provincial Government to undertake this task. Funds should be provided to enable the Provincial Government to take responsibility for reafforestation.
- d) The Provincial Government, at that stage, favoured a moratorium on all new allocation from the 1st January 1988.
- e) It favoured the establishment of a Department of Conservation and Environment Office at Kavieng and asked that clear environmental guidelines on timber operations be issued.
- f) The Provincial Government sought a negotiated Provincial Forestry Plan as part of a National Forestry Plan which should bind both governments.

In conclusion the meeting stated that the main aims of the Pedi Anis Provincial Government in the area of forestry were:

- (i) preservation of remaining timber resources for the benefit of a local processing industry in the future;
- (ii) restoring some order into the present chaos in the Province's timber areas;
- (iii) protect the local people from exploitation (foreign and domestic).

The Premier indicated he would make a written submission to the Commission but this has not been forthcoming.

SCHEDULE 5

COMMISSION OF INQUIRY  
INTO ASPECTS OF FOREST INDUSTRY

UPDATE ON NEW IRELAND  
INQUIRIES. 1987 - 1989

MAIN CRITICISMS ARISING FROM 1987 - 1988 EVIDENCE	EVENTS OCCURRING SINCE JANUARY 1988
<u>Mamirum TRP</u> - Malaysia Over-seas Investment Pty Ltd (MOI) Francis Sia.	MOI still operating for Mamirum Timbers on New Hanover and is now supported by the New Ireland Provincial Government in a conflict with another company to be approved as contractor for Pezrak landowner company at Konos - Pue. Proceedings pending in National Court.
Grossly unfair and unapproved agreement with landowner Co. Blatant cheating by MOI making improper deductions; non payment of royalties forgery of documents, serious, breach of permit conditions, blatant transfer pricing. Not NIDA registered. Owner Director of MOI faces several criminal charges over timber "fraud" and bribery of politicians.	Very recent pressure to get MOI NIDA registered. (NIDA files still contain recommendation from Mamalai) DOF has never notified NIDA of its opposition to MOI. Conditional approval has been given by NIDA within the last two weeks.
<u>Gaisho Co (NG) Pty Ltd</u>	Gaisho operations on New Ireland are cutting out but it continues to contract for Tasukolak.

Overwhelming evidence of irregularities in obtaining allocation of resources commencement of operations outside limitations of Forestry Legislation supported

by strong political pressure. Conclusive evidence of transfer pricing on a massive scale in the order of USD10. per m<sup>3</sup> selling through its parent company and/or to related Japanese buyers Sanyo Kokasaku Pulp, Maruni Mokko, Imanaka and Sumisho Lumber.

Gaisho group has regularly imposed an illegal markup above price to PNG producers of 20-22%. It constitutes fraud on the PNG producer and the PNG government. Now facing huge (crippling) revised tax assessment imposed as a result of Commission's inquiries

Gaisho is on the short list of five companies considered for the large Arawe project on West New Britain. It has applied through ATD. and the evidence is that ATD consists of Gaisho Co (NG) Pty Ltd and its related transfer pricing partners Maruni Mokko and Imanaka. (ATD's application has, so far been unsuccessful)

#### Nakmai LFA

Gaisho moved out in May 1985 there is recent history of illegal operations carried out by Bruce Tsang's companies, which have been picking over the remnants of the lost Nakmai resource which remains in scattered pockets and on steep slopes

Tsang's operations were characterised by illegal commencement, grossly improper procedures at allocation, unfair and unapproved agreements, inadequate resource survey and premature cessation to the extreme detriment of local landowners.

A new operation commenced by Lenai Development Co, which poses as a national company consisting of PNG citizens from outside Nakmai area in conjunction with the expatriate John Bereni. Lenai is not pre-registered with DOF and NIDA registered (true ownership and control not investigated) DOF officers recommended rejection of L & M agreement between Lenai DC and Nakmai P.L but it was recommended by the Secretary and approved.

Lenai logged about 2000 m<sup>3</sup> made one (part) shipment and then ceased operations because of lack of resource and local opposition. Nakmai P.L. is now negotiating with Lombda Pty Ltd to have another go at the remnants.

#### Danfu T.R.P and Danfu Extension

When Gaisho cut out the Danfu TRP it moved to Danfu extension as contractor, leaving unfulfilled roading and agricultural conditions of the Danfu Permit. It proposed to complete these during Danfu extension operations.

Gaisho continued on Danfu as contractor for Tasukolak (a Gaisho dominated landowner company) The roads and bridges obligation was fulfilled Agriculture conditions were only half fulfilled.

Only remnants of the resource are left. Gaisho will cut out about July this year and Tasukolak has engaged Leytrac, which subcontracts to Lombda Pty Ltd. and is logging pockets of timber on steep slopes in Danfu TRP. Forestry officers are monitoring environmental effects in TRP.

#### Tabar LFA

Commission discovered completely illegal operation being conducted by Sebulon Watt's Byron Consultants (restructured as a "secret" foreign company) in conjunction with foreign company Suben Pty Ltd financed by foreign June Kong in a 50-50 per cent

A new operation has commenced illegally. The LFA declaration is still defective. New company is Tovutugu Agriculture and Trading Company composed of PNG citizens from New

with another Hong Kong Company. The operation then ceased. There were gross defects in LFA declaration and improprieties in the way it was obtained. Large numbers of landowners were

not included in the Certificate of Authority which was issued without investigation by Secretary of New Ireland Department on assurances by Samson Gila, who had received improper benefits in exchange for his support.

The actions of Sebulon Watt in this fiasco involved serious professional mal-practice.

Hanover but there appears to be Malaysian financer involved. The financer appears to be Pacific Rim Holdings which on the evidence of a company search and other in camera evidence is obviously closely related to Santa Investments. Tovutugu is not pre registered with DOF.

The PEC has approved the operation. Four kilometres of road have been constructed and 1600 m<sup>3</sup> of logs have been cut without legal basis. They are still at bush ramps because there is no jinker yet on the island.

There still has been no investigation into land ownership. Two new dealings have been submitted.

The LFA was gazetted for 24000 ha. but Application for assent is for a Dealing for only 4890 ha. The new Certificate of Authority covers only one island.

There is pressure coming from politicians (including Sampson Giia) ministerial staff and landowners for the National Minister to Legitimise the operation.

Sebulon Watt is apparently again acting in this matter as his signature witnesses the Certificate of Authority.

#### Santa Investments

The Santa Group has a history of gross improprieties. Previous operations at Vailala Operation (Gulf) involved massive transfer pricing, cheating of land-owners and led to criminal charges (pending) against its directors Francis and

Santa is now involved in a timber war operating (for Dahamanalit) in the same area as Bruce Tsang's Nationwide (for Patpatar Enterprises). Problem was caused by Minister

Michael Sia. Strong evidence bribing National and Provincial politicians including Premier Seeto over Tabar LFA and Rasirik Suralil LFA. Gross environmental damage caused at Angus Gadaisu operation and other improprieties (see Interim Report 2)

Torato issuing two letters of intent to two different companies over the same area. The Community was split and Santa and Nationwide have exploited the situation. Finally Minister Stack approved two dealings in the one LFA area (contrary to legal advice).

Santa is seeking rights in Central New Ireland (supported by Provincial Government)

Most recently Santa sought approval of L&M agreement with Maisi Trust Co. Pty Ltd in West Gadaisu Central Province which is the same area it operated in for Angus.

Minister Stack indicated he would refuse. Acting Minister Genia however approved it in Mr Stack's absence overseas.

### Bruce Tsang

Works through two companies Sakai Management and Nationwide. Despite attempts to fraudulently pose as National companies both are foreign and neither is NIDA registered.

History of obtaining access to timber resources by a combination of bribery "giving" and political connections. Has commenced 1 "hit and run" actions some completely illegal. He has admitted entering into grossly unfair agreements with land-owners (assisted by lawyer/consultant Miskus Maraleu and by Sebulon Watt). He has grossly underpaid land-owner companies by a combination of unfair agreements, improper deductions and forgery of documents. He admitted to substantial transfer pricing and cheating and publicly promised to repay the money (has not done so). Conclusive evidence discloses far greater amounts of transfer pricing than he admitted.

At present his Nationwide company is still logging for Patpatar Enterprises on one portion of the split Napanta Nubui LFA in competition with Santa Investments which contracts for rival "breakaway" landowners, Dahanamalit Pty Ltd. He recently entered an L & M agreement with yet another landowner group Ugana Timbers to log Ugana LFA. Agreement was not grossly proved and so he has "converted" it to a lease, hire purchase and marketing agreements whereby he leases his equipment to Ugana and then operates it for them and does the marketing for a share of the sale price. (In effect it is a logging and marketing agreement by another name).

Because of inadequate resource survey his operations cut out far earlier than promised, leaving landowner companies and the landowners disillusioned and bitter, with few (if any) benefits to show for the loss of their resource. He has specialised in deliberately causing splits in local communities so he can contract with one of the divided groups. He has made a mockery of forestry legislation and policy and kept his machines operating from one short term operation to another by bribing politicians and by making payments to political parties.

He admitted paying "benefits" to Premier Seeto of K40,000 but the actual amount is probably far higher.

Nothing has been approved but he has already commenced work re opening and extending old Otsuka road. He is presently roading in the Central New Ireland TRP area heading towards Ugana. In the process he has diverged to log stands of timber in the TRP area which are accessible from the road. This is completely illegal. He is allegedly being supported by the Provincial Forests Minister Sialis Sabagas. Latest development is that the Board of Ugana Timbers is moving to terminate the agreement with Nationwide and form agreement with another company. On past performance Tsang will seek to claim large sums under his existing contract with Ugana and apply additional pressure on the company (including "help" to its directors) to persuade it to continue its support for Nationwide.

### Konos Pue Area

History of split community. When Kotmanse permit expired Minister Waka granted a permit to rival group Pezrak. Pty Ltd. The Community was bitterly divided and no timber activity was still proceeding during the Commission's stay in New Ireland. Only remnants of the resource remains.

Recently Pezrak entered L&M agreement with MOI for a third cut at the remnants. The PEC rejected this agreement. Pezrak entered negotiations with new company Hui Ling Engineering Pty Ltd and a Provincial Committee was formed to negotiate an agreement. A 73:27 percent split was agreed to. (plus K1 per m3 "cultural contribution") The Pezrak 27% share is low because (it is claimed that) it is not very profitable to log the slopes and remnants

Meanwhile MOI revised its schedule of payments proposal and obtained approval of the PEC to the revised L&M agreement with Pezrak. Pezrak directors are now split - supporting rival companies. History has repeated itself. Illegal logging has commenced but was stopped by a National Court injunction.

### Napanta\_Nubui

See Santa Investments above where the split within the LFA area was due to bed.

Both Santa and Nation-wide continue to log. The insoluble problems caused by defective LFA declaration and the duplicated letters

of intent to two groups over the one area (signed by Mr Torato) continue.

DOF attempts to mark the boundaries within the LFA were stopped by landowners. The boundaries of the LFA overlap with neighbouring area Rasirik Suralil which in turn overlaps with Danfu Extension boundary.

It was only recently realised that the Napanta Nubui area includes a functioning Hydro electricity scheme and that the water catchment area was never excluded from the LFA because of the speed and irregularity of its declaration. The Catchment area has now been logged to its extreme detriment.

#### Mussau Island

This resource was logged by United Timbers (a subsidiary of United Kalimantan Timbers - Singapore UKT) for Mussau Ireland Timber Company. Mussau had a unique species mixture being composed of Callophylum and Pencil Cedar only.

It was therefore very valuable. The Principal of United Timbers is Soemantri Bataanata who previously logged in Indonesia. He is also the owner of the Singapore mother company. He admitted transfer pricing through UKT in his

United Timbers has contacted landowners of the Kali Bay area on Manus and reached an agreement to contract for them in the (undeclared) Kali Bay LFA.

Information has been received that the United Timbers equipment has already arrive at Manus.

Indonesian operations using Mitsubishi Corporation for his marketing. He admitted bringing the same practice to PNG and set up with Mitsubishi's help to exploit Mussau. He admitted making all shipments through Mitsubishi. In 1985 and 1986 he sold at MEP. After FIC involvement in marketing from mid 1986 he raised prices somewhat.

On first four shipments he transferred USD210,000 and thereafter transferred at the rate of USD 10 per m<sup>3</sup> plus. DOF estimates he transferred USD108,000 (through Mitsubishi) on one shipment alone. The direct beneficiary from this conspiracy was Mitsubishi.

To what extent the transferred profit was shared between United Timbers and Mitsubishi is not known. In addition to its share of the profit United also gained a guaranteed market and unlimited finance for its operations and to set up new operations. On the evidence brought out in the Commission's Investigation the Taxation office found its tax assets and he has already settled with Mitsubishi for K385,000 on an estimated transferred profit of K1.1 million. (He achieved at least this amount of illegal profit in two years of operation).

This Kali Bay operation will be in direct competition with that of Jaha Development which has contracted with Monarch Investments to log the same area under LFA. (This is subject to National Court proceedings at the moment).

If the Kali Bay area is declared as a separate LFA excised from the Jaha LFA it will consist of about 900 h.a scattered in various pockets of land.

The landowner Company Mussau Timbers has used its Court settlement monies to buy Luaba equipment and commence its own operation on Mussau.

It is not being monitored by DOF and it is not known who does its marketing. (possibly it is selling through a trader such as Gaiisho, Shin Asahigawa or Lusco, in which case it risks being cheated by way of transfer pricing

He has accepted an advance from Mitsubishi of USD 450,000 but has not yet supplied the logs. He is therefore desperate for a new resource as his operation on Mussau has ceased.

He deliberately down graded his logs so as to gain an extra USD 10 to 20 per m<sup>3</sup> from some shipments. He under measured as a matter of routine by between 7% and 16% to make an additional illegal profit equal to the total value of those logs (about USD 460 000). In total, United Timber has deprived PNG of about USD1.5 million in export earnings and USD150 000 in export duties. His attempt to avoid company tax has failed as tax of K385 000 has now been paid as a result of the Commission's investigations.

The litigation with Mussau timbers was settled after these disclosures were made before the Commission.

Minister Horik advised United Timbers it would receive no more timber approvals in PNG.

#### Leytrac

On inspection in 88 this area had been cut out and Leytrac were scouring the slope. In isolated areas looking for second cut and undersized was putting an illegal road through towards Upper Kamdaru (Wittein Valley) in the hope of being allocated a resource there.

This operation did cut out. The Upper Kamdaru area was never allocated as land ownership required investigation. Leytrac trees. The company is now contracting for Tasukolak in Danfu TRP, seeking out isolated stands, making second and third cuts and logging the slopes.

All Leytrac's logs are marketed through Lusco (Rex Grattidge) who transfer prices through Hong Kong. Specific end invoices prove Lusco's system and prove it applies to Leytracs log.