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COMPARISON OF VARIOUS
TIMBER AREAS

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INTERIM REPORT NO 5

COMPARISON OF VARIOUS
TIMBER AREAS

April 1989



COMMISSION OF INQUIRY INTO ASPECTS OF THE FOREST INDUSTRY

P.O. BOX 2554, Boroko

TELEX NE: 23290

PAPUA NEW GUINEA

The Rt Hon Rabbie Namaliu
Department of Prime Minister
P O Box 6605
WAIGANI NCD

DATE: 3 May 1989

OUR REF:

YOUR REF:

TELEPHONE: 25 7099

My dear Prime Minister,

INTRIM REPORT NO 5 VARIOUS TIMBER AREAS

This volume contains a comparative analysis of the following Timber Areas:

- Appendix 1. Wavoi Guavi Timber Area
- Appendix 2. Vanimo Forests Timber Area
- Appendix 3. Kumusi Timber Area
- Appendix 4. West Coast Manus Timber Area

The text of the Overview to which these materials will form appendixes is not yet printed out.

With your permission I will attach it to the volume when you return from Rabaul.

Yours faithfully


T. E. BARNETT

.....
Commissioner

COMMISSION OF INQUIRY INTO
ASPECTS OF THE FORESTRY INDUSTRY

INTERIM REPORT NO 5

COMPARISON OF VARIOUS TIMBER AREAS

APPENDICES

- 1 Wawoi Guavi Timber Area
- 2 Vanimo Timber Area
- 3 Kumusi Timber Area
- 4 West Coast Manus Timber Area

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April 1989.

INTERIM REPORT NO 5

COMPARISON OF VARIOUS TIMBER AREAS

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- 2 Vanimo Forests Timber Area, West Sepik Province
- 3 Kumusi Timber Area, Oro Province
- 4 West Coast Manus Timber Area, Manus Province

INTERIM REPORT NO 5

INTRODUCTION

This interim report contains the results of detailed studies of three PNG mainland timber areas. The operations being conducted in these areas are on a large scale and they illustrate important aspects of PNG forestry policy and its administration. There is also a brief study of recent events in Manus Province where it seems that the same problems which have led to the devastation of the forests of New Ireland (reported in Interim Report No 4) are reoccurring:

The reports on these operations are set out in appendices to this interim report as follows:

- Appendix 1 Wawoi Guavi Timber Area, Western Province.
- Appendix 2 Vanimo Forests Timber Area, West Sepik Province.
- Appendix 3 Kumusi Timber Area, Oro Province.
- Appendix 4 West Coast Manus Timber Area, Manus Province.

Some matters of concern illustrated by these case studies will be commented upon in this text under the following headings:

- A. Allocation of Resource
- B. Interference with Functions
- C. Compliance with Conditions
- D. Marketing
- E. Logging practices and Monitoring
- F. National and Provincial Government Relations
- G. Benefits for the People
- H. Protection of the Forest Resources

A. ALLOCATION OF RESOURCE

Lack of planning:

The studies show once again how national and provincial forestry planning can be subjected to pressure from local (foreign supported) interests so that completely unplanned allocations are made. When this happens the whole system is put under pressure and the procedures which are designed to protect the forest resources and the landowners are bypassed to the detriment of both.

The Wawoi Guavi Timber Area in Western Province is an example of an unplanned allocation which was granted, under great pressure, to a foreign company with no timber experience and insufficient funds and expertise. When the logging operations commenced in Block 1 there had been no forest survey, the purchase of the timber rights (TRP) was incomplete, the forestry techniques were ill-conceived and unworkable and there was no Forest Working Plan. The foreign company seeking access to this resource was Straits Engineers Contracting Pte Ltd of Singapore. It gained that access by obtaining the Permit for its subsidiary Wawoi Guavi Timber Company Pty Ltd (WGTC).

Similarly, in Manus Province the declaration of the Jaha Local Forest Area, and proposed declaration of the Kali Bay LFA, were not only unplanned they were directly contrary to provincial and national planning, which required the whole of the Manus Resource to (eventually) supply an agreed upon veneer mill. In Manus there had been a survey but it was based on inadequate sampling and is open to widely varying interpretations. Two of the landowner companies had been formed at the instigation of the foreign contractors seeking access to the resource

and had been given benefits and incentives. One of the foreign contractors, United Timbers (PNG) Pty Ltd, had already proved itself an unworthy operator in New Ireland (See Interim Report No 4 Vol 2 App 4) and the other, Monarch Investments Pty Ltd, has already demonstrated its willingness to act outside the law in its Manus operations and, when charged with this, to defy lawful authority (App. 4).

The two contractors and their possessed landowner companies have set up their equipment within a few miles of the official permit holder in West Manus and have split the local community in order for each group to press its claims for an LFA. Despite these obvious problems and lack of careful preparation one LFA has been declared and another is being considered. (See Interim Report No 4 p 35 - 42 for a discussion on the matters which should be taken into account before the Minister for Forests declares a Local Forest Area).

Defects in Formal Documentation:

As well as there being no completed TRP in Wawoi Guavi, and no permit, operations were allowed to commence. Likewise in the Kumusi Timber Area operations ran for two years before a Permit was eventually drafted and it was never signed. In Manus the LFA has been declared but there is so much disputation that it seems unlikely that a valid Certificate of Authority will be declared authenticating signatories to a valid dealing. Of these operations only the Vanimo and West Coast Manus Permit projects seem to have started off correctly. The defects in the other areas were not merely unimportant formal defects. Lack of forest survey contributed to the Kumusi Timber Company going into liquidation. Failure to complete the TRP has caused doubt about true ownership and consent of the owners in the Wawoi Guavi project.

The defects in West Coast Manus are already before the courts and if logging goes ahead under the LFA's it threatens to destroy the Manus forests.

The Permit Holders:

The four areas illustrate different approaches to the question of what type of legal entity should be granted the concession.

Wawoi Guavi The original intention was to grant the permit to a nationally owned company and WGTC was structured to look like a national company with a majority of its shares being held by citizens (including the Western Province Village Development Corporation). Under this arrangement, as well as the landowners receiving royalties, the national shareholders could hope to receive dividends payable from WGTC's profits. The operations in Block 1 however were a disaster and WGTC disclosed substantial losses and then suspended its operations. (The appearance of national ownership was in any event a sham - see Appendix 1 p 5.)

When Block 2 was allocated to WGTC it had (by direction) been converted to a one hundred per cent foreign owned company. Instead of imposing a heavy burden of infrastructure conditions upon WGTC to ensure it provided roads, schools, reforestation plantations and other benefits for the people, these obligations were reduced. The landowners therefore were to receive neither "dividend profit" benefits nor benefits from an extensive range of infrastructure conditions.

Instead of these benefits they were to benefit from a premium of 48t per cubic metre paid by WGTC on its total log harvest (See Appendix 1 pp 16-18).

The Vanimo Timber project went ahead as a completely foreign owned enterprise. The Permit was issued to Vanimo Forest Products Pty Ltd, a wholly owned subsidiary of the Australian Company, Bunnings Limited. Thus, once again, the landowners and Provincial Government were never intended to receive dividend profits. Their benefits were to come from sharing the royalty payments (75% to the landowners and 25% to the Provincial Government) and from VFP's performance of conditions designed to provide infrastructure such as a sawmill, roads and bridges and to promote local businesses, urban development and other social and economic benefits. (For the initial five year permit period the full burden of these conditions was not imposed upon the company but it was required to conduct various feasibility studies and experiments which would help determine the conditions to be imposed in the long term permit which would be issued after the five year establishment period.)

Kumusi Timber Area A completely different approach was adopted in this Oro Province project. The Kumusi Timber Company (KTC) was established as one of the Forest Development Corporations (FDC) proposed in the 1979 white paper on National Forestry Policy. Shares in it were divided between the National and Provincial Governments (75%) and the foreign company Fletcher Consulting Services Limited (25%) which also managed the enterprise and conducted the marketing under a separate contract. Landowners were to benefit from royalties and the performance of conditions obliging KTC to build roads and a major bridge over the Kumusi River and KTC was also obliged to promote business opportunities and to prepare a plan for training and localisation of its employees. Being an FDC the infrastructure conditions imposed were very light as the very existence of a Papua New Guinean FDC was itself seen as a benefit to the people.

Manus Permit Area This was granted to a genuine nationally owned company with landowners and the Provincial Government as shareholders - Kei Besau Pty Ltd (KBK). KBK contracted out to SEAL Pty Ltd (after putting it to international tender). Benefits for the landowners are to come through payment of royalties. They and the Provincial Government are also to benefit directly from dividends immediately but also, after the first three years, they are intended to benefit from the construction (by SEAL) of a veneer mill to process the timber as a joint venture between SEAL and KBK. (Appendix 4)

Manus Jaha LFA This Local Forest Area was declared on the application of the, so called, landowner company, Jaha Development Corporation Pty Ltd. The aim is for Jaha to enter into a Dealing agreement with the landowners to be approved by the Minister under the Forestry (Private Dealings) Act. Jaha will then seek to gain Ministerial approval for the Logging and Marketing contract it has already signed with Monarch Investments Pty Ltd. That agreement (which I have not seen) will presumably either provide for the proceeds received from FOB sales to be divided between Monarch Investments and Jaha on a (say) 75:25 per cent sharing basis or, alternatively, it may provide the formula under which Jaha will retain a proportion of log export prices, depending upon prices obtained.

As will be shown below these various methods of providing benefits to the landowners and the Provincial Government resulted in injustice in the cases of Wawoi Guavi, Vanimo Forests and Kumusi. With regards to Manus it is too early yet to assess the situation.

B. INTERFERENCE WITH FUNCTIONS

The prime example of outsiders interfering with the functions of Ministers and the Secretary for Forests occurred during the negotiating for Wawoi Guavi Block 2. Interference was caused by Miskus Maraleu and Michael Cowan, the Chairman and Executive Director respectively of the Forest Industries Council (FIC). These men conspired with David Toms of WGTC (Straits Group) to drive a wedge between the Secretary DOF (Oscar Mamalai) and Forestry Ministers (Waka and Diro). They exploited the situation to isolate and work upon the Ministers in order to gain the very favourable conditions under which WGTC now operates. (Appendix 1 pp 21-29). Thus Minister Aoa'e gave a Letter of Intent to WGTC before TRP procedures even commenced (Appendix 1 p 4). Minister Waka approved premature commencement of the Block 2 operation despite serious opposition from DOF and from Provincial Government (Appendix 1 p 11 and p 13). Mr Diro, unilaterally, granted very considerable favours to Straits Group/WGTC including an increase in log export quota (Appendix 1 p 15), the 48 toea per cubic metre premium condition (Appendix 1 p 16) and the promise of Block 3 with no additional infrastructure conditions (Appendix 1 p 19 and Schedule 5).

In Manus interference was caused by *Monarch*-inspired landowners from the the Jaha LFA (and their supporters) who applied such consistent and prolonged pressure upon Minister for Environment and Conservation (Jim Waim) that he eventually simply capitulated. He by-passed all consultation and departmental procedures and just approved the Environmental Plan (Appendix 4 p 12).

There is no evidence of such interference in the cases of Kumusi and Vanimo Forests. Importantly their operational commencement and conditions of operation were

regularly referred to NEC for information and/or decision.

C. COMPLIANCE WITH CONDITIONS

On looking at the three mainland operations reported upon in this volume, non-compliance with operating conditions is seen to have been a major problem.

Wavoi Guavi Timber Company obviously had no intention of complying with the onerous conditions it agreed to in order to secure the permit over Wavoi Guavi Block 1. Some of the conditions were not thought out properly and were impractical; others were quite practical and fair to all parties. Mr Toms of WGTC, however, had so little intention of fulfilling the conditions that he did not even bother to work out the costs and feasibility before agreeing to them. As soon as operations commenced, WGTC began renegotiating the conditions and eventually shifted to Block 2, leaving most of them unfulfilled. (See App 1 Schedule 1 for a list of the infrastructure and other "benefit" conditions imposed on WGTC for the Block 1 operation. The following were unfulfilled - plantation establishment, sawmill construction, charcoal/pyrolysis plant, schools, medical facilities, crocodile farms and forestry project).

After cheating in the negotiations for Block 2 and obtaining a very light burden of infrastructure conditions, WGTC proceeded to break the major ones such as the completion of the sawmill and commencement of local processing, the commencement of trial afforestation and natural regeneration plots and the construction of schools and aidposts.

Vanimo Forest Products on the other hand entered into a carefully thought out project agreement which was designed to ensure construction of roads and bridges but also to stimulate and assist local business development, create experimental afforestation plots and to construct a major urban development.

The company completed most of the physical infrastructure conditions on time but failed to commence the urban development project at all or the afforestation plots. Part of the reason for this was the failure of the National Government to make land (or sufficient land) available with secure and undisputed title. VFP also failed to promote local business development and staff localisation and training with sufficient drive and enthusiasm.

Kumusi Timber Company, having been put into receivership by its secured creditor (and under a scheme of arrangement by its unsecured creditors) soon after commencement continued to operate, under the receiver (and later the Scheme Manager), for the benefit of the creditors. The Receiver Manager was allowed by DOF and the National and Provincial Governments to devote all available funds towards repayment of the secured (and later the unsecured) creditors. The infrastructure conditions, however, which were intended for the benefit of the landowners, (including major road and bridge construction and assistance with an agriculture project) were allowed to lapse. The result was that the resource has been completely cut out and just about the only benefit the landowners have received is the very small rate of royalties payable on such projects and a network of forest roads which the Provincial Government will be unable to maintain.

D. MARKETING

The marketing of Wavoi Guavi logs was riddled with impropriety from the beginning. The complex inter-company relationships between WGTC, its parent, Straits Engineers Contracting Pte Ltd of Singapore, the local subsidiary Straits Contracting (PNG) Pty Ltd and its logging and marketing contractor, Forest Marketing Services Pty Ltd, made possible many devices for transferring profits secretly off-shore. A 2 per cent unearned commission to Straits (Singapore) is only one example of the substantial transfer pricing which occurred prior to 1986. In addition to transfer pricing there was the very favourable marketing arrangement whereby WGTC saved about K10,000 per month from normal commission rates payable to FIC and offered the money instead, as an almost unearned consultancy fee, to Metepikai Holdings, the company owned by the Chairman of the FIC, Miskus Maraleu (to which Cowan was stated to be the chief professional adviser). While FIC was marketing WGTC logs, Cowan misappropriated some USD9,000 due to WGTC and telexed it to Toms of Straits (Singapore).

Kumusi Timber Company has marketed almost exclusively through the large Japanese trading corporation Sumitomo Forestry. It appears there have been some sort of financial ties with Sumitomo but this is not proven (there is evidence that Sumitomo financed the purchase of trucks by Kumusi) or its contracotr Ambogo Sawmills.

The Commission found no evidence of Transfer Pricing and it seems as though Ambogo Sawmills correctly accounted for monies which it received from Sumitomo. Those monies were however demonstrably below true market price and only when outside competition was introduced did Sumitomo substantially increase its rates. Sumitomo stands convicted, on the evidence of its own

correspondence to its headquarters, of secret and systematic undergrading of logs whereby it deprived the National Government of true export tax and deprived the national and provincial landowners of royalties. Sumitomo is so structured as to avoid all income tax in PNG (See Interim Report No 6 Vol 2 App 2).

Vanimo Forest Products is, so far as I can ascertain, clean in its marketing procedures. It markets exclusively through one company (Quarter Enterprises) which charges a high rate of commission (3.5 per cent). Quarter Enterprises does far more than the basic marketing for VFP however and succeeds in getting high prices. The commission to Quarter Enterprises is high but at the top end of the reasonable range.

The West Coast Manus Timber Permit operation has only just commenced and it is too early to assess SEAL's performance at marketing.

The marketing strategies of Monarch Investments Pty Ltd are not yet in operation and are therefore unknown. Those of its rival at Kali Bay, United Timbers, are however known all too well from studying its records as contractor for Mussau Timber Company Pty Ltd in New Ireland Province. In one year (1986) it transferred over K1.5 million to Hong Kong (See Interim Report No 4 Vol 1 p. 64 and Vol.2 App.2).

E. LOGGING PRACTICES AND MONITORING

Vanimo Forest Products' logging practices are reported by an FAO forestry research team to be below the already low PNG average performance. Reports from National and Provincial foresters and officers of the Department of Environment and Conservation confirm this and it was not strenuously denied by a visiting senior management team from the parent company, Bunnings. My own observations

confirmed these reports. Public hearings and the record of landowner complaints and road blocks also indicated that severe environmental damage is being caused by VFP's method of operations.

Monitoring by the provincial foresters was infrequent and very inefficient. The Assistant Secretary claimed that lack of transport was a problem and it undoubtedly was. Most of the routine monitoring was being carried out by the National Project Team which should have been concentrating on more specialised aspects of the project such as reforestation and natural regeneration, silviculture techniques and the promotion of agro-forestry and the wider socio-economic goals of the project.

The operations of Ambogo Sawmill on behalf of the Kumusi Timber Company were not inspected but judging from DOF files they have been very damaging to the residual forest and the environment. As the resource began to run out the damage must have been increased when the company returned to the previously logged areas to carry out the destructive process called a salvage operation. Such an operation involves seeking out overlooked stands of timber in isolated pockets and on slopes and difficult places. It is designed as a stop-gap measure to salvage the company's fading prospects - not to salvage the wrecked forest.

Monitoring by the demoralised provincial forestry service was almost non-existent. The office was without its own permanent vehicle and had to compete with other departments for access to the dwindling provincial transport funds. The only files which seemed to be in active use were the royalty file which a temporary female clerk, employed against a labourer's position, maintained scrupulously and the log book where the Assistant

Secretary entered car usage details to support his continual battle for access to transport. The export log loading operation had not been inspected for two years and my own visit convinced me that the wharf and log pond were being dominated by the resident Sumitomo checker who had virtually a free hand at selecting, regrading, remeasuring, tallying, rejecting and loading logs.

The provincial forestry office in particular, and the Provincial Government in general, were so short of funds that Ambogo's financial contributions to the provincial Minister for Forests and the Assistant Secretary were gladly accepted as a means of carrying out normal forestry duties. The Provincial Forestry Office was in fact a disgrace and it was, in a way, fitting that it burned down shortly after my visit.

Wawoi Guavi Timber Company conducted its operations through two logging contractors and one marine engineering contractor, which handled river transportation and loading of log's. The forestry operations were reasonable by PNG standards. The reason for this may be connected with the presence of an FAO research team with which the company was co-operating. The aim of the reserach was to develop appropriate logging practices and pre and post-logging silvicultural care to promote forest regeneration. Thus for instance the contractors' cutting coups were properly laid out and sample-surveyed and snig tracks were pre-marked by professional foresters from WGTC. The operators from the contract logging companies were surpervised by WGTC professionals and were expected to establish the forest roads and snig tracks where indicated. WGTC did not follow all the practices advocated by the FAO research team (such as pre-logging marking of intended residuals, a one hundred per cent survey and post-logging assessment and silvicultural care) but it was making some effort.

In this it was in marked contrast to VFP and the difference in results was obvious.

The West Coast Manus project has only just commenced and, once again, it is too early to assess SEAL's performance. It is likely to be closely monitored however as the Provincial Forest Office is showing a strong will in this regard. The permit conditions have been expressed so as to force SEAL/KBK to present detailed "land use and forest regeneration management investment and implementation plans for the TRP area within 12 months" (App 4 Sched 1 p 6). To back up these words a performance guarantee has been imposed and provincial legislation has been enacted.

Monarch Investments' logging practices are as yet unknown but it has already demonstrated a willingness to defy Government authority and consequently it seems unlikely that it will put conservation and protection of forest resource high on its list of corporate aims. The same would be true of United Timbers judging by its performance on Mussau Island. (See Interim Report No 4 Vol 2 App 4)

F. NATIONAL AND PROVINCIAL GOVERNMENT RELATIONSHIPS

Throughout the Commission's inquiries a constant theme has been that the relationship between Provincial and National Governments is not working in terms of formulating and administering National and Provincial Government forestry policies.

As far as formulation of policies is concerned the legislative power is concurrent which means that national legislation will predominate but that the provinces may legislate to fill gaps left in national laws. Until the recent provincial legislation, which has just been enacted by the Manus Provincial Government, neither level

of government was active in this field. The National legislation has long been recognised as an outdated and inadequate vessel in which to contain national policy and the provincial governments had not legislated on forestry at all.

As far as administration of policies is concerned forestry was amongst the first areas of government to be decentralised. Whereas formulation of national policy and resource allocation remain National Government functions, the staff required to administer and implement the policies have been made responsible to and placed under the control of the Provincial Governments, through the Secretary of the Department of the respective provinces.

For the Wawoi Guavi project the decision to allocate the Timber Permit and the drafting of conditions of operation were made and carried out by the National Government. The work of surveying the resource, acquiring the timber rights from the people and then monitoring and controlling the performance of WGTC is the task of the Provincial Government officers.

Theoretically there is intended to be a Provincial Forestry Plan worked up in conjunction with the DOF and synchronised with the National Forestry Plan worked up by the National department in conjunction with all provincial forestry authorities and approved by the NEC. In fact there is still no National Forestry Plan and most provinces, including Western, Oro and West Sepik, have no Provincial Forestry Plan. Manus Provincial Government does have a forestry plan.

There is however a National Forestry Development Programme which in reality is a schedule setting out target dates for completing preparatory work and then allocating various resource areas.

It is a cumbersome system which gives authority to the National Government to allocate resources and set conditions but gives to the Provincial Government the authority and staff to supervise and control the implementation of those decisions. For such a shared and decentralised system to work would require extreme co-operation and fluid communication between the two levels of government working in a spirit of goodwill towards a common and mutually perceived common goal. Unfortunately this quality of communication and cooperation is lacking in National and Provincial Government relationships.

The Wawoi Guavi area was selected for allocation by the National Government after Straits (Singapore) applied pressure directly to Minister Aoaé who issued a letter of intent. It was not on any programme of either the National or Provincial Government. The application was not put to tender but was allocated directly to WGTC by the DOF and national Minister for Forests. When allocation of Block 2 was being considered the Provincial Government was publicly opposed to any further involvement by WGTC because of its history of broken promises and because it was secretly, a foreign company. Nevertheless the National Government pressed on and promised Block 2 to WGTC. The Provincial Government briefed a prominent lawyer, Bernard Narakobi, to draft a letter objecting on its behalf. The company gained support from the Provincial Government, however, by more promises - this time to help with its business ventures and by providing free trips to key members.

The Vanimo Timber Area by contrast, was planned well in advance and the project agreement was developed in consultation with the Provincial Government with the NEC being kept informed throughout. Once the project commenced, however, there were frequent breakdowns in communication despite the fact that the National Project Team shared offices with the provincial foresters. Despite the existence of a National Government Project Co-ordinator working in Vanimo whose job was to co-ordinate activities of VFP, Provincial Foresters, DOF and other national and provincial departments, the breakdowns in communication were obviously acute. VFP contributed to this situation by reporting directly to DOF Waigani on such matters as its Business Development and Localisation Programmes, without keeping provincial headquarters adequately informed.

The Provincial Foresters claimed to have been left out and to have no knowledge that these reports had been submitted. When discussing other breaches of conditions with the provincial government officers such as the failure to develop the urban area and the re-forestation plots it was clear they were not hearing (or at least not assimilating VFP's side of the story).

VFP also suffered from this lack of communication. While I was present it was trying to grapple with a stop-work order which had been delivered very abruptly without prior warning.

It was partly based on the company's failure to satisfy new requirements for its Forest Working Plans (which it claimed to be unaware of) and partly because it seemed to the National Foresters that the company was jumping from one area to another without following any working plan. There were clear breakdowns in communication and had these matters been discussed they

could have been resolved without a major crisis which resulted in the company being shut down for about two weeks with several hundred employees being stood down at heavy expense to all concerned.

The Kumusi project was designed from the beginning as a Forest Development Corporation with shares being held by both Provincial and National Governments. For this reason there must have been considerable communication between the two levels of government before the project was launched.

This aspect of national and provincial relationships was not studied in relation to the Kumusi project but, in view of what has happened, the communication cannot have been very effective. At national level DOF and the Department of Finance (with NEC approval) made decisions which effectively extended K600,000 credit to KTC after it was in the hands of receivers with debts of K3,300,000. At the same time the Provincial Government made similar arrangements and extended credit to the extent of K300,000. This was in exchange for KTC issuing to the National and Provincial governments an equivalent value in redeemable preference shares which were never in fact issued. Had the Government obtained competent legal advice from the Department of Justice it would have been apparent that KTC did not even have power to issue such shares.

While these financial prop-ups were being arranged and implemented at the national level the provincial officers were failing to notice, or failing to report, that KTC's receiver/managers were simply ignoring the major project conditions. KTC was allowed to utilise all receipts in excess of operating expenses to pay off the creditors until, in May 1989, the permit area has been

cut out and the receivers are in the process of winding the company up.

Effective communication between the Provincial and National Governments should have brought the grievances of the Kumusi landowners forward and enabled this injustice to have been rectified long ago. The Kumusi Permit should have been cancelled to protect the resource from, in effect, being "looted" by the creditors of KTC.

In the Manus Timber Area the relationship between the National and Provincial Government over the Manus resource has been fully documented in Appendix 4.

The co-operation over the issuing of the permit in the West Coast Manus Permit Area was excellent. At that stage the two governments agreed upon limiting the rate of exploitation to the level required for sustained yield forestry. They agreed on all matters relating to the formation of the landowner company and the preparation of guidelines. The tender procedures and selection process were done in mutual co-operation. The project which was put in place was one which, logically, would require the entire Manus forest resource to be selectively logged at a sustainable pace of about 75,000m³ p.a. to supply a joint venture Veneer Mill. (Appendix 4 page 5).

By that time the Manus Provincial Government had proclaimed a clear forestry policy and put it into practice. It was in agreement with oft-stated (but rarely followed) principles of national forestry policy, including protection of the forest resources, sustained yield forestry and local processing. (App 4 Schedule 1)

After the timber permit was issued to Kei Besau Kampani Pty Ltd with SEAL as its approved contractor the national and provincial forestry plans began to differ and the co-operation began to wind down.

When two dissatisfied applicants for the Permit Area began to prompt landowner companies to apply for LFA declarations over the few remaining hectares of forest land there was open dispute between National and Provincial Governments. Despite protests by the Manus Provincial Government and even court actions over the matter Forest Minister Stack declared the Jaha LFA. The Provincial Government took the matter to the Supreme Court alleging failure by the Minister to consult. At this stage there seems to be a complete breakdown in communication between the two governments and the forests and people will be the losers.

G. BENEFITS FOR THE PEOPLE

When these four timber projects are examined from the point of view of the benefits which have flowed to the people and the Provincial and National Governments the results are a cause for very serious concern. Whichever type of allocation was adopted the benefits have been very small compared with the value of the resource which has been lost.

In all cases landowners have been paid royalties at standard rates which vary between about K3.00 and K5.00 per m³, or somewhat higher for premium species. Royalties were said to correspond to the value of the standing tree but this is patent nonsense. The value of the standing tree should be calculated by taking the international FOB market price and subtracting the cost of harvesting, the expenses to be paid (such as export duty, FIC levy and marketing commission) and a reasonable margin of profit. The result should be the approximate value of the standing tree and one would expect it to be in the vicinity of at least K20-K30 per m³ at today's prices, depending on species.

This can be expressed as a formula:

$$V = P - (E + MC + I)$$

where V = Value of standing tree
 P = FOB Price per m3
 E = Expenses of harvesting and marketing
 (including a reasonable margin of profit)
 MC = a reasonable Marketing commission
 I = Imposts (such as export duty and FIC Levy)

A realistic application of the formula based on a current average FOB price of USD80 per m3, expenses of logging and marketing (plus profit margin) of USD37, a marketing commission of USD2 per m3, FIC levy of USD0.25 per m3 and export duty of USD8 per m3 would be:

$$V = 80 - (37 + 2 + 8.25)$$

$$V = 80 - 47.25$$

$$V = 32.75$$

so the value of a standing tree, on this data, would be USD32.75.

Royalties of K3-K5 per m3 are therefore only a fraction of the true value of the standing resource. In cases where all that the landowners are getting is a share of royalties they are being very badly underpaid. To see whether landowners are receiving a fair return we must also evaluate and add on the benefit they receive from the fulfillment of the conditions in the permit or project agreement and anything they may receive by sharing in profits paid to a true landowner company.

In the Wavoi Guavi Area the exploitation of Block 1 resulted in the payment of royalties and little more. The onerous infrastructure conditions existing at that stage were largely unfulfilled and there was no profit to distribute to the so called national shareholders. For Block 2 the attempts to grant profits to landowners and to impose heavy infrastructure conditions in their favour were dropped. Instead, a premium of 48t per m3 was

introduced and, because this was wrongly calculated, it gave them a share of only one per cent of the total FOB price. The major infrastructure conditions have still not been performed and the people have gained very little, and the Provincial Government almost nothing, from this K100 million project. The National Government's rightful entitlement to revenue from taxation has been undermined by transfer pricing and an erroneous method of calculating export duty.

In the Vanimo Forests Project the benefits to the landowners have been limited to royalties and, to some increased employment and business opportunities. The planned large scale urban development has not occurred nor has the trial reforestation plots. VFP has paid company tax and export duty however and does not appear to have cheated by way of transfer pricing. The Provincial Government has received 25 per cent of royalties. The actual landowners however are receiving very little and are, mostly, wasting what they get.

In the Kumusi Timber Area the landowners' benefits have been limited to royalties at the normal low rate. The company went into receivership early in the peace and then continued to operate under a scheme of arrangement but ignored the major conditions intended to bring benefits to the people. Now the resource has been completely cut out. The Provincial and National Governments have lost their substantial investment entirely for almost no return at all. (Even the normal payments of export duty and royalties, payable to national and provincial government respectively, were reduced by 50 per cent and a method of injecting more capital into the stricken company.) At this very late stage a group of landowners is organising itself in an attempt to be recognised as a creditor entitled to share

in the distribution of remaining assets when KTC's imminent winding up occurs.

In the Manus Timber Area it is too early to tell what benefits will flow to the people and Provincial Government of Manus.

If SEAL goes ahead with the Veneer Mill in three years time, and if the resource holds out, there could be considerable benefit. If the LFA exploitation goes ahead the shareholders of Jaha and Kali Bay companies may get a share of the profits depending upon the honesty of Monarch Investments and United Timbers.

In all cases royalties should be paid and these comparatively small amounts will be shared between landowners and national and provincial governments. Whether or not the whole province suffers a catastrophic loss will depend on whether the forest resource is destroyed by the logging operations.

H. PROTECTION OF THE FOREST RESOURCE

A study of these four timber areas illustrates some of the factors which lead me to believe that there is no effective policy being administered which will ensure that these forest -

"natural resources" (will) be used for the collective benefit of us all, and be replenished for the benefit of future generations"

as required by Directive Principle No 4 of PNG's Constitution.

1. There is no National Forest Development Plan (and this has been admitted publicly in writing by the Secretary of the DOF).

2. There is a National Forest Development Programme and it is basically a timetable for maximising the number of hectares which can be allocated and the volume of logs which can be exported.

3. There is no reliable estimate of the resource base upon which appropriate plans could be based. Such estimates as exist are frequently wildly optimistic (overestimating by as much as 100 per cent as in Manus - See Appendix 4).

4. There is no agreement in DOF about what "sustainable yield" means or how it should be calculated. This disagreement was well illustrated in the Manus hearings as described in Appendix 4.

5. Few Provincial Governments are showing any interest in reforestation and existing government plantations which have been entrusted to their care are being neglected and not maintained. No new plantations are being established by government.

6. Permit holders and contractors are ignoring the reforestation and natural regeneration conditions in their permits and agreements and are rarely being penalised for this in any way by government authorities. (Appendices 1,2 and 3)

7. Logging practices are, almost universally, unnecessarily destructive and the residual trees are being damaged and destroyed to such an extent that, in many areas, there is no likelihood of a future commercial harvest.

8. The combined national and provincial forestry service is completely inadequate to monitor the existing operations and to enforce the applicable conditions, including those required to protect the forest and the environment.

A brief glance at the reports in the appendices will illustrate this very real threat to the future forests.

In the Wawoi Guavi project there is no significant reforestation condition and WGTC has not conducted the natural regeneration and timber stand improvement techniques required by its project agreement.

In the Vanimo Forest Project VFP has not fulfilled the reforestation plantation establishment conditions and no reforestation or enrichment planting in natural forest is occurring. Logging techniques are very destructive. VFP actually spoiled an FAO research project on its concession which was designed to study logging practices and natural regeneration techniques (App 2 pp 24-6).

In the Kumusi Project neither the government nor the company had any accurate idea of the size and quality of the forest resource before the operation was planned and commenced. Consequently the resource cut out prematurely and was then damaged by "salvage" logging. There were no conditions requiring reforestation.

In the West Coast Manus Project a study of Appendix 4 will show that the National Government is prepared to make major decisions to increase the annual rate of cut in the face of strong expert evidence that it will vastly exceed the sustainable yield level and in the face of reasoned and active opposition from the Provincial Government. That an island province's entire forest

resource can be put at risk on such poor and contested resource information is of the greatest concern and an indictment of government policies. (At the time of writing it is now reported in the press that Minister Stack has announced that he will withhold any further approvals on Manus LFA's until he receives accurate assessments of the Manus forest resource and a better calculation of the maximum cut which would allow a sustainable yield. The Minister's decision to "stand off" was made only after the very public exposure of DOF's inadequacies which occurred at the Commission's public hearing. Prior to this the Minister and DOF had been defending the National Government's approach right up to the Supreme Court.)

These four case studies were more or less selected at random from the various timber operations which I visited or have studied. The main basis for selection was to compare some of the larger mainland operations with the smaller operations already discussed in the New Ireland study (Interim Report No 4). The studies demonstrate many themes common to each other and to other operations which the Commission has studied. One theme is that operations often commence without proper planning and in the cases where the planning is adequate in theory it does not work out in practice. The hoped for "benefits" were not really delivered in any of these studies.

CONCLUDING COMMENTS

The Vanimo and Kumusi areas were allocated according to long term plans, with NEC and Provincial governments fully involved but the plans have not worked.

Kumusi did not work because there was no accurate survey and because the plan was ill conceived. It collapsed early but the company was allowed to limp on and "loot" the resource for the benefits of creditors, but at the expense of the National and Provincial Governments and of the landowners.

WGTC was a "spur of the moment" decision, allocated under pressure from the foreign investor (the Straits Group). It has been making (transferred) profits for the Straits Group of Singapore but with few benefits for the National and Provincial governments or for the landowners.

All three provinces are underdeveloped and the large scale exploitation of the three timber resources was intended to "kick start" those provinces into social and economic development. This was particularly the case for Western Province where the Wawai Guavi project was the only large scale economic project (except for OK Tedi in the far off North Fly sub District). It is even more the case in West Sepik where the Vanimo Project is literally the only major economic activity which has ever happened. Oro Province now has its Oil Palm development but in the planning stages of the Kumusi project in the late 1970's the exploitation of the Kumusi resource was seen as a very major factor in social and economic development.

For different reasons all three permits were granted "cheaply" in the sense that the companies were not saddled with a heavy burden of obligations. Kumusi "got off lightly" because it was a Forest Development Corporation with 75% government ownership. Vanimo Forest Products got a five year "easy run" because it had been found difficult to persuade a suitable company to take on the task and perform the local processing conditions. Once it was established as a viable operation it was

intended to impose heavier conditions, at the end of the five year "trial" period. WGTC got off lightly because, with the help of Michael Cowan of the FIC, it cheated behind the scenes during negotiations and prevailed upon Minister Diro to sign a very easy set of conditions.

Once operations commenced both KTC and WGTC avoided performing major conditions and although VFP's record of performance is much better, it too failed to perform the urban development and afforestation conditions at all and was half hearted in its performance of other socio-economic development conditions.

The result in all three areas has been that the economic "kick start" effect has not succeeded. Some, but not many, infrastructure conditions have been met but important construction projects are still outstanding. Thus WGTC has still not completed the proposed sawmill, KTC has stopped operating without building the major bridge over the Kumusi River and VFP has occupied all available vacant houses in Vanimo without even commencing the major urban development required of it.

All three companies have of course been paying export duty on logs sold, which has been of benefit to the National Government, and royalties, which have been of some benefit to National and Provincial governments and to landowners.

WGTC has managed to avoid paying income tax at all because (through a stupid government error) it was allowed to carry forward, for tax purposes, its losses incurred during the disastrous Block 1 operation. (These losses were exaggerated by its transfer pricing.) KTC is believed to have paid minimal tax because of losses brought forward from its difficult early years.

Only VFP has been regularly disclosing profits and paying, fairly, the income tax due from it.

The landowners of the Wavoi Guavi area have been losing their resource and suffering extreme social dislocation for very little return. The benefits they have received are their share of the unjustly low royalty payments, the one per cent of FOB prices, access to a small health centre and the promise of schooling in the two overdue and still empty, classrooms at Kamusei Base Camp. The Kumusi landowners got royalties and virtually nothing more. They are now commencing the very difficult task of seeking to take lawful possession of the KTC residential areas now that the company is winding up. In this they will be in competition with other unsecured creditors. The landowners of the Vanimo Project area have been receiving royalties and some extra job and business opportunities in exchange for the loss of their resource and very little more.

In Manus it is too early to judge some of these matters. The Timber Permit application however seems to have been allocated properly, in accordance with long standing National and Provincial plans and with co-operation between National and Provincial Governments. There is a chance that landowners and both levels of Government will benefit.

The behind scenes dealings, trips, "benefits" and pressures behind the LFA declaration, and the misapplication of Forestry Policy described in Appendix 4, however, revives memories of events which have depleted (and probably destroyed) the New Ireland Forest resource.

Appendices 1, 2 and 3 disclose the very serious inadequacies of the government's monitoring services and the severe damage and loss which is occurring as a result. A most worrying aspect is the almost total lack of concern for replenishing the resource which is being taken or destroyed.

All these studies show up the need for a clear statement of National Forestry policy which will protect and replenish the resource for the future but will also allow reasonable exploitation now in a way which will benefit both levels of government and the landowners. Such a policy must recognise the legitimate functions and aspirations of provincial governments as well as the need for national revenue and the rights of landowners to exploit the resources on their own land.

These aspects are demonstrated in a quite staggering way by the Manus study where, with the forest resource (and therefore the social and economic future of Manus Province) at stake, crucial policy decisions are being taken on the basis of conflicting and competing resource estimate figures and upon the basis of sustained yield formulas which merely cover up our shameful ignorance of the true extent of the forest resource in Manus (and the nation).

Even when decision makers are motivated by good intentions, proper decisions cannot be made when our estimates of existing resource volume are wildly inaccurate, our knowledge of the growth rate of key species is non-existent and our calculations about the sustainable yield rate of cut of a particular forest are not based on its particular characteristics or on any sound scientific basis at all. (It was interesting that members of the visiting FAO team which visited Manus are concerned that both the National Government proposals and the Provincial Government proposals could destroy the

Manus forest because of the specific nature of that forest (See App 4 p 14-15).)

When decision makers are "groping in the dark" in this way they should be taking very cautious steps and making very conservative decisions. With New Ireland as an example of what has already happened (see Interim Report No 4) and Manus as an example of what is likely to happen the 1987-92 National Forest Development Programme needs to be rethought as a matter of urgency.

That Plan aims to more than double the existing 3,377,000 hectares of already allocated resource by allocating an incredible further area of 3,463,000 hectares by 1992. Almost all of the timber to be harvested is planned for export as logs. (Interim Report No 4 Vol 1 Schedule 1 Attachment 4)

The program needs to be rewritten so that it restricts further cutting until we have accurately calculated the national forest resource and until we have planned the optimum rate of cut and the areas where that should be occurring. Logging should be restricted (not expanded) until we have developed the laws and the organisational capacity to harness National and Provincial manpower into an effective forestry service capable of controlling the exploitation of our own resources, according to our own carefully thought out plans. The exploitation of this national forestry resource must be organised so as to produce the maximum, "fairly shared" benefit for all citizens, but particularly for the landowners, who must become active participators in the benefits and activities which should be generated by timber operations. There must be a National Plan synchronised with the various Provincial Plans and it must cater for the total requirements for land usage. It must provide for forest replenishment

where that is appropriate, forest conservation and environmental protection areas where those are appropriate and for forest plantations and other agricultural developments where these are appropriate.

These four studies demonstrate some aspects of the fog which is casting its cloud over forestry in this country. It is a mixture of meandering intellectual neglect, bureaucratic inefficiency and lack of honest political commitment to the visionary ideals of the Constitution. Underneath this fog of inertia there are very active foreign companies (in partnership with some very greedy citizens) which are using many devices to manipulate landowners and politicians for one end only. Their aim is to cut down trees and transport them to log ships waiting at the beach and in this activity they are being very successful. Some are doing it with a sense of responsibility while most are doing it in reckless and destructive haste. Unless our authorities take control, the resource will be destroyed and a great opportunity for this and succeeding generations will be gone for ever.

APPENDIX 1

THE WAWOI GUAVI TIMBER AREA

APPENDIX 1

THE WAWOI GUAVI TIMBER AREA

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APPENDIX 1

WAWOI GUAVI TIMBER AREA

1. INTRODUCTION

This area is made up of three large Blocks in Western Province totalling approximately 484 000 ha. The forest resource of approximately 500 000 m³ is said to be of good quality but the terrain is difficult and the rainfall is heavy. It is one of the few areas in Western Province which can be exploited commercially and this is because the Bamu River system is available for transportation. Roading is not practicable because of the swampy conditions.

My attention was drawn to the area because of the bitter public dispute between the Straits Group (which owns Wawoi Guavi Timber Company) and the Inchcape Group which acted as its contractor. Amongst other things the dispute raised questions of transfer pricing and other malpractices. My attention was also attracted by the fact that such a very large and valuable resource had been allocated, with very few infrastructure obligations, to a foreign company with no previous experience in the timber industry. The area had not even been listed in the national priorities until this company pushed for its allocation. It was not even surveyed.

The basic statistics can best be presented in summary form:

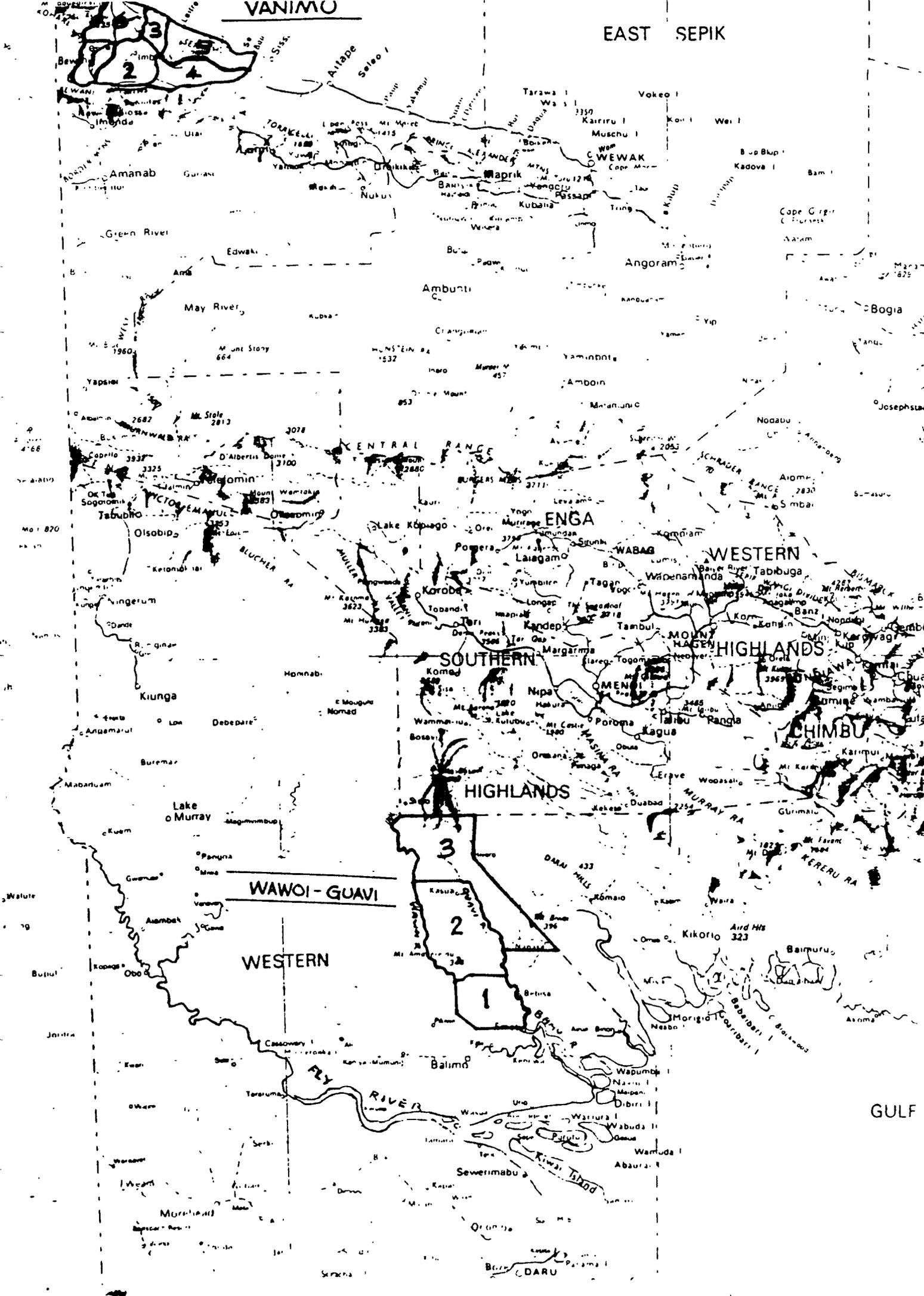
WAWOI GUAVI TIMBER AREA

LOCATION: Western Province bounded by boundaries of Southern Highlands and Gulf Provinces. It consists of three blocks above the Bamu River commencing about 4 km North of Emeti.

Map.

VANIMO

EAST SEPIK



GULF

AREA: Approximately 484,000 ha.

BLOCK ONE

Block 1 was allocated first by a separate timber permit. (Permit No TP 1-2) dated 6 October 1983.

AREA: Approximate 86508 ha - (35000 ha productive).

TOPOGRAPHY AND FOREST TYPE flat lowlands with substantial areas of swamp. Mixed hardwood species but no survey has been conducted to evaluate volume or quality. Very heavy rainfall of about 5000 mm p.a.

ESTIMATED RESOURCE: Approximately 500,000m³.

ROYALTY RATE K3.2m³

NET VALUE RXV = K1,600,000

PURCHASE PRICE (25%) = K 400,000

POPULATION: Said to be a nomadic population consisting of 15 clans living in 4 villages. Total population in excess of 2000 (1196 adults were listed as landowners). They have remote area mentality living in a very under developed region with limited access to education, health and other government services and employment opportunities.

PERMIT HOLDER: Wawoi Guavi Timber Co. Pty Ltd.

2. ALLOCATION OF RESOURCE: (Block 1)

The right to exploit the area was pursued from late 1978/79 by Straits Engineers Contracting Pte Ltd of Singapore, (hereafter referred to as Straits Singapore). (It worked through R. Patterson of Beresford Love, Lawyers.) Straits (Singapore) was a marine engineering company which was interested in gaining access to the OK TEDI project. The Wawoi Guavi Project was not listed in the national Forestry Priorities and there had been no earlier expressions of interest in it, probably because of the remoteness

and difficult conditions involved. To extract the timber required logging in swampy conditions and then barging the logs 280km down the Bamu River to load them off Umuda Island onto log ships standing offshore.

Selection: The concession was not advertised but allocation was handled by direct negotiations between Straits (Singapore) and DOF. Wawoi Guavi Timber Co Pty Ltd was to be incorporated by Straits' Lawyers as a national company.

There was vague talk of the Fly River Provincial Government and the Bamu Local Government Council taking a large share in the venture.

Straits (Singapore) was not pre-registered with DOF and had no experience and no expertise at all in the timber industry. Nor had any of the proposed co-owners of Wawoi Guavi Timber Company Pty Ltd (W.G.T.C) which was not yet even incorporated.

To grant the concession to WGTC would be a serious breach of forestry policy as specified in the 1979 Guidelines. Nevertheless, in October 1980 the Department was drafting a letter of intent for the Minister's signature, with the full approval of the Secretary. The unsuitability of the applicant and the fact that the procedures for purchasing the Timber Rights from the customary owners had not even commenced were apparently not matters of official concern. The terms of the draft letter of intent were being discussed with Straits in November, 1980.

Timber Rights Purchase: Employees of Straits (Singapore) patrolled the area conducting a P.R campaign exaggerating the benefits which would flow to the people, gaining their support to sell the timber rights and collecting the names of people to be appointed as agents. (27 of the 50 agents eventually appointed were paid their K2 share of the deposit by Straits). In May 1981, a letter from Toms of Straits suggests he was actually directing Forestry officers in the TRP process. Forestry officers completed their TRP patrols in August 1981 and paid the remaining

agents. 415 of the listed 1196 owners were, however, absent and were thus not included in the purchase agreement. In August 1986, long after the Permit was issued and in fact several years after logging had commenced and had been suspended, the Block 1 TRP was still uncompleted and, judging from DOF files, it is still probably not completed. The absentee owners who never signed the purchase agreement may well have a valid claim against the State for the loss of their asset.

Letter of Intent: The letter of intent was eventually signed by Minister Aoae on 7 November 1980 (Schedule 1) and written acceptance was received from Toms on behalf of Wawoi Guavi Timber Co. on 13 November, 1980. The letter appears to have covered the entire Wawoi Guavi Timber Area of approximately 484,000 ha. The conditions imposed were detailed and onerous. These were later incorporated verbatim into the Timber Permit but, when it was eventually issued as TP 1-2 on the 6 October 1983 it applied only to Block 1. In evidence Mr Toms admitted that no serious consideration of the economic feasibility of the major obligations such as reforestation and the agricultural project was undertaken before accepting the conditions in the letter of intent/permit. (The signing of this letter of intent by the Minister in these circumstances was inquired into by the Ombudsman Commission but apparently no action followed). The WGTC was eventually incorporated on the 17 August 1981 with lawyers R. Patterson and J. Thirwell shown as the only shareholders and Directors. While DOF was still trying to obtain evidence of 75% National ownership and compliance with other preconditions of the letter of intent, the WGTC equipment arrived on site in December 1981. It seems it commenced operations almost immediately.

In February 1982 the DOF was still trying to assess the Management Agreement between WGTC and Straits Contracting (PNG) Pty Ltd (Straits Singapore's wholly owned PNG subsidiary).

Ownership of Wawoi Guavi Timber Co Pty Ltd:

The company records show that on 11 February 1982 the two subscriber shares were transferred, and other shares issued to achieve the following apparent 75% national ownership of the company:

Ownership:	(as disclosed) 100 shares of K1 each)	
Western District Village Development Corporation		20
William May (in trust for a landowner company to be formed)		25
John Reid		15
Maru Kumul		15
Straits Contracting (PNG) Pty Ltd		<u>25</u>
The paid up capital appeared to be K100		100

On the face of it WGTC then appeared to be a "national company" but in fact this was not so. As Straits Contracting (PNG) Pty Ltd (Straits PNG) is wholly owned by it's Singapore parent company it is considered itself to be a "foreign" company holding 25% of the shares of WGTC. Unknown to DOF 19 of the shares listed for the W.D.V.D. Corporation were never issued which means that the total number of issued shares was only 81. As 25 of these were held by Straits PNG it makes WGTC a foreign company. In addition both Reid and Kumul held their shares on behalf of Straits. The fact that WGTC was a foreign company is further reason for condemning the allocation of this resource to the inexperienced WGTC as a gross breach of national forestry policy.

Conditions in Letter of Intent

(Later included verbatim in TP 1-2)

(1) Permittee: Wawoi Guavi Timber Company Pty Ltd

- (2) Area: Approximately 87,000 hectares, known as Wawoi Guavi Block 1 situated in the BALIMO District of the WESTERN PROVINCE.
- (3) Duration: 10 years from 1.3.82
- (4) Minimum Cut: 50,000 cubic metres p.a.
- (5) Maximum Cut: 180,000 cubic metres p.a (later increased to 200 000 m3)
- (6) Log Export: 120,000 cubic metres of logs annually
- (7) Royalty Rates: K3.20 per cubic metre (non premium hardwoods)
- (8) Guarantee: K100,000.00.
- (9) Shareholding: 75% of the share equity of the Company shall be owned by PNG citizens.

(10) Infrastructure Development:

1. Airstrips: The Bedire (Parieme) Airstrip to be upgraded on receipt of the Civil Aviation report.
2. School: Commencing in project year one the company shall construct:
 - (a) one single permanent material classroom
 - (b) and a permanent material low cost house for one married teacher.
 The school is to be completed and in operation the same year.

(11) Facilities: The Company shall establish in the following areas, these medical facilities,

1. Emeti Area:
 - (a) A permanent material hospital.
 - (b) A permanent material staff accommodation.
2. In three (3) villages along Guavi River same as Wawoi River villages.
 - (a) A permanent material aidpost.
 - (b) A permanent material aidpost orderlies' accommodation.
3. Three (3) villages along Guavi River same as Wawoi River villages.

Altogether there should be seven.

7. Separate medical facilities within the permit area.

12. Industrial Requirements:

- (a) A sawmill having a log intake capacity of 6,000 cubic metres per year.
- (b) A Charcoal Pyrolysis Plant having a log intake capacity of 60,000 cubic metres per year.
 - (i) Forestry: 3,000 hectares to be reforested at the rate of 500 hectares per year.
 - (ii) Crocodile Farm: The Company is to assist village Groups establish crocodile farm projects, by constructing all necessary infrastructure and providing management assistance.
 - (iii) Fisheries: The permittee shall, in consultation with the Division of Fisheries, provide necessary scientific, economic and technical know-how in establishing village fisheries.

Environmental and Social Impact: Early in the negotiations a report by Michael Wood of the McQuarie University, N.S.W briefed by the Office of Planning, pointed out that there should be an environmental and social impact study before the project is agreed upon. He pointed out that the people depended on the forest for food and materials and that he could see little benefit for them in the proposals. The Office of Conservation and Environment repeatedly made similar comments and warned that it would investigate carefully once the operations began. These considerations appear to have been ignored by the Department of Forests. There was no environmental and social impact study requested and the worries expressed by Dr. Wood, that the local people would gain little except dislocation, were later manifested in reality.

Commencement of Operations Block 1: In March 1982, the Secretary, DOF was still waiting for more information from WGTC before the Minister would approve the Commencement of logging. There was concern that the authorised capital was only K10,000

and that the same law firm was acting for all parties - WGTC, it's contractor Straits Contracting (PNG) and the embryonic Haubawe (the proposed landowner company). The Secretary was also awaiting copies of the logging and marketing agreements. Communications between Provincial Forest Office and Department of Forests (DOF) had apparently broken down as an earlier provincial forestry inspection in February had discovered that the operations had already commenced. Having been notified of that fact DOF still continued to act as though logging had not already started.

On the 22 March, the Secretary wrote to WGTC giving permission for operations to commence subject to submission of returns and payment of royalties.

Officially in operation, WGTC now commenced to try and extricate itself from some of the onerous conditions it had undertaken to fulfill.

On May 5 1982 WGTC requested that the Charcoal/Pyrolysis Plant and the Agriculture/reafforestation plant conditions be dropped and suggested, as substitutes, the three much cheaper projects:-

- (a) an airstrip at Lower Bamu
- (b) an extra aidpost at Maipani Point
- (c) a timber yard at Daru

At this stage the Department of Minerals and Energy, after having been consulted by WGTC, had already reported to WGTC that the Charcoal/pyrolysis Plant was technically and economically not feasible and that it should be dropped as a condition of the permit.

By the 24 June 1983 the Chief Lands Mobilisation Officer in the Department of Lands had reported that the Agriculture/and Reafforestation condition in the Permit for Block 1 was "totally impractical".

3. OPERATIONS IN BLOCK ONE

In July the WGTC was having practical difficulties with it's operation, with landowners' dissatisfaction and with the international log price. It had begun discussions with Inchcape about subcontracting the logging and marketing and Inchcape had discussed this with DOF. Straits also wrote requesting that the allocation of the Block 2 permit be brought forward.

Voluntary Suspension:

On 31 August, 1983 the Company pointed out the hopeless mess it's operation was in and requested permission to suspend operations until February 1984. This permission was granted on the 24 October 1983 and WGTC successfully used the force majeure condition of the permit, thus avoiding royalty payments during this period.

Meanwhile, as if these clear signs of disaster were not surfacing, the DOF proceeded to prepare a Permit document for Block 1 and this was signed by the Minister on the 6th October and forwarded to WGTC on 26 October 1983 as T.P No: 1-2. It included all the conditions of the letter of intent, despite the fact that they had been included without consultation with line departments such as Minerals and Energy and Department of Lands, despite the fact that the Company had accepted them without consideration of feasibility and despite the fact that several major conditions were now known to be not feasible.

On 28 December WGTC sought the lifting on the suspension because of the improvement in log prices and then apparently recommenced logging without waiting for a reply.

Throughout it's time as manager, the operation managed by Straits Contracting (PNG) PL on Block 1 seems to have been a "complete shambles". The first "Highline" method of getting logs to the river failed at great costs. Then an attempt to skid and truck the logs to the river also failed because the Company had

no roadmaking skills. Jourdain, who later managed the concession competently for Inchcape, gave evidence and described how roads were constructed at right angles to the ridges and were thus impossible to use except in the very rare dry weather. In April 1984 9000 m³ of old logs were on the ground that were eventually sold for a "give away" price of USD 25m³. Other problems were disclosed by government inspections:

- (a) Sawmill logs were not being numbered and so royalty payment was being avoided;
- (b) The sawmill was inadequate to process the required volume and it's output was lowered about one cubic metre of log per day because it's teeth were sharpened incorrectly;
- (c) Logging had occurred right up to the banks of the river ignoring the required 50 m exclusion zone;
- (d) The course of three creeks had been diverted because of the replacement of log bridges;
- (e) The Company employed no qualified grader and it's grading was incorrect.

In May 1984 a Forestry Inspector confirmed that all the flat land in Block 1 was flooded and that logging was limited to the ridges. The Company had already extended it's operation into Block 2 without authority and he found 80 illegally cut logs there awaiting removal.

From December 1981 to December 1982 only 15,982 m³ was cut which was 34,018 m³ below the required minimum of 50,000 m³ p.a. From January to July 1983 only 17731 m³ was cut.

4. ALLOCATION OF BLOCK TWO

During this period various persons and bodies including the Western Provincial Government repeatedly reported their suspicions to the Department of Forestry that the disclosed "national" shareholding on WGTC was bogus. The Provincial Government also complained about non fulfillment of Block 1

conditions and opposed granting WGTC rights over Block 2 without consultation with the Province.

Minister Waka intervenes:

Despite these serious concerns Minister Waka advised WGTC on 7 June 1984, that logging could commence in Block 2 immediately, subject to submission of a Forest Working Plan and that, meanwhile, a Consolidated permit for Blocks 1 and 2 was being processed. (Schedule 2)

Opposition of Provincial Government:

The Provincial Government continued to object to this action and eventually briefed a lawyer (Narakobi) to write on the 3 July 1984 demanding suspension of operations and a full inquiry into true ownership. The letter also demanded a restructuring of the equity to give landowners a 40% share and to include the Provincial Government's Western District Development Corporation in a joint venture.

Faced with the clear evidence of it's own incompetence as manager Straits was negotiating with Inchcape Berhard to sub contract the management and marketing in a deal which would involve Inchcape buying an interest in Straits Contracting (PNG) Pty Ltd. N.I.D.A's initial reaction was to oppose the move until the Provincial Government's complaints were settled. Straits immediately sought to involve the Prime Minister (by letter 31 August 1984) and Miskus Maraleu in his capacity as Chairman of the Investment Corporation (Schedule 3).

Straits "wins over" Provincial Government and Landowners:

On the local front Straits began to solicit local landowners and their leader Aino Keiba with expense-paid trips to Port Moresby and vague promises of assistance in various local enterprises. This included help in the Western District Seafood fishing venture by providing a freezer unit and carrying frozen

fish on Company vessels to Daru. The proposals were not genuine and came to nothing. They did result however in gaining written support from a group of landowners for the recommencement of logging and statements from the Provincial Premier and Forestry and Finance Minister's support for WGTA. Also the additional ventures discussed were then put forward to DOF as projects to be substituted for the Agriculture reforestation and Charcoal Plant conditions at the request of the landowners. Soon the Provincial Government began to apply persistent pressure on the National Minister of Forests to expedite the Block 2 permit to WGTC to enable it to get finance to carry out the promises.

Throughout these pressures and counter pressures, Acting Secretary Mamalai held to his decision to amalgamate Blocks 1 and 2 into the one permit for WGTC. DOF merely awaited the presentation of a Forest Working Plan from WGTC which would cover both Blocks 1 and 2.

On 25 October 1984 WGTC produced a Forest Working Plan (FWP) for Block 2 but was unable to produce a FWP in respect of Block 1 because it had not idea how to successfully log the remaining area. (See letter of 8 November 1984 - Schedule 4).

Minister Waka's "Behind Scene" support"

On 12 December 1984 the Minister supported the Secretary's demands for a Forest Working Plan (FWP) covering both Blocks but also added confirmation for "conditional operations as approved by me" to continue (presumably in Block 2). WGTC next applied for an increase in the monthly log quota on Block 2 from 10,000 m³ to 12,000 m³ per month to make good the deficiency in it's previous production from Block 1. This was granted by Minister Waka on 17 December 1984 without consulting his department. Commencement of operations was still to be dependent on submission of a satisfactory FWP over both blocks.

Negotiations for Block 2: From December 1984 to July 1985 the files disclose frequent exchanges of correspondence between DOF, WGTC the Provincial Government and groups of landowners. The possible alteration to the project obligations were the main topics and it was hoped to have a meeting of all parties to discuss the changes. Meanwhile Mr Allan Cameron of Inchcape was also in direct communication with Minister Waka. His letter of 25 April 1985 spells out that "since Inchcape took over day to day control of operations in the field we have managed to produce and ship some 60,000 m3 of logs. Royalties were being paid at above K10,000 per month. He made the Company's intention to push the road through to the Guavi, River and build a new camp by early 1986 quite explicit. Despite the fact that this was all outside the approved Block 1 area of operation he boldly invited the Minister to inspect operations.

The Minister directed preparation of consolidated Block 1 and 2 Permit on 10 May 1985. The Secretary waited until 29 August 1985 to object.

DOF cease work Order (ignored):

On 10 December 1985, just as negotiations for Block 2 were to commence, DOF ordered WGTC to cease operations and pull out of Block 2. The reasons given by Secretary Mamalai to the Minister (now Mr Diro) were:-

- (a) Discovery that WGTC is a foreign company.
- (b) Very poor financial situation with net liability of K1,243,803.
- (c) TRP over Block 2 incomplete.

Logging allegedly stopped on 16 December while Toms appealed to the Minister against the cease work order. Then WGTC just resumed operations on 23 December, apparently in defiance of the order. DOF had discovered that WGTC was in fact a foreign Company because the shares intended for the Western District

Village Development Corporation had never been issued. On the same day WGTC requested permission to commence construction of roads, airstrips, deep water wharf facilities, hospital and schools in Block 2 before commencement of the wet season as construction would be made impossible by the onset of the rains.

On 23 January 1986 WGTC submitted its economic feasibility study which does not appear to have been closely studied by DOF. One short assessment stated that it was unduly optimistic.

By 24 February WGTC was pushing for a six months interim permit to enable work in block 2 to continue pending the negotiations on the conditions of the final permit. This concept was approved on 29 April when the negotiations were already well advanced. WGTC meanwhile agreed to most of the conditions which had been proposed by the Government group after a patrol into the area had consulted the people about their requirements. The WGTC accepted the concepts (including the establishment of a large scale rubber or cattle project). There were disagreements only about the quantitative aspects. The estimated infrastructure costs were also calculated and the Government's figure of K1,302.950 was reduced by the Company to K945.459. Meanwhile WGTC's financial status was thoroughly examined and found to be desperately poor.

Cowan the secret "go-between":

The negotiations for the long term permit over Block 2 were carried on by a Government team consisting of representatives from DOF, Justice and the (suspended) Provincial Government. They negotiated, theoretically, with WGTC but in reality this meant with representatives from Straits and Inchcape's subsidiary, Forest Management Services (FMS) (which was accepted as already being the defacto manager. Behind the scenes the Chief Executive Officer of the FIC, M.Cowan, was advising both WGTC and the Minister; unknown to the DOF Team and unknown to Inchcape.

Minister Diro continues behind scene support:

The DOF negotiating position had been undermined on the 9 May 1986 when Minister Diro, without consulting his Department or the negotiating team, informed WGTC he had approved an unconditional increase in their log export quota to 200,000 m³. This made it very difficult for the State's negotiating team which was attempting to maximise the value of the infrastructure conditions as a pre-condition of increasing the log export quota.

Main negotiation problems

The main problems facing the Government Team were:

- a) To reschedule the non fulfilled Block 1 conditions as Block 2 conditions;
- b) Accumulated losses of WGTC of about K1.3 million;
- c) Foreign ownership of WGTC.

A. Re-scheduling non fulfilled Block 1 conditions.

The negotiations aimed at adjusting the non feasible conditions of the Block 1 permit and to reschedule a realistic set of conditions to be applied to the Block 2 permit. Their major concern was to obtain substantial benefits for the landowners. Great care was taken to patrol the area and to consult landowners in order to come up with conditions which would truly be of substantial benefit for them.

By the time that the interim six months permit was executed on 1 July 1986 agreement had been reached in principle on the final permit conditions. These had been thoroughly discussed and seemed acceptable to all parties. (These were later watered down dramatically prior to issuing the long term permit).

Those conditions included:-

- 4.2 Restrictions on export volumes if various conditions including roading, sawmilling royalties, natural regeneration and grading requirements are not fulfilled (later deleted)
- 4.3 Minimum saw log requirement of 50000m³ (reduced to 30000m³).

Premium as substitute for Landowners Equity:

The landowners had previously hoped to gain benefits by owning 20% of the equity in WGTC through the Western District Village Development Corporation (WDVDC). That was no benefit however because WGTC disclosed it was operating at a loss and its future prospects did not look too good. It was decided to substitute a premium system instead of shared ownership so that the landowners returns would be by way of of a fixed percentage of volume cut. It seems that the aim was to set a premium which would bring in a return to the landowners of K100,000 pa. (A psycholigically attractive sounding figure held out by Toms of Straits). In theory this idea had some merit as long as the premium was fairly calculated to give landowners a reasonable return.

In her letter of 1 June 1986 to Minister Diro (Schedule 5) Mrs Kuhon suggested a premium of 48t per m³ claiming it would equate to some K96000 p.a. Together with their share of the royalty (being some K480,000 per annum) it would produce an amount in excess of K570,000 per annum.

These estimates were quite misleading, and possibly wilfully dishonest. Firstly, the premium calculation was based on WGTC achieving its maximum cut of 200,000 m³. In fact its annual cuts have been much lower.

Secondly, she calculated the total royalty payable on an annual volume of 150,000 m³ which amounts to K480,000 and she added that onto the landowners' payments. In fact they were only

entitled to 25 percent of the royalties. Even if WGTC achieved the maximum 200,000 m3 cut it would yield total royalties of K640,000 and the landowner's 25 percent share would amount to only K160,000.

Minister Diro acts unilaterally:

Without seeking advice the Minister accepted Mrs Kuhon's suggestion of 48t. Instead of focussing in this way on some projected total cut the Minister should have focussed on the fairness of the unit rate as the main consideration. The company has so far never achieved a cut of more than 122,000 m3 and the premium has therefore never exceeded the K59,000.

Unfairness to landowners:

Based on WGTC's disclosed annual exports (excluding the very small quantity of sawn timber) the amount actually payable to the landowners can be calculated as follows:-

Year	Vol Exported m3	Total Royalty at K3.20 per m3	Premium at 48t per m3	Premium plus 25% Royalty
1985	76038	243322	36,497	97,328
1986	83484	267149	40,072	106,860
1987	121195	387824	58,174	155,129

Thus even in 1987 the sum of K155,129 actually payable to the landowners was far below Mrs Kuhon's wild calculation of K570,000, upon which figure the 48t premium was set.

Even if the projected premium of K100,000 pa had been paid it would still be grossly unfair when compared against the actual FOB value of the timber. The price received for shipments up to May 1987 averaged well over USD 50 m3 (K 75 in 1987) and over the 10 year life of the permit the gross FOB price would be about K100 million. At 48t per m3 the landowners would stand to receive about K1 million during that period which is 1 percent only (plus royalties). Under a more normal sort of arrangement,

where the landowners form a landowner company and engage another company under a logging and marketing agreement, the landowners company would receive between 25 and 30 percent of gross FOB price. From this they would have to pay FIC levy, royalties and sometimes export tax. Even when paying the export tax of 10% FOB these landowner companies would receive at least 10% of FOB nett. If the marketing company pays the export duty the landowner share can rise to 20 per cent of FOB. This makes the premium arrangement dramatically unfair to the Wawoi Guavi landowners.

The unfairness can be demonstrated by looking at the actual results in 1987 which was the first full year of operating under the Block 2 permit conditions.

Volume Exported:	121,195 m ³
Total FOB price:	(USD10,623,387) approx. K8,900,000
Total Premium:	K58,174
Landowners share of FOB price:	0.65 percent

This result is far below a normal landowners company's expected net share of from 10 to 20 percent.

Thus the Premium condition which could have been a major source "of revenue for the landowners was perverted so that it became a major source of injustice to them. The blame rests squarely on Mr Diro for agreeing to Mrs Kuhon's formula without getting it checked out by DOF first. Blame may also lie on the Secretary for not checking out what the Minister had agreed to (when that became known to him). Forceful advice should then have been offered to the Minister but there is no evidence on file that this occurred.

As it happens this unfairness was not compensated for by any valuable infrastructure gains (such as the proposed agriculture project, reafforestation or construction of facilities) as these ended up being far less favourable to the landowners of Block 2 than on any other project of similar size.

The negotiations finally resulted in WGTC obtaining the Block 2 permit with a very light burden of infrastructure conditions and a premium arrangement of 48t per m3 which is grossly unfair to the landowners.

On 18th June, Mr Diro made a further sweeping gesture to WGTC when he in effect promised it Block 3, without further infrastructure conditions as soon as the TRP procedures were completed. (Schedule 6)

B. Accumulated losses by Wawoi Guavi Timber Company Pty Ltd of About K1.3 million:

While the conditions were being rescheduled negotiations were also proceeding on the question of WGTC's desperate financial state. It was decided to eliminate the past losses so that WGTC would commence operations in Block 2 with a "clean slate". The losses mostly involved loans to WGTC from Straits Contracting (PNG) Pty Ltd (which company had no doubt obtained the loans through Straits Singapore). The option of issuing redeemable (non voting) preference shares to capitalise loans (as was done in the examples of Kumusi and Open Bay) was not used in this case. (this option preserves the voting rights ratios of existing share holders). Instead it was decided that Straits would acquire WGTC, buying out the national shareholders and taking over the burden of the accumulated losses. In this matter Toms of Strait once again managed to use Mr Diro to gain considerable advantage for his company - this time at the expense of Inchcape subsidiary FMS.

Wawoi Guavi's debt was clearly owed to Straits Contracting (PNG) Pty Ltd and therefore Mrs Kuhon suggested in here letter of the 1 June that it should be the acquisition vehicle (Schedule 5).

In his reply of 16 July 1986 (Schedule 7) Minister Diro however insisted the acquisition vehicle must be Straits Engineers Contracting Pty Ltd (the Singapore Company) and this is

what happened. A new share issue of K1,248,905 shares was taken up by Straits Singapore. At the time Inchcape owned 40 per cent of Straits Contracting (PNG) Pty Ltd and had it been the purchasing vehicle as planned Inchcape, through it's share holding in Straits (PNG), would have thus acquired a major share of WGTC. The effect of what happened however is that WGTC capital was flooded and Inchcape's holding in WGTC, through it's 40 percent ownership of Straits PNG, was now diluted to almost nothing in terms of voting rights. These events were the subject of Court proceedings between Inchcape and Straits and this precluded further investigation into it by this Commission. Although this case has recently been settled there has been no time to carry out further investigations into this matter.

On the 22 July DOF issued guidelines to WGTC for preparing it's detailed proposal for Block 2. It clearly stated that the purchasing company would be Straits Contracting (PNG) Pty Ltd (the company in which Inchcape owned 40% of the capital). When the purchase proceeded it was done in the name of Straits Engineers Contracting Pte Limited (the Singapore company) and Inchcape in effect lost its indirect 40% share of WCTC. Inchcape was understandably perturbed. The prospect of Inchcape challenging what had occurred was real.

The obviously inexplicable problem was that the guidelines issued by DOF (on 22 July 1986) after Minister Diro's letter (of 16 July 1986) required Straits Contracting (PNG) Pty Limited to be the purchase vehicle. Some "after the fact" covering up of this problem was clearly desirable and equally clearly David Toms and Hester Kuhon, with substantial assistance from Michael Cowan and Oscar Mamalai, set about achieving this.

In late December or early January a letter was prepared for Mamalai's signature purporting to amend the guidelines by requiring Straits (Singapore) to be the purchaser and not Straits (PNG). The letter was undated and Mamalai signed it. The undated letter was faxed by Cowan to Toms in Singapore and Cowan

asked what date should be put on it. Documents in FIC files show clearly that Toms, Kuhon and Cowan were all consulted about the date to be inserted, that August 1986 was fixed as the desired date and the letter was dated 16 August 1986.

(C) Foreign Ownership of Wavoi Guavi Timber Company PL:

By the time of the negotiations it was clear to all that WGTC was indeed a foreign company. It was decided to accept this fact as part of the restructuring exercise as detailed above. Mr Diro specifically instructed that all national shareholders be bought out and this was done.

5. INTERFERENCE WITH FUNCTIONS

At the time the interim permit for Block 2 was issued to WGTC. The negotiating parties had reached agreement in principle on a set of conditions for the final permit which would have transferred the suitable Block 1 conditions over to the Block 2 permit together with sensible additional conditions to replace those Block 1 conditions which were agreed to be impractical. It looked as though the final package would be fair to WGTC, the landowners and to the local community. (Whether Toms was sincerely agreeing or merely giving apparent agreement in order to gain immediate access to block 2 must be questionable in view of his previous willingness to agree to anything in order to win Block 1). During the period from July to 1 December 1986, however, when the final permit was signed the position changed dramatically in favour of the WGTC.

Cowan's role:

After a careful study of FIC and DOF files, it is quite clear that a major cause of this change lies in the actions of the Executive Director of the Forest Industries Council Michael Cowan, and his close and perhaps criminal, relationship with David Toms of Straits Engineers Contracting Pte Ltd of Singapore.

During this period Mr Cowan held and used considerable influence over Forestry Minister Ted Diro who therefore once again (knowingly or unknowingly became the instrument for handing out very great favours to Toms and WGTC. Toms and Cowan conspired for two main aims:

- (a) To force FMS out of its lucrative marketing contract (which was then given to FIC);
- (b) To by pass DOF and gain the best possible conditions for WGTC for its Block 2 operation.

The outline of what occurred is as follows:

WGTC, which was effectively owned and controlled by the Straits group of Singapore, employed the Inchcape subsidiary Forest Marketing Services Pty Ltd (FMS) to manage it's logging and marketing operation. It inherited the very high commission of 6 per cent for it's marketing services, which Straits (PNG) had been charging. This was approximately double the going rate. When FMS took over it was happy to retain only 4 percent and paid the additional 2% to Straits (Singapore) as unearned commission. (This appears to be a clear recognition of a transfer pricing scheme being operated within the Straits Group).

FMS immediately set about correcting the inefficient logging practices of Straits (PNG) and it put the operation on a sound financial footing. Once this was achieved it appears that Toms formed the intention to force FMS out of it's lucrative marketing contract.

At approximately the same time the FIC had won it's long battle to become the State Marketing Authority for the export of round logs and Cowan was preparing to build an empire for himself, from which he intended to extract illegal personal profit.

Straits v FMS:

Toms now commenced his campaign against FMS by attacking it privately over its marketing tactics and sending copies of his correspondence to Cowan at FIC. Thus he warned FMS that its evasive tactics to hinder FIC from marketing its product would lead Cowan to use his influence to have a very restrictive marketing clause written into the Block 2 permit. (See faxed document 3.01.86 Toms to FMS - copy to Cowan - Schedule 8).

On the 14 November 1986 Toms accused FMS of planning to cheat FIC on its shipment of WGTC logs and sent a copy to Cowan with instructions to tell DOF Secretary, Mamalai. Toms faxed FMS' reply to Cowan. On 17 November Cowan sent a hostile telex to FMS referring to Tom's allegations and advised FMS "not to get your nickers in a twist and over-react". Cowan faxed this telex to Toms who then telexed to Cowan his congratulations for his criticisms of FMS (telex 18.11.86 Schedule 9). Again on 20 November Toms accused FMS of transfer pricing and of trying to exclude FIC from marketing WGTC logs. All this was faxed to Cowan with personal comments against FMS.

As Cowan's personal relationships with Toms grew Cowan successfully lobbied Minister Diro on WGTC's behalf for it to be given an increased log export quota up to 200,000 m³ p.a (fax 25/09/86) schedule in and advance of the permit) He also began advising WGTC on purchase of suitable equipment to boost its production. (Cowan sometimes became involved in the direct management of the WGTC operation. Thus on 21 November 1986 the Chairman FIC sent Cowan to look into FMS management and by 6 January 1987 we see Cowan criticising FMS's management policies and recommending that they should reduce the standard of roading and start cutting smaller diameter logs (Schedule 10).

During the actual negotiations about Block 2 permit conditions, Cowan played a vital role as Tom's secret adviser. Behind the backs of the State's negotiating team Toms would fax

copies of draft conditions to Cowan who would draft and type up amendments more favourable to WGTC. At the same time Cowan was being accepted by Minister Diro as a trusted confidential adviser on this and other matters.

On the 10 November 1986 Toms faxed to Cowan a copy of his complaints to DOF about processing conditions (Schedule 11).

On 27 November Toms sent his comments on Cowan's redraft and congratulated him on his ideas and on the drafting and adds "lets hope Oscar (Mamalai) does not blow up" (Schedule 12).

On the 24 November 1986 Mamalai was angry over an insulting telex from Toms and he advised WGTC and his Minister that he had directed that all work preparing the Block 2 permit in the DOF should be suspended. In evidence he said he was also angry because the Minister was making secret promises to WGTC behind his back. Far from stopping things however, Mamalai's angry reaction merely gave Toms and Cowan an opportunity to work on the permit conditions "underground".

On 25 November, Toms faxed Cowan a confidential report on WGTC's disastrous financial position and argued that WGTC's debts were really owed to Straits (Singapore) not to Straits (PNG). He also sent the draft Permit to Cowan who must have quickly done some work on it for, on the 27 November, a very appreciative Mr Toms sent his comments on Cowan's proposed amendments to the draft permit.

Mamalai amends draft permit in Singapore:

In circumstances which seem very suspicious the scene then apparently moved to Singapore, where Secretary Mamalai and FIC Chairman Maraleu had stopped over during an overseas trip. On the 29 November thirteen pages of the 49 page draft Timber Permit were faxed from Straits (Singapore) office to FIC Port Moresby. A note on the faxed documents in Toms' handwriting states that it is from the Secretary for Forests "black inked for clarity by D.

Toms" (Schedule 13, first two pages only). Each of the 13 pages contained handwritten amendments.

In evidence Mr Mamalai swore that he got the draft from A/Secretary D.Kari and took it with him on his trip because there was no time to read it before he left. He then gave it to Mr Maraleu to fax it from Strait's Singapore office to FIC Port Moresby as the DOF then had no facsimile machine. The instruction was for Cowan at FIC to hand the faxed documents to A/Secretary Kari at DOF. Kari swore in evidence that he did not give a draft permit to Mamalai as he was no longer involved in the negotiations by that stage, nor did he see the faxed amendments. In all the circumstances I find that Kari did not hand the draft permit to Mamalai before he left for Singapore. It is far more likely that Cowan who had been working on it, handed it to Mamalai.

Cowan "takes over" DOF role:

Whatever happened, when the draft permit was faxed back to Cowan in his FIC office, Cowan apparently saw this as an opportunity and had the final permit typed up at his FIC office. He then briefed Minister Diro himself and obtained his signature without consulting Mr Kari or the DOF. A copy of the final permit did not arrive at DOF until 10 December 1986 when A/Secretary Kari expressed his anger at the spectacular breach of normal procedures which had occurred. (Schedule 14).

In evidence Kari pointed out that his suspicions that the documents had been typed at the Straits Port Moresby office were confirmed by the fact that the facing page of the Permit delivered to DOF displayed WGTC letterhead. (Schedule 15).

On the 11 December, the Secretary wrote to WGTC acknowledging receipt of a copy of the Permit No: 1-5 over Block 2.

From Tom's evidence when referring to Inward Fax 378 of 27 November 1986 it is clear that Cowan worked actively to change at least the following major conditions in WGTC's favour:-

(a) Cl 4.3 Sawmilling:

- (i) the reduction of volume as follows:

Sawmill Input

	Draft permit m3	Permit No 1-5
Year 2	10,000	8,000
Year 3	15,000	10,000
Year 4	20,000	12,000
Year 5	50,000	18,000
Year 6	50,000	30,000

- (ii) the introduction of a "let out" clause if equitable return not possible (and method of calculating) "equitable return"

- (b) Cl 4.5, 4.6 Fisheries and Crocodile Farm: watered down to conducting a feasibility study.
- (c) Cl 5.4 Forest Working Plan - operations not to be stopped during process of periodic review.
- (d) Cl 10 Forest Inspectors' complaints about forest produce to be referred to arbitration.
- (e) Cl 16.1(d) Localisation of marketing by placing national marketing officer inside FIC (rather than have him in WGTC (marketing section)).
- (f) Cl 16.5 State Marketing WGTC will offer each sale to FIC. (Toms said in evidence that this was Diro's idea.)
- (g) Cl 23 Assignment: Secretary not to unreasonably withhold approval to assignment by WGTC.
- (h) Cl 26 Block 3: WGTC to be allocated Block 3 after completion of TRP "without additional infrastructure development".

WGTC wins Block 2 negotiations:

The result of this conspiracy between Toms and Cowan, and of Minister Diro being prepared to accept and act upon biased advice from Cowan without reference to his department, was to significantly undermine the DOF negotiating position. When the watered down permit conditions were adjusted in Toms' Singapore office and then typed up by Cowan of FIC the DOF was being completely excluded even to the extent that Mr Diro accepted his final briefing from Cowan and signed the Permit without Acting Secretary Kari even knowing about it.

This gross interference with DOF functions and this "take over" of the Minister for Forests by Toms/Cowan resulted in WGTC being given one of the largest and best timber resources in the country with a lighter burden of infrastructure conditions than was imposed on any other operations of similar size. The landowners thereby lost most of the benefits promised as conditions of the Block 1 permit and the Premium arrangement which was promised as the answer to their cry for cash benefits, was devalued when Minister Diro accepted Mrs Kuhon's nonsensical formula which would bring them in less than 1 percent of the FOB price.

Minister Diro promises more:

The ramifications of this failure by the State to impose appropriate conditions on the consolidated permit for Blocks 1 and 2 were made even more serious when Minister Diro on 13 June 1986, gratuitously and without consultation with his department promised the rights to Block 3 without further infrastructure obligation.

Defeat of Inchcape/FMS:

Toms and Cowan were equally successful in defeating Inchcape's subsidiary FMS. The Inchcape group lost a good deal of its motivation when Mr Diro directed that Straits Singapore be

the corporate vehicle to buy out WGTC national shareholders. Instead of being a major shareholder in WGTC (through its controlling interest in Straits Engineering (PNG) Pty Ltd Inchcape was left with minimal equity. Eventually, under concerted pressure from Toms and Cowan, FMS withdrawn from its logging and marketing agreements with WGTC.

Mutual benefits:

The marketing contract was given to FIC which undertook the task on conditions very favourable to WGTC usually about 50t per m3. This saved WGTC round about USD 10,000 per shipment (see table p 35) and caused FIC an equivalent loss. (See Interim Report No 3) In what seems to be a related "kick back". WGTC then offered a payment of K20,000 per month to Miscus Maraleu the Chairman of FIC by way of a Consultancy fee to his company Metepikae Holdings to which Cowan was said to be chief professional adviser. Maraleu accepted but after a few months the fee was reduced firstly to K10 000 then to K6000 until now it stands at K2000 per month. (See p for a full description of these arrangements.)

For logging contractors WGTC used Pacific Woods Pty Ltd which had previously subcontracted to Inchcape, and later brought in Machuges Logging Company Pty Ltd from Singapore (see pp.) The barging and loading continued to be handled by Straits Marine Contracting Pty Ltd.

6. MARKETING BY FMS - TRANSFER PRICING

My inquiry into marketing and Transfer Pricing during the years up until mid 1986 were hindered by:

- a) The complex corporate interrelationship between the Permit Holder WGTC, it's contractors and their common parent company and the various inter company loan agreements.
- b) The National Court proceedings between the Straits and Inchcape groups in which transfer pricing allegations and the interrelationships between the various companies were

major issues. This obliged me to exclude much obviously relevant evidence as being sub judice.

- a) Corporate interrelationships: WGTC was at all times, in a de facto sense, owned and controlled by Straits (Singapore): This control was exercised by two subsidiaries of Straits Singapore: Straits Marine Engineers Pty Ltd which controlled the barging and loading of logs, and Straits Contracting (PNG) Pty Ltd which at first controlled the logging and marketing.

The many opportunities to manipulate loan funds between the various contracting companies and their Singapore parent company are virtually impossible to check upon.

- b) National Court Proceedings: Both Straits WGTC and Inchcape were represented before the Commission. All Counsel agreed that the Commission would be in contempt of the National Court if it proceeded to inquire into these allegations and to publicly examine most of the documents already in its possession. The Commission was in possession of documents relating to four shipments:-

The Asia Giant	November, 1985
The Southern Pearl	January, 1986
The Oriental Bear	January, 1985
The Dooyang Guide	October, 1986

Counsel Assisting sought to tender them in support of his claim that transfer pricing would be disclosed. Counsel for Inchcape objected however, on the ground that they were false documents, the veracity of which could not be strictly proved and because the matters were subjudice. I allowed the objections.

Evidence of Transfer Pricing:

With regard to the Oriental Bear shipment however, Inchcape's lawyers had dealt with this specific shipment in its submission to the Commission which reads:-

"Our Clients' Singapore Counsel was instructed to carry out investigations with regard to this document. Counsel's investigation disclosed the following:-

- a) The Fixture Note dated 13th January, 1986 was between Seyang Shipping Co Ltd and Samjin Enterprises Company. The freight rate under the Fixture Note was US\$ 20 per cubic metre.

- b) Having chartered the vessel Sam Jin Enterprise then entered into a Nanyozai Charter Party on the same date with Forest Marketing Services Pty Ltd. The freight rate under the Charter Party was US\$24 per cubic metre.
- c) The difference in freight rate between that under charter Party and that under the fixture note was received by Samjin Enterprise.
- d) The term "Transfer Pricing" is a misnomer. Having regard to the facts, the correct term would be "Agent Mark up".

I treat that submission as an admission that the actual freight rate paid to Seyang Shipping Co Ltd was in fact USD4.00 per m3 greater than was charged to WGTC. The difference aggregated USD 24,026.46 over the whole 6,006.615 m3 shipment. It was part of the profit which was transferred out of the country to a company which had not earned it and as such I consider it to be "transfer pricing".

On one other shipment the documents accepted in evidence disclosed a similar unexplained payment of USD 1 per m3.

Although these matters were highly relevant to my terms of reference. I was unable, for reasons previously stated, to further examine the documents or examine witnesses.

One other factor arose in evidence which makes it virtually certain that the financial situation of WGTC in 1986 was far better than the figures disclosed to PNG authorities would suggest.

During the negotiations for the Block 2 permit the company disclosed a net loss of almost K1.3 million which had accumulated over a period of three years. When Straits (Singapore) was allotted the new share issue and bought out the national share holders the price paid reflected this dismal loss situation.

In April 1986 however, Straits had been attempting to sell 60% of the shares in Straits Contracting PNG to Inchcape for \$13,220,000 (about 6 million) Mr Keet of Straits assured Inchcape

that he did "not think you would have much difficulty in arriving at figure much better than S\$261,667" (about K120,000) per month. Mr Toms sought to explain these bright financial figures by saying they were imaginary figures prepared for the purposes of promoting a sale. The purchase negotiations however, were being conducted with Inchcape which, as the logging and marketing, sub-contractor, was in an excellent position to know the true financial facts because, whatever devices were being used to hide the true profits, Inchcape must have either been a party to them or at least have known of them. This view that WGTC has somehow concealed massive profits is supported by the presentation prepared by Bain & Company Pty Ltd to promote the possible sale of the Straits Group of Companies. At p.10 it states:-

"Taxation: The group has historically paid minimal tax through tax minimisation strategies. These strategies may not be suitable for a public listed company, so we have assumed in our forecasts that the Group uses it's Hong Kong offshore status to minimise tax paid on fully disclosed profits. We estimate an average tax rate of 20% based on:-

Singapore	33%
PNG	15% (withholding)
	45% (domestic)
HongKong	Nil"

In this context, the fact that Straits's tax minimisation strategies "may not be suitable for a public listed company ..." strongly suggests transfer pricing or similar devices; using it's Hong Kong offshore status.

Finally a study of the Stock Purchase Agreement prepared in anticipation of a sale to Hainan Development and Construction Corporation of the only 2 shares in Straits Contracting (PNG) Pty Ltd again gives an idea of the true value of WGTC. The only asset of Straits Contracting (PNG) Pty Ltd was it's 25 per cent shareholding in WGTC. The agreed price of the 2 shares (in effect therefore of the 25 percent shareholding in WGTC) was S\$19,000.000. (About K8.6 million). The result of the limited

inquiry that the Commission has been able to make into Transfer Pricing by WGTC and the Straits Group of Companies is this:

Conclusions on Transfer Pricing:

I am satisfied that between 1983 and 1986 very substantial sums of money were transferred offshore from the hidden profits of the Group. Due to the constraints on the Commission's inquiries previously referred to I was unable to fully investigate how this was achieved or in what amounts. It would seem likely that manipulation of freight, management fees, bargaining fees, equipment hire rates and loan funds could provide the answer. The payment of the very excessive 6 percent marketing commission definitely involved transfer pricing as 2 percent of it was paid to Straits in Singapore as an unearned Commission.

One problem facing an investigation into WGTC is that it seems their records are retained offshore. I have referred this aspect to DOF, office of Taxation and the Central Bank with a recommendation that a direction be given to bring all financial records onshore for a thorough examination.

7. MARKETING BY FIC FOR WGTC

(This aspect is dealt with in detail in Interim Report No 3 "FIC as the State Marketing Authority".)

The first FIC shipment for WGTC occurred in November, 1986 and the second FIC shipment occurred in late December 1986. An analysis of the files on these shipments discloses FIC's lack of expertise and also discloses the pressure mounting against FMS.

Under the new Block 2 Permit Conditions the original intention seems to have been for FIC and FMS to take turn about, each marketing alternative shipments. By the end of December 1986 however FMS, which could no longer rely on receiving it's 4% marketing commission, began to pull out of the Wawai Guavi

concession altogether. This left the way clear for Cowan and the FIC in the marketing field. On the next two part shipments that FIC handled for WGTC (FIC shipment, 6A and 6C) there is strong evidence of gross irregularity.

Misappropriation by Cowan:

It is quite clear that a total of USD28,892.56 went missing from the proceeds of WGTC, Ulabo and Angus Sales. It was telexed by Cowan to D Toms of Straits Singapore in five separate amounts. (The amounts taken from WGTC during this process was USD 9,367.37). Whether this is evidence of a transfer pricing conspiracy between Toms and Cowan or whether it is an example of Cowan misappropriating the money and merely using Straits Singapore as the vehicle for getting the money out of PNG is not yet clear.

Further evidence of impropriety in the relationship between Toms of Straits/WGTC and Cowan of FIC also implicates Miskus Maraleu who was then the Chairman of FIC and also the owner/Director of Metepikae Holdings Pty Ltd which acted as a timber consultancy firm.

FIC benefits WGTC:

Shortly after FIC became involved in marketing for WGTC it reduced its normal commission of 3 percent (applicable to most other companies) to a flat rate of 50t per m3 or sometimes 50c per m3 for WGTC. This saved WGTC K49,763.86 over five shipments.

Comparison of actual amount charged
as against a flat commission of 3%

Ship No	Commission of 3%	Commission Charged	Difference (K)
5 (1.12.86)	K12,438.46	K2,961.52	K 9,476.94
6A (Dec-Jan)	K 7,302.85	Charged 3%	Nil
6C (Dec-Jan)	K14,527.47	Charged 3%	Nil
9 (Late Jan)	K16,024.81	Nil	K16,024.81
13 (Mid Mar)	K16,321.45	K3,248.57	K13,072.88
15 (late Mar)	K14,142.14	K2,952.91	<u>K11,189.23</u>
			<u>K49,763.86</u>

WGTC benefits Maraleu and Cowan:

At the same time, on the 19 December 1986, WGTC entered into a consultancy agreement with Metepikai Holding for a consideration of USD 20,000 per month. These payments were actually made for two months then reduced to K10,000 a month for 5-6 months and later to K6,000 a month to the end of 1987. It now stands at K2,000 a month.

In a previous facsimile message where the idea of retaining a national management company was first raised, it was made clear that Cowan would be it's Chief Adviser (Schedule 16) from Toms.

Cowan's involvement in setting up these deals for Metepikae is quite clear from Maraleu's evidence and because Cowan's hand writing appears on documents being faxed from FIC to Straits.

The duties of Metepikae were stated to be:

- a) Oversee directly roading and logging operations.
- b) ovesee directly preparation of produce for market.
- c) assist in the marketing of the produce

In fact Metepikae's performances consisted only in arranging for the placement of some skilled and semi skilled staff (such as operators and surveyers), offering advice on preparation of the Forest Working Plan and liasing sometimes with Government Authorities.

On the 17 December another agreement had been prepared and signed by directors of WGTC to allocate 18 percent of WGTC shares to Metepikai in consideration "for it's services in obtaining these assets (timber permits for block 3 and /or Makapa) for the company". (See 453 of 24.12.86, Schedule 17.) Maraleu swore that, although the document was presented to him by Cowan he had refused to agree to it because he did not think he could successfully lobby for those permits in the time period they expected.

Toms freely admitted that the aim of the agreements was to induce the Chairman of FIC to actively work to benefit WGTC at the expense of all other companies in obtaining those permits. In evidence neither Maraleu nor Toms could see any impropriety in these arrangements and no conflict between Maraleu's duties to the FIC and his duties to WGTC. They pointed out that the Chairman's position is an honorary one and that all Council members use their FIC appointment to gain benefits for their own timber companies if possible.

Transfer Pricing mid 1986 - 1987

No evidence of standard types of transfer pricing has been discovered since FMS withdrew from marketing. It must be remembered however that the complex corporate relationships between WGTC, Straits Marine Contracting and Straits Singapore would make it very difficult to detect other methods of transferring profits off shore such as manipulated freight rates, import price padding and rigged agency fees.

8. CURRENT OPERATIONS

An attempt was made to inspect WGTC operations in 1988. The Commission's visit coincided with a period of almost continuous rain, however, which had stopped all operations except some barge loading which was occurring at the Kamusei Base Camp. All roads were closed to traffic including those at the Base Camp itself.

The log pond was a quagmire of mud and walking, even from the main office to the expatriate mess, was achieved by walking on specially constructed raised board-walks. Some inspection of bush operations was made possible by hiring a helicopter which flew in from Port Moresby, flew us on short hops, overnighted and then flew us back to Port Moresby.

The main reason for visiting WGTC's operations was to inspect the natural forest regeneration plots for which the company had been highly praised by DOF, which held it up as a leader in conducting research into improved logging techniques and sustained yield forestry. The following sketchy report outlines what it was possible to see, hear and calculate during my short, wet visit.

Contractors:

Wawai Guavi Timber Company Pty Ltd employs two logging contractors and one Contractor to load and tow barges to the log ships.

The Contractors are:

- (a) Pacific Woods Pty Ltd
- (b) Machuges Logging Company (PNG) Pty Ltd
- (c) Straits Marine Contracting

a) Pacific Woods

This company was brought in by Inchcape on 1 April 1984. It entered an unfavourable agreement with Straits Engineers Contracting Pte Ltd (Singapore) for equipment and camp infrastructure which it bought on a leasing arrangement.

It has now contracted with WGTC to carry out the operations from felling to delivery at loading pond. The Company owns it's own equipment which includes:

Equipment		Operators	
		Expatriate	National
7	jinkers	5	2
12	bulldozers	8	4
3	loaders	-	3
16	chainsaw	2	16

Most of it's staff are hired as subcontractors. For instance chain saw operators (national) get 45t m3 but pay their own offsider at about K3 per day. The operators claim they are liable to pay for spare parts (denied by management) and that the actual contract price had been 38t per m3, until they threatened to stop work the week before the Commission's visit.

Pacific Wood has agreed to cut a minimum of 90,000 m3 and a maximum of 120,000 m3 a year. The logging fee is S\$ 57,00 per m3, half paid on delivery to the Kamusei log pond and the balance when loaded on board ship as export logs. The fee for delivering sawmill logs to Kamusei is \$42 per m3. Out of this logging fee Pacific Wood must meet all leave payments, maintenance, wages, sub contractor's fees ... etc.

In 1986 it showed a small profit and in 1987 a good profit because of favourable weather and large volumes loaded. It maintains 12 km of the road as well.

The Managing Director Robert Lam and the book keeper Leow Hing claim that no offshore payments are made to employees.

Pacific Woods logging camp was visited at its site about 25 km from Kamusei. It consisted of a series of temporary huts for expatriate Asians, an office, a Trade store and a mess hut. The national staff had separate huts and mess hut which I visited. I heard complaints about conditions, pay, leave arrangements etc. at a hearing in the National mess hut.

b) Machuges Logging Co (PNG) Pty Ltd:

This company was incorporated in PNG in July 1987 and three of its Directors are also Directors of its Singapore parent company, Machuges Management Services (Singapore) Pte Ltd. Those Singaporean Directors are shown as owning only 25% of the shares in the PNG company as, in order for it to be considered a national company and avoid the need for NIDA registration, 75% of the shares are registered in the name of Norman Fernades who claims to be a PNG citizen. The registered ownership is:

G.Chu Tam)	
Loo Ah-Hai)	25 percent
Jaggett Singh)	
Norman Fernades		75 percent

As Tam, the Managing Director, could not remember Norman's surname, it seems unlikely that he truly holds the beneficial ownership of the company but is holding the shares in trust for the other three.

The only logging equipment Machuges Logging Co (PNG) Pty Ltd owns is its eleven chain saws. The rest of the equipment is provided free of charge by WGTC and this consists of 5 jinkers, 1 loader and 9 bulldozers. Machuges is responsible for maintenance and spare parts. All the operators are expatriates except for the 11 chain-saw operators and one bulldozer operator. A list of expatriate employees was made from documents inspected at the base camp. At the same time work permits were requested for inspection. Only sixteen permits were produced to the Commission. The person's occupation as shown on the permit is reproduced on the list as well as his actual occupation. All 16 work permits which were produced showed WGTC as the employer, not Machuges.

MACHUGES LOGGING COMPANY (PNG) PTY LTD
EXPATRIATE EMPLOYEES AST AT 12.06.88

Names	Actual Occupation	Occupation on permit
1. Fang Hing Kiang	Dozer Operator	Dozer Operator
2. Tan Kock Siong	Dozer Operator	Road Supervisor
3. Ng Peing Nam	Dozer Operator	Dozer Team Leader
4. Liong Kann Pow	Dozer Operator	Dozer Team Leader
5. Yong Fong Kim	Dozer Operator	Snigging Supervisor
6. Moi Song Moi	Cook (F)	-
7. Sian Su Yen	Dozer Operator	Snigging Supervisor
8. Wong Chow Sing	Dozer Operator	Dozer Team Leader
9. Rama Kiishnon	Dozer Operator	Roading Supervisor
10. Ten Ang Jin	Jinker Driver	-
11. Lool Juan Juan	Jinker	Team Leader
12. Ng Chong Leong	Jinker	Hauling Supervisor
13. Ng Skew Wong	Jinker	-
14. Chong Piow	Load operator	-
15. Wong Yeet Norm	Mechanic	W/Shop Training Supervisor
16. Chee Sevee Tow	Mechanic	Training Officer
17. Wong Chop	Supervisor	Logging Manager Comp/Chain-saw
18. Joseph Hiew	Road Const. Supervisor	Heavy Equipment Training Officer
19. Wong Juan Hing	Office Staff	-
20. Ng Chu Tom	Camp Manager	Logging Manager
21. Ng Siew Sin	Chain-saw Mechanic	Chain-saw Team leader (Ng's son)
22. Wong Moi (Ng's wife)	Cook	-
23. Thloon Hwong	Office Staff	-

Offshore Payments and Benefits:

The Expatriate staff are paid from the Company office at Six mile. One thousand Malaysian dollars per month is paid to the worker's family in Malaysia, and the balance is to be paid in PNG at the end of year, (or at the end of the contract period). An advance on that deferred pay is arranged to enable the employees to buy goods at the highly priced company trade store. Pay for the National staff is arranged at the Logging Camp.

Most of the staff (National and Expatriates) are employed as sub-contractors. For instance the National Chain saw operators are paid 45t per cubic metre but they must provide and pay their own offsidiers. A National Jinker driver is paid 25t per m3 an expatriate jinker dirver is paid 55t per m3. An expatriate bulldozer operator receives 90t per m3 whereas national bulldozer operator is paid K10.00 a day with overtime at a rate of 1.5.

Machuges' Logging contract with WGTC:

The contract is to log up to 90,000 m3 a year and to deliver the logs to the log pond at Kamusei base Camp where they are loaded into barges by employees of Straits marine Pty, Ltd. The Company has also agreed to maintain approximately 12 kms of road from its Camp towards the Kamusei Base Camp.

Machuges remuneration is S\$37 per m3 (K13) which is considerably less than the amount paid to Pacific Woods, but the latter company provides it's own equipment. Machughes directors anticipate financial problems as the equipment ages and maintenance costs begin to rise.

Although the logging, haulage and road construction is undertaken by the two contractors the quality control, scaling and grading are carried out by WGTC.

Reasonable logging practises:

The logging operation by both contractors appears to have been carried out in a professional manner with less damage to the environment than is usual in PNG timber operators. Main roads and Spur roads have been pre pegged and the contractors have established roads accordingly, snigging tracks are put in however, at the discretion of the bulldozer drivers. The docking has been done responsibly and excess wastage was not apparent.

From observations it seems that scaling, grading and marking is being done correctly at the bush ramp. Marking involves

painting with large letters as well as hammering on a numbered plastic tag which is held in the numbered tag at both ends. Paint that same number on the log together with the other details and record all information on paper. The tag contains a small detachable section which also has the same number. Eventually when a log is actually under the crane being winched up for loading onto the barge, the detachable section is removed, threaded onto a wire carrier with the tags from other logs going onto the same barge. This is then fed into the computer (physically) and is matched with the details already programmed for that number to print out the list of all logs exported and their full details.

Stranded Logs:

Vast numbers of logs could be seen from the helicopter on the ground at the various loading ramps and it was said there were more on the ground at stump but hidden under the forest canopy. Mr Tay estimated 12000 m³ are waiting to be picked up and it probably is an understatement (one contractor admitted to having 7000 m³ on the ground). There are also two "shuttle stations" where logs are stockpiled awaiting availability of shipping and to ensure there will be sufficient supply on hand which can be moved in even the most difficult weather conditions.

Natural Regeneration Plots:

The Timber Permit placed an obligation on WGTC to establish natural regeneration plots; 50 ha p.a in 1987, 100 ha in 1988 and 200 ha p.a thereafter. This obligation was in substitution for the far more onerous reforestation condition which had been imposed in the Block 1 permit (but not fulfilled). The regeneration plots were to enable experimentation with silvicultural improvement techniques and to obtain research data on rates of natural regeneration after logging for the various valuable timber species.

WGTC claimed that it had not only fulfilled this condition but had gone further and was carrying out a 100 per cent pre logging inventory in each logging coup, marking each tree to be cut and showing the direction of fall. When the Commission physically inspected the area however, these claims were found to be untrue.

What the company has been doing is surveying 10 meters on either side of a 1000 meter strip line in each logging coup. In that strip all bole sized trees are inventoried. The trees are not physically marked however. In this way the inventory covers less than 5 percent of the trees in the coups. No timber stand improvement is being carried out in these strips. Even though it seems that these practices have been worked out in discussion with DOF officers it by no means "satisfies the natural regeneration" conditions in the Permit.

Despite this breach of the Permit condition WGTC's logging operation was more responsible and less damaging to the forest environment than any of the other operations inspected. This company has also co-operated with an FAO research team which established trial plots in the permit area in order to carry out research into logging practices and their effects upon the forests.

Sawmill:

The permit for Block 1 obliged WGTC to build a sawmill with an input capacity of 6000 m³ within three years of commencement. No attempt was ever made to honour that condition. It was transferred over to the Block 2 permit (despite vigorous opposition from Toms).

By Clause 4.3 the company is obliged to construct a sawmill with an input capacity of 30,000 m³. It is obliged to have put through 6 000 m³ by the end of December 1987, and further 8,000 m³ by the end of December 1988. The rate of input increases over

the next few years towards the maximum requirement of 30,000 m³ by the end of 1992.

The building has been constructed at the Kamusei Base Camp close to the barge loading point. Two band saws are in place. Also there are rails and two trolleys for conveying the logs to the main saw. There was no break down saw and no generator and no treatment plant or storage shed for the finished product. It will therefore be some time yet before the mill is completed and ready to operate. There was at the time of inspection, no sign of construction in progress and ground conditions were extremely muddy.

WGTC claims the mill will be capable of handling logs up to 100 cm diameter. If nothing is put through by end of December 1988 the penalty provided for in the permit is the loss of 30,000 cubic metres of the export quota. As WGTC is apparently only able to handle about 150,000 cubic metres of its, 200,000 cubic metre export quota per annum the loss of 30 0000 m³ is no real penalty.

At the end of 1989 if nothing is produced the loss of export quota will still only be 40,000 cubic metres and this will not affect the Company's operation at all. There is no provision to make good previous deficiencies so once the nominal export penalty is deducted in those two years, the company will then have its full export quota restored as long it is producing timber at the required rate in 1990.

In any event the Company is only obliged to produce sawn timber if it can market it at "an equitable rate of return" this to be determined by comparing the price payable and market availability against the cost of production which has been specified in the permit as US\$160 per cubic metre. The figure of \$160 per cubic metre plus an equitable profit margin, plus increase for inflation needs to be compared with current market

prices of sawn timber (both domestically and overseas) and the availability of a market for the product.

(At the time of completing this report - April 1989 - no further progress has been made on mill construction and WGTC is excusing itself under the force majeure condition of the Permit because of wet weather.)

The Export Operations - Loading:

All logs cut by the contractors are eventually delivered to Kamusei Base Camp where they are stacked near the river bank or near the sawmill according to whether they have been graded as sawmill or export quality.

When logs are selected for export on a particular ship they are manouvered under the cranes by loader or bulldozer, (depending on the state of the mud) they are then loaded onto barges by employees of Straits Marine Contracting Pty Ltd. A barge sheet is prepared as the logs go into the barge and the tag butts are removed so that the log list of exported logs can be prepared and so that, eventually, the Bill of Lading can be prepared. If there is no tag the information is (presumably) taken from the painted information on the end of the log and recorded on the barge tally sheet manually.

The loaded barges are then pulled 250 km down stream to Umuda Island just beyond the river mouth, where they are loaded by Straits Marine employees onto overseas log ships waiting offshore.

On inspection of the logs at Shuttle Point One (about 2 km from the Base Camp all logs appeared to be marked and tagged).

The inspection at the Kamusei Base camp pond was a different matter. There was about 2000-3000 m³ at the pond. The conditions were so muddy that it was most difficult to approach the logs for inspection. (It meant wading knee deep in mud). On

close inspection it proved impossible in many instances to find any marking on the logs. After scraping with a knife or piece of timber sometimes a tag was uncovered, sometimes just a painted number (grading ... etc) sometimes a number and full details were painted and sometimes it was impossible to find any markings at all. The various categories seemed to be mixed up in the vicinity of the crane.

Mr Tay of WGTC explained the mix up by saying that sawmill logs have been accumulating as the sawmill is not yet functioning. Consequently he has sold some for export as "low grade logs" and has sent photographs and written descriptions to a buyer asking USD 55m3.

He explained the muddy logs mixed up together near the cranes as probably being those rejected by the buyer's representative from a recent shipment. As loading is done day and night, rain and shine I was not convinced that the system was fool proof. It seemed very unsatisfactory, impossible to supervise and open to abuse by management or by employees of Wawoi Guavi or of Straits Marine.

There were two log ships waiting at Umuda Island. One with 15000 m3 capacity was awaiting its last 2000 m3 to complete its load. These were already on a barge being pulled down the river by tugboat when we arrived. Johnson Mantu (Forestry Inspector) ordered that they be not loaded on board until inspected and as we flew out by helicopter we dropped a Forestry Inspector on board to compare the logs on the barge with those recorded on the barge tally sheet.

Of 485 logs on the barge 4 fell overboard and sank. The

results of the marking check on the other logs was presented by the inspecting officer in a way which is difficult to understand:

"Total number of readable logs by tag and paint	Number readable green tag	Unreadable at all but has paint mark	Without green tag	
			can read	can't read
373	101	11	6	7"

(4 pieces fell over-board)

Species identification was quite difficult because of the condition of most of the logs. Most of the logs had mud on the ends and that made it impossible to read also the deteriorating condition of the bark made it difficult for identification of species.

Check grading was also very difficult to do for the reasons stated above but checking through their tally the gradings seemed satisfactory to the inspector.

Working Conditions

From the Commission's own inspection it was apparent that living conditions and working conditions at the base camps were very poor. The accommodation provided at Kamusei is very overcrowded with several single men expected to share one room. Married couples are accommodated in similar rooms in the same "dormitory" as single men. During the very long periods of rain the various sections of the camp are isolated from each other by deep mud. Rough board-walks have been constructed between the various office buildings and the expatriate living quarters to make walking possible.

In the short period available for public hearings they were dominated by workers' complaining about poor pay, living conditions, extremely long hours (including Sunday work), lack of leave pay and leave fares for families and racist attitudes by the expatriate supervisor. One complaint for instance was from a

Loading crewman who claims to receive K68 per fortnight working from 7 am to 6 pm, often working both Saturdays and Sundays. Overtime is at 65t an hour. He claimed to be expected to work in the rain, even at night and that this creates very dangerous conditions at the loading crane in the mud. He claims the crew are not issued with helmets, gloves or boots and that working conditions are extremely dangerous.

Landowners' Complaints:

There was very little time available to hear more evidence from the public but two public sessions were held for landowners. The only evidence given from landowners was from those who are employed by the company in some capacity and they were hanging around the base camps for that reason. Not unexpectedly they were generally in favour of the company but they did have some complaints:

- (a) Not enough pay for themselves. They seem to get about K69.00 a fortnight.
- (b) Late and inconvenient payment of royalties and this seems to be a genuine complaint. Although the Company is on time with its payments the system of government procedures delays the payment to them, sometimes by as much as two to three months. They do not like the newly introduced system of paying their royalties into a passbook in the name of each clan. Their objection to this is that the passbook account is in Daru and it is very difficult for them to get to Daru and collect the money and come back. I met one group trying to get on the Company Cessna at Daru airstrip that had been paid K7,000 in royalties and had gone to Daru and withdrawn K5,000 which they were carrying back to the bush in a bag. They were unable to get on the company plane.

- (c) They complained about there being too many unnecessary expatriates employed by Wawoi Guavi and its contractors.
- (d) Polluted drinking water: The company is spraying Masawa Logs on the river bank at Kamusei base Camp to prevent insect attack. It is using powerful insecticides and the people living in quite a large village approximately 2 or 3 hundred metres down stream from the spraying point are complaining that they are frightened of insecticide poisoning. They have requested a water tank to be provided by WGTC but so far this has not been agreed to.
- (e) A request for a new village site to be cleared has not met with any positive response from the Company.
- (f) They complain about some damage to food trees and they want compensation.
- (g) Wastage in the bush and excessive docking.
- (h) Frequent complaints about the high prices at the Straits Marine Trade Store.
- (i) They want the Company to build more Government officer housing so that a business development officer can be brought in to help them start local businesses, they are thinking of a crocodile farm and asking also for fish net. Under the timber permit that is an obligation which WGTC has undertaken to assist them with. They cannot buy a fishing net from the store because they say it is too costly.
- (j) They want WGTC to pay royalties on logs which it uses in bridge construction.

The employees of WGTC, Straits Marine and Pacific Woods were complaining about long hours, little basic pay, small overtime payments, dangerous conditions and lack of leave fares for families, and generally complaining about being treated as sub-human by the expatriate employees and the management. (For instance, loading crews claim that they are denied access to the expatriate mess during tea breaks on wet nights. They claim their tea is served to them in old fish tins).

The companies' management generally denied these claims but I noted that the contract rate for chain saw operations had been increased by the Pacific Woods Company from 38 to 45t cubic metre as a result of strong pressure just recently. The companies generally agreed they work 7 days a week and expect their employees to turn up. Straits Marine denied it works its labourers in the rain but Patrick Tay of WGTC admitted openly that he fairly often used to see it. Straits Marine insisted that they gave hard helmets, and raincoats to log loading crews but my own observations were of people working without these items.

The story of drinking tea from tins was confirmed by Elizabeth the Straits office employee. She said that as the national employees keep losing their cups the company has given up providing them.

9. BENEFITS TO LANDOWNERS

The Bamu people appear to be some of the least educated and least enlightened people in P.N.G. regarding knowledge of outside world and business and industrial conditions. Their standard of education is very poor.

When the timber permit was first negotiated with WGTC over Block 1, there seems to have been a genuine attempt by government to oblige the company to do things which were for the benefit of these scattered and uneducated people. After three years of

operations however, the company was disclosing a substantial loss and very few of the obligations imposed upon it to provide infrastructure and other benefits for these people had been complied with.

Nevertheless the company was allowed to commence logging in Block 2 before a consolidated permit was negotiated and then, during the negotiations, the intended Block 1 permit conditions had been watered down to almost nothing. The real losers throughout have been the Bamu people because the original terms for Block 1 had provided for a hospital by 1983 and for a one classroom school to be operated by WGTC by 1984, six aidposts to be built and operated by WGTC between 1984 and 1986 and there should have been a sawmill operating by the end of 1986. When the obligations transferred over to Block 2 these things had not been built and the requirements were modified considerably. The delayed conditions were therefore less beneficial for the people and far less onerous for the Company.

No schools:

Although the timber has been harvested since 1983, the landowners still have not obtained a functioning school, so that at least four groups of children have missed out.

No aid-posts:

The six aid posts along the two rivers have not been built and all that they have obtained is a very small clinic which is really more like a first aid station at the Kamusei Base Camp, where an imported expatriate doctor is treating such things as malaria, diarrhoea and minor cuts and is attending at child-birth. He is assisted by a qualified Nursing Aid. The company was not put under obligation to continue that service and it is already considering seeking Government subsidies to offset the costs which are estimated at about K2,000 a month.

Health clinic:

The clinic serves the needs of the company and its staff and their families as well as the local people.

Airstrip:

An airstrip has been built at Kamusei, but it is a clay airstrip which is unusable by commercial aircraft during much of the wet season and not up to the standard specified in the permit.

No Local Processing:

The sawmill, which was promised to be operating at 6,000 m³ intake by October 1986, is still not completed so no employment has been generated by the project. The whole idea of a charcoal and Pyrolysis plant was dropped altogether with no replacement.

No Business Development:

There has been no officer appointed as a landowner liaison officer, as visualised in 1983, who was to advise about the Business Development which they hoped to get started. From brief discussions with some landowners it is quite clear that they feel a desperate need for assistance along this line. (The Company claims it did pay a man to be an assistant to the local member Ano Kebei in fulfilment of this obligation.)

No Agriculture or Reafforestation:

The idea of an agriculture and reafforestation project, which was set out in such detail in the conditions for Block 1 has been dropped altogether and only a feasibility study is required. The idea of a natural forest replacement activity of 500 hectares per annum by "in-line planting" or "timber stand improvement" and a further 3,000 ha. project for generating regrowth for March 1986 was watered right down to a hazy obligation to start a 50 ha Natural Regeneration plot for timber stand improvement; but even this has not been done.

No Crocodile and Fisheries Projects:

The firm obligations to promote development of crocodile farm projects (the company to build the infrastructure and set up

the necessary legal structure), and the appointment of a fulltime wildlife officer to promote it, has been watered down to mere assistance to establish a feasibility study for a crocodile project. Obligations imposed for fisheries projects, including the provision by WGTC of fishing facilities, outboard motors and freezer equipment has also been watered down to assisting the landowners to establish a feasibility study and even this has not been done. Neither of these two feasibility studies had commenced during 1988 and there were no plans for commencement.

Royalties and Premium:

Other than the small clinic and a few job opportunities with the Company in very bad working conditions, the only thing the landowners seem to be acquiring from this vast project is royalties and the payment of 48t per cubic metre premium. Royalties are now paid into clan book accounts. As there is nothing for the people to invest their money in it is being withdrawn and handed out in cash to the landowners and wasted on unnecessary and often unprofitable expenditure. It means, at the moment, they are dressed better and they drink more beer and probably have more access to trade store goods. These goods are purchased from company stores at high prices. Two provincial forestry officers have been dealt with for offences relating to royalty distribution in recent months.

The premium payment was intended to be paid direct to the landowner Company which was meant to be set up as part of the Block 1 conditions. It was not set up however. It was only in the last few months that action has been taken to establish a landowner Company. Meanwhile the premium has been paid into a trust account.

There is only one actual landowner listed as a shareholder/director in the embryo company and that is Evas Kaikes (who is also employed by WGTC as a public relations officer). The other shareholders/directors are National politicians and senior public servants who are expressed in the

company memorandum and articles as holding the Premium in trust for the landowners. To try and stop those directors from using the premium money for personal benefits or as allowances and travel expenses etc. the money is to be invested on behalf of the landowners in business activities or securities and the directors and management have access only to the interest.

The legality of the trust arrangement and effectiveness of the restriction imposed by the articles of association are questionable. It would only take a meeting of shareholders to change those articles to allow the premium to be used for other purposes including director fees and payments. In any event the landowner company is still not in operation even though it was provided for in 1983.

The combined total of Premium and royalties, which is the only direct cash benefit payable, amounts to only about one percent of disclosed FOB price which is a disgracefully low return to the landowners.

10. CONCLUDING COMMENTS

The allocation of this resource to WGTC, the weak conditions imposed and aspects of the company's subsequent operations and marketing practices cause me a great deal of concern with regard to National forestry policy and administration.

The Wawai Guavi Timber area was not on any list of priorities for allocation. It was an unsurveyed and unthought of prospect when Straits Engineers Contracting Pte Ltd of Singapore found itself "at a loose end" after failing in a bid for Ok Tedi contracts involving its marine engineering expertise. It appears to have been attracted to the idea of this timber area as it would give scope for the company's expertise in river haulage; it had no experience whatsoever in timber.

What Straits had however was energy for the single minded pursuit of profit and it used that energy to push for the

allocation of the resource. As the timber rights had not been acquired Straits set the procedures in motion and carried out public relations and survey work in conjunction with forestry officers in the area. The TRP work was never completed. To obtain support from the landowners, Straits provided benefits for their leaders and promised support for their business enterprises. It also provided them with its own lawyer as their legal advisor.

Contrary to normal policy the large Wawoi Guavi timber area was not advertised but direct negotiations with Straits commenced immediately. To make its application more attractive Straits set up a company which falsely posed as a "national" company.

Having decided upon, and geared up for, the Wawoi Guavi operation Straits was prepared to do almost everything except wait. The DOF attempted to impose conditions upon the company which would bring very substantial benefits to the impoverished Bamu people. Insufficient thought and background work was put into the task however and suggestions were almost pulled out of the air, with little or no consultation with other departments and agencies. Thus impractical or impossible reforestation and agriculture projects were imposed as well as a charcoal pyrolysis plant, airstrips, schools, aidposts, crocodile farms, fishing projects and an ice making plant. The list is breath taking but it did not daunt Straits. Its Managing Director, David Toms, was prepared to promise whatever was necessary to win the allocation for WGTC. He did not even bother to cost the promises before making them.

Even more disturbing was the fact that Straits did not really bother to work out the practicalities of their operation before commencing. It seems to have assumed that the bargaining would be the difficult part and that the logging operation would somehow look after itself. When DOF was well aware of WGTC's unsuitability in terms of ownership, experience and finance it drafted a letter of intent for Minister Waka who, by signing it

in November 1980, committed the government to allocating the whole area of 480 000 ha to the WGTC which was, then, not even incorporated. At that stage the TRP procedures were a long way from being completed and responsible forestry officers were advising against the proposal.

The letter of intent contained all the grand "sham" conditions but was also made conditional on WGTC being incorporated as a national company. When WGTC's equipment arrived on site it simply commenced operations without waiting for final DOF approval.

There was no Forest Working Plan and its operations in the low-lying and swampy Block 1 were a costly failure. It then contracted out to the Inchape Group to conduct the logging and marketing aspects of the operation; itself concentrating on the barging and loading operation through a subsidiary company registered in PNG. The Corporate relationships that WGTC was allowed to set up were so complex and "inbred" that it not only encouraged the transfer of profits overseas but made it almost impossible to detect. I have found that during this period there was substantial transfer pricing associated with the Wawoi Guavi operation.

While the operation floundered on without official approval and without Forest Working Plan the reports from other departments showing the impracticality of many of the conditions kept flowing in. Timber Permit No 1-2 was nevertheless issued on 26 October 1983 containing all those conditions, but it applied to Block 1 only. This permit therefore was issued almost exactly three years after the letter of intent was issued and over two years after operations had begun.

By giving way to Straits' pressure to get started Minister Waka had committed the government to allocate one of the biggest timber resources in the country, worth well over a hundred

million kina in log sales, with about as much thought as is given to the issue of a small Timber Authority.

The unscrupulous tactics of the Straits group in pursuing its goal of maximising profits continued from that point onwards. Minister Waka continued to capitulate to Strait's pressure and this compliant attitude was continued by Minister Diro. Straits managed to isolate both Ministers from their departmental advisers until it eventually gained Blocks one and two, and the promise of Block three, with an extremely light burden of infrastructure conditions. Toms used his relationship with Cowan of the FIC to influence Minister Diro and to prize Inchcape (FMS) from its profitable position in the operation. With Cowan's help Straits was eventually able to "capture" DOF Secretary Mamalai and virtually, to write its own Permit. The way in which Forestry policy and administration was abused and perverted appears clearly from the following brief factual summary:

1. Straits created a sham national company in attempt to "jump start" an unplanned operation with favourable conditions.
- 2 . It stimulated and dominated TRP procedures building up landowner and provincial government expectations with extravagant promises, trips and payments.
3. It dealt direct with Minister Waka to get a letter of intent over the huge 484 000 ha area, accepting any conditions imposed without any cost analysis, and with no real intention to fulfill its promises.
4. It commenced operations without formal approval and before the TRP was completed. It immediately began re-negotiating conditions some of which were impractical and had been suggested by DOF without sufficient thought or consultations.

5. WGTC was without any experience in the timber industry and was very under-capitalised. Its early unplanned operations, in the swampy and unsuitable Block one area, were an unmitigated disaster requiring it to temporarily suspend itself.
6. The permit, issued after more than two years of unsuccessful operations, contained all the onerous conditions of the letter of intent but applied to the 87 000 ha Block one, only.
7. The expansion into Block 2 occurred by stealth and was then given conditional approval by Minister Waka behind the back of DOF. There had been little attempt to fulfill the Block 1 conditions and the landowners were being deprived of their promised benefits.
8. The high powered inter-departmental negotiating team set up by DOF was then undermined by a conspiracy between Toms of Straits and Cowan/Maraleu of FIC which watered down the conditions in the draft permit during the negotiations.
9. Cowan interfered with DOF functions by influencing Minister Diro to gain the following favours for WGTC behind the backs of DOF:
 - (a) 9 May 1986 unconditional increase in log export quota to 200,000 m3;
 - (b) an unfavourable 48t per m3 premium instead of landowner equity in WGTC. This reduced landowners' share of the income from a normal 20 to 30 percent to about one percent;
 - (c) 18 June Mr Diro promised Block 3 without additional infrastructure conditions;
 - (d) Decision that Straits Singapore would buy out WGTC national shareholders rather than Straits PNG as expected. (This completely under-mined the Inchcape Group and led to the eventual withdrawal of its subsidiary FMS from its marketing contract; leaving the

way clear for Cowan, Maraleu and the FIC to take over the marketing of WGTC logs.)

10. Towards the end of negotiations the DOF team was completely routed by the Toms/Cowan combination which controlled the final drafting and typing process.
11. Minister Diro then allowed himself to be briefed by Cowan and then signed the permit typed up in the FIC office without reference to, or input from, DOF.
12. The permit granted Block 1 and 2 to WGTC with an increased rate of log export (200 000m³ p.a.) and very few infrastructure conditions. It was heavily biased in favour of WGTC.
13. Two of the more onerous conditions (construction of the sawmill and local processing conditions and the establishment of natural regeneration plots) were not fulfilled by WGTC. The Company is also behind schedule in the building of the reduced number of schools and aid posts required by the new permit.
14. By comparison with most other PNG timber companies WGTC and its logging contractors are carrying out a fairly responsible logging operation without excessive wastage, damage to remaining trees or to the natural environment.
15. Damage to the social environment however is profound as the nomadic groups of people have moved in to become fringe dwellers near the Kamusei base camp where they complain of poor living and working conditions, lack of economic development and the loss of their resource. They have in fact lost their resource for a very low rate of return equal to about one per cent of FOB price. There are few visible side benefits except a school and an Aid Post that will have little reason for existing at Kamusei once the timber in

that area cuts out and the base camp moves elsewhere (almost all the company buildings are designed as moveable units and even the sawmill machinery is small and mobile).

16. I have made a positive finding that from the commencement of operations until mid 1986 WGTC was transfer pricing for the benefit of Straits Singapore in substantial amounts but I have been unable to quantify it.
17. Since FIC commenced marketing for WGTC in mid 1986 there have been irregularities, including misappropriation of funds by Cowan, but no firm evidence of transfer pricing was uncovered.

The study of the Wawoi Guavi timber area illustrates very serious faults in Forestry planning and resource allocation.

It illustrates gross interference with governmental functions and the way a rift between Forestry Minister and DOF can be exploited by opportunists like Toms and Cowan.

It illustrates the offer, giving, receiving and "taking" of improper benefits. Straits promised and gave benefits to Provincial Government members and landowners; it offered Maraleu 18 per cent equity and Maraleu accepted and received large consultancy fees, most of which were unearned. Cowan simply "took" money when he misappropriated at least K9000 from the proceeds of WGTC sales paid to FIC as the marketing agent. Straits, through its subsidiary WGTC, received a benefit from the very low charges FIC imposed as its marketing fee and, in view of the conspirational nature of the relationship between Cowan, Maraleu and Tom, that was an improper benefit.

The investigation into the Wawoi Guavi area also discloses Forestry Ministers Waka and Diro granting substantial favours to Straits which, on the evidence before me, seem to have been given gratuitously by the Ministers who had been manipulated by

unscrupulous opportunists. By the end of the Block 2 negotiations Secretary Mamalai also appears to have succumbed to the influence of Toms and Cowan. There is no direct evidence however, of payments made to Messrs Waka, Diro or Mamalai in relation to the Wawoi Guavi timber area.

The actions of Minister Diro and Secretary Mamalai in regards to Wawoi Guavi however cannot be assessed in isolation from their contemporaneous actions with regard to other timber related matters. It is in this regard important to remember that at about this time Mamalai accepted and was seriously compromised by payments given to him and his wife in Singapore by Mr Eng of Gasmata Resources. Similarly Mr Diro was at that time a secret owner of 35 per cent of the timber Company Angus (PNG) Pty Ltd and had also entered business relationships with Mr Eng which were, at the very least, ill-advised and improper.

Having assessed him in the witness box and studied his dealings from correspondence and files I have no doubt that Mr Toms of Straits would be likely to offer improper benefits to officials and politicians if he thought it would benefit him and his company and that he would not get caught. Whether he did so in the case of Messrs Mamalai and Diro has not been proven before this Commission of Inquiry.

Since completion of my inquiry into the Wawoi Guavi Area it appears that WGTC has been sold. I strongly recommend that the Minister insists on renegotiations of Block 3 conditions as a condition of approving this sale. This is an opportunity to regain some of the potential benefits to the landowners which Mr Diro "gave away" by promising "no further infrastructure conditions on Block three" and by unilaterally agreeing to the unfair premium arrangement.

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The Manager
Wawoi Guavi Timber Company Pty Ltd
P O Box 35
PORT MORESBY

7 November 1980
→ 151-1-0/151-1-2

Attention: Mr David Toms

Dear Sir,

RE: WAWOI GUAVI TIMBER AREA

Following presentation of your proposals and your application for a Timber Permit over the Wawoi Guavi area I wish to advise that:

- A. (1) I am prepared to initiate early Timber Rights Purchase activity in the Wawoi Guavi area of the Western Province so long as the landowners within the area are prepared to:
 - a. nominate a limited number of Agents;
 - b. accept a nominal deposit for the execution of the Timber Rights Purchase Agreement;
 - c. accept royalty flow-on payments of 25 percent of royalties collected, with payments to be made to the Agents at six monthly intervals;
 - d. accept a forty (40) year period for the Timber Rights Purchase Agreement;
 - e. list species and areas which they may particularly wish to be excluded from the Timber Rights Purchase Agreement;
 - f. complete the Timber Rights Purchase Agreement documentation with the Department of the Western Province assistance using the 'Manual of Timber Rights Purchase Procedures' previously forwarded to the Province.

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- B. (2) I am prepared to allow Wavoi Guavi Timber Company Pty Ltd to commence operations immediately following completion of the field work and payment for the Timber Rights Purchase Agreement; provided that:
- a. the field work and payment for the Timber Rights Purchase Agreement can be quickly and properly completed, with documentation forwarded to this Office; //
 - b. the Department of the Western Province raises no objection to the contents of this letter; and //
 - c. the Agents nominated under the Timber Rights Purchase Agreements raise no objection to the contents of this letter; //
 - d. I am in receipt of documentary evidence that Wavoi Guavi Timber Company Pty Ltd is properly incorporated under the Companies Act with not less than 75% National equity; //
 - e. I am in receipt of, and have approved an acceptable Management Agreement between the Permittee and an experienced Management Group; //
 - f. the Wavoi Guavi Timber Company Pty Ltd advises me in writing (or by signed endorsement of this letter) that they are prepared to accept and abide by the following terms and conditions, to be formally incorporated in a Timber Permit in due course. //

PERMIT TERMS AND CONDITIONS (in brief) TO TP 1-2

- 1. PERMIT No.: 1-2
- 2. AREA: Wavoi Guavi
- 3. DURATION: Ten years
- 4. COMMENCEMENT: Immediately following -
 - (a) completion of TRP field work; and
 - (b) presentation of properly completed TRP documents to this Office; and
 - (c) presentation of proper incorporation with 75% PNG equity.

1/3/82.

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5. **ROYALTY:** All species K3.20 per cubic metre (plus premiums) to be collected monthly into National Revenue Head No. 141-1 and distributed on a six monthly basis; K0.80/m³ to TRP Agents, K1.60/m³ to Provincial Government.
6. **GUARANTEE:** K100,000 to be lodged at commencement date. The guarantee is to cover two months royalty at maximum cut.
7. **EQUITY:** Not less than 75% PNG. The composition of the Board of Directors will at all times reflect the equity holdings insofar that not less than 75% of the Directors will be PNG citizens.
8. **MANAGEMENT:** Any alteration to the approved Management Agreement entered into by the Permittee for the purpose of meeting the terms and conditions of the Timber Permit will require the approval of the Director of Forests.
9. **MAXIMUM CUT:** 180,000 m³/annum.
10. **MINIMUM CUT:** 50,000 m³/annum.
11. **LOG EXPORT LIMITATION:** Not to exceed 120,000 m³/annum.
12. **LOG EXPORT TAX REBATE:** May be claimed annually should PNG processing exceed 30% of total annual harvest.
13. **MEASUREMENT:** All logs harvested will be measured (by Brereton scaling) and recorded on FD66 Log Classification and Measurement Return Forms and submitted monthly to the Provincial Forest Officer for assessment of royalty.
14. **EXPORT PROHIBITION:** No logs will be permitted to be exported:
- (a) if any measurement return has not been submitted;
 - (b) unless all royalties have been paid to the Provincial Forest Officer.

15. **WORKING PLAN:** An annual Working Plan will be submitted for approval to the Director of Forests by 31st December of each year of the Permit.
16. **CONTROL OF LOGGING:** Operations may be confined to such sections of the Permit area as the Director of Forests may direct.
17. **MARKETING:** The Company shall offer to the State or its nominee, an option to purchase 25% of its annual log export quota on a first refusal basis.
18. **PLANTATION ESTABLISHMENT:** All efforts will be made to establish an agricultural and/or reforestation project acceptable to the landowners and biannual reports of progress will be submitted to the Director of Forests.

The following schedule of events in the establishment of the proposed plantation project is to be adhered to:

- (a) identify not less than 10,000 hectares of potential agriculture land and request Department of Primary Industry to undertake a soil survey in the areas by end first year. The areas are to be shown on appropriate large scale maps and submitted to the Director of Forests.
- (b) Survey and Sub-division Plans are to be submitted to Director of Forests for Department of Lands and Department of Primary Industry approval by end second year.
- (c) ground survey of block sub-divisions and construction of all access and internal roads is to be completed by end third year.
- (d) allocation of all smallholder blocks is to be completed by mid year four.
- (e) the Company will assist blockholders to establish not less than 1,000 hectares of an acceptable agricultural cash crop by the establishment of plant nurseries and distributing seedlings.
- (f) forest plantations are to be established on 3,000 hectares at a rate of 500 hectares per year from start year five.
- (g) failure by the Company from causes within its own control, to adhere to the above schedule, may lead to suspension of log export activity.

19. **ENVIRONMENTAL PROTECTION:**
- Loading or snagging along creek beds is prohibited.
 - No timber felling or snagging is permitted within 50 metres of any stream except as is approved by the Provincial Forest Officer for purposes of access.
 - Fuel/oil contaminants are not to be stored within 50 metres of any stream.
 - Streams are not to be polluted by forest produce, debris, refuse or waste from logging operations.
20. **SAWMILL:**
- A sawmill of not less than 6,000 m³/year log input capacity will be constructed during the third year of the Permit and operated thereafter to supply local and Western Province sawn timber requirements.
- Log volumes input to the sawmill will count toward PNG processing for the purposes of Log Export Tax Rebate.
21. **CHARCOAL PYROLYSIS PLANT:**
- A charcoal/pyroligneous oil production plant of 60,000 m³ per year log input capacity will be constructed during the second year of the Permit and operated thereafter to supply both domestic and export markets.
- For the purposes of claiming Log Export Tax Rebate; log volumes input into -
- (a) a combined char/pyrolysis plant will;
 - and
 - (b) a simple charcoal production process will not; be tallied.
22. **AIRSTRIPS:**
- (a) Within one month of the commencement date Wavoi Guavi Timber Company Pty Ltd will make a formal request to the Civil Aviation Division of the Department of Transport for a detailed investigation to be undertaken of the Bediri (Parieme) Airstrip with a view to upgrading the Airstrip to E (D) or better standard.
 - (b) On receipt of the Civil Aviation Report the Wavoi Guavi Timber Company Pty Ltd will proceed to undertake the required Airstrip upgrading construction which will be completed by the end of year two of the Permit.

- (c) During year three of the Permit Wawoi Guavi Timber Company Pty Ltd will identify the site for a second airstrip on the upper Guavi River and make a formal request to the Civil Aviation Division to undertake a detailed investigation of the area with a view to constructing a new Airstrip to Z (D) or better standard.
- (d) On receipt of the Civil Aviation Report the Wawoi Guavi Timber Company Pty Ltd will proceed to construct the new Airstrip which will be completed by the end of year four of the Permit.

23. SCHOOLS:

- (a) During the first year of the Permit a Single Classroom permanent materials school together with a permanent materials low cost house for one married teacher will be constructed and operated (thereafter) at Company expense at Bediri (Parieme).
- (b) During the third year of the Permit a Single Classroom permanent materials school together with a permanent materials low cost house for one married teacher will be constructed and operated (thereafter) at Company expense at Emeti.

24. MEDICAL FACILITIES:

- (a) During the first year of the Permit a small permanent materials hospital (to National Works Authority design) will be constructed in the Emeti area. Housing necessary to adequately staff the hospital will also be constructed during the first year. The facilities will be staffed and operated (thereafter) at Company expense.
- (b) During the second year of the Permit permanent material aid posts together with aid post orderly accommodation will be constructed and operated (thereafter) at Company expense at not less than three village sites along the Wawoi River.
- (c) During the fourth year of the Permit permanent material aid posts together with aid post orderly accommodation will be constructed and operated (thereafter) at Company expense at not less than three village sites along the Guavi River.

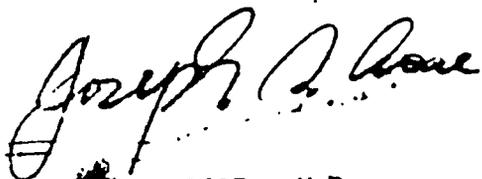
25. **CROCODILE FARMS:** (a) During year three and thereafter the Company will seek to establish village groups in small crocodile farm projects for which the necessary infrastructure will be constructed by the Company.
- (b) The Company will employ a specialised Fisheries/Wildlife Officer full time from the beginning of year three to ensure continuing liaison with the village people on wildlife and fisheries projects.
26. **FISHERIES:** (a) During year four of the Permit the Company will seek Division of Fisheries approval for projects involving village fishermen complementary to other Provincial fisheries activities.
- (b) If required by Division of Fisheries the Company will provide, erect and install ice machine, freezer, and storage facilities of a capacity determined by the Division of Fisheries and establish a group of interested fishermen by the initial provision of outboard motors and necessary fishing equipment.
27. **ARBITRATION:** Any dispute between the State and the Company arising out of this Agreement, the Timber Rights Purchase Agreement or the Timber Permit may be referred by either party to Arbitration and will be settled by Arbitration under the provisions of the Arbitration Act 1981.
28. **FORM OF PERMIT:** The Timber Permit, documentation for which will commence on completion of the Timber Rights Purchase, will include all the abovementioned items and will be in the general form of the attached draft pro-forma.

Circulation of this Letter of Intent, when executed will be:

Original - Director of Forests
 Copy - Provincial Forest Officer, Daru
 Copy - Retain by Company

I trust these arrangements will be satisfactory to yourselves and to the Government and the Department of the Western Province and I now await receipt of the Timber Rights Purchase documentation from the Province, and incorporation and National equity details from yourself.

Yours faithfully,



JOSEPH S. AOAÉ M.P.

Minister for Forests

- c.c. Premier, Western Province
- c.c. Administrative Secretary, Western Province
- c.c. Provincial Forest Officer, Western Province
- c.c. Ramu Local Government Council
- c.c. Forestry Officer, Balimo.

I, DAVID TOMS, on behalf of Wawoi Guavi Timber Company Pty Ltd have read and understand the above terms and accept them as the principal operating terms and conditions of Timber Permit No. 1-2.

I also understand that non-adherence to these conditions may result in the withdrawal of the Letter of Intent, and termination of the formal Timber Permit processing.

DAVID TOMS

OUR REF 1-6-6

7th June 1984

Premier,
Fly River Provincial Government,
P.O. Box 24,
DARU.
Western Province.

My Dear Premier,

WAWOI GUAVI

I refer you to the above and your telex of the 18 April I wish to advise you on the following.

I have considered the matter in detail upon the available information and have been unable to establish any concrete problems to warrant further delay in the company resuming logging operations. I have also considered the fact that the company was issued a legitimate timber permit.

I have also noted your Government's concern regarding the shareholding of the company.

This matter is delicate and may require legal advice before it can be entertained fully, however nothing should prevent preliminary discussions from taking place. In any case it is the matter for the company directors to discuss the issue and solve it.

Furthermore, we cannot hold over 200 people in suspense awaiting re-employment over matters that can be resolved.

Be advised that approval is hereby granted by me for Wawoi Guavi to resume operation in the area designated TRP 1-2.

The Acting Director of Forests has been advised accordingly.

Yours sincerely,



LUCAS J. WAKA, MP
Minister for Forests.

LJW:irr

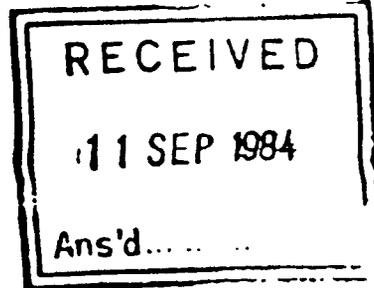
c.c. Acting Director,
Office of Forests,
HOHOLA.

c.c. ~~Hon. K. Swokim, MP~~
~~Minister for Physical Planning & Development,~~
~~WAIGANI.~~

c.c. Wawoi Guavi

c.c. ~~Hon. K. Pilisa, MP~~
~~Member for Middle Fly Open~~
~~WAIGANI.~~

Hon. Mr. Michael Somare M.P.
Marea Haus Waigani
P.O. Box 6605, Boroko
Papua New Guinea.



Dear Hon. Prime Minister,

It is with regret that current circumstances necessitate this co-correspondence but as a foreign investor in PNG to the extent of several million kina we feel that no other avenue of action is open to us at this time but to inform you Hon.Sir of our dilemma.

We trust that the following synopsis of affairs to-date will be of assistance to your evaluation.

In 1981 our group promoted the Wawoi Guavi Timber Company and based on our sole support both financial and technical, this Company was awarded a concession in the Western District.

The concession area - being isolated and not possessing any infrastructure at all - was not a sought after concession as the cost of development was high. However, we persevered and the concession was awarded.

As various parties had given significant assistance to us in our promotion, shares in the Company were offered to them; amongst these were the previous government of the Western District under the former Premier Mr. T. Olewale - the shares were offered to the business arm being the Western District Village Development Corporation (W.D.V.D.C.)

In early 1984 after the election of Premier Semai Aitkowi and his consequential visit to Singapore with one Natason Lobo an Indian National introduced as an advisor - our relations with the Western Province were good. At this meeting various demands were made which may be summarized as simply a demand for more shares in the Wawoi Guavi Timber Co and a sub-contract for hauling all logs by river to the loading point, failing which the local government would bring its weight to bear against the Company, and its business arm the Village Development Corporation as a minority shareholder would create further problems.

Together with our co-shareholders we rejected these demands and informed the Premier of such rejection by letter together with some pertinent facts as to Mr. Lobo's character we had become aware of. A copy of which letter Hon. Sir is duly attached for your perusal.

It is enough to say Mr. Prime Minister that since this rejection we have faced a continual bombardment from the Premier via Mr. Lobo although Hon. Sir it would be more truthfull to say from Mr. Lobo via the Premier. Forestry, NIDA and Manpower have been bombarded by numerous local government demands to suspend the operations of the Wawoi Guavi Timber Co.

It is important to note that the landholders and their representative whom is a Provincial Minister were not even informed that such demands were being made in writing by the office of the Premier. In fact when the local Minister did finally become so aware he and his people sent a petition to the Minister of Forests to allow the continuation of operations, a copy of which Hon. Sir is duly attached.

At this juncture Mr. prime Minister we quite candidly advise you that if it had not been for the Ministry of Forests and the Office of Forests' Support and Control

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sightedness the Wawoi Guavi Timber Co would by now have been just a defunct project.

To finalize Hon.Sir, we on taking standard legal advise to prevent further disruption of our operations were most surprised to find that these shares having been neither applied for or paid up by the W.D.V.D.C could be withdrawn and the original offer cancelled, according to the law of P.N.G.

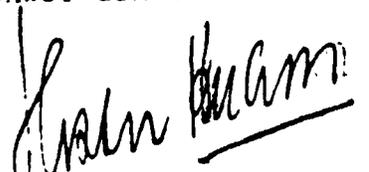
However, Mr. Prime Minister taking into account that it was not then and it is not now our intent to default on any promise implied or made, and yet having a clear duty to act in the best interests of the Company (if the Company is to survive) it is our singular opinion that these two intentions can only at this time be served by creating a trust for the Western District Government and its people to the full extent of our original undertaking. Thereby Hon.Sir maintaining the integrity and viability of the Company and the benefits as originally promised will still accrue to the credit of the people of the Western District.

We trust Hon.Sir you will understand our decision as being under the circumstances as only reasonable and fair to all parties. The trustees will be nominated as the Office of Forests or the Investment Corporation of PNG.

We thank you for your attention Hon.Sir and apologize for taking ~~some~~ of your most valuable time.

Yours faithfully,

WAWOI GUAVI TIMBER CO. PTY. LTD.


DIRECTOR

CC: 1) Hon. Deputy Prime Minister &
Minister for National
Planning & Development
2) Hon. Minister of Forests.
3) Director of Forests

SCHEDULE 4

WAWOI GUAVI TIMBER CO. PTY. LTD.

P. O. Box 1417 PORT MORESBY
PAPUA NEW GUINEA
TEL: 257569
TLX:

FI / pls. look into this and respond. Am not satisfied with response from Co.

14/11

YOUR REF: 151-1-2

OUR REF:

Port Moresby, 8th November 1984.

ENCL : 4 plans.

Director of Forests
P.O. Box 5055
Boroko
Papua New Guinea.

*My comment has been passed to Working Plans office SLZ
FDZ 141413
a2ms
14/11/84*

DIRECTOR'S OFFICE	
Date Received	12-11-84
Refer to and / or file no.	FI
Signed	<i>[Signature]</i>

RE: FOREST WORKING PLAN BLOCK 1.

Dear Sir,

We are in receipt of your letter on the 30th October 1984 , ref: 151-1-2 and would advise you as follows.

The roading and logging plans were not included respective Block 1 as you have requested because in fact we have - in our opinion - logged out such areas as may be readily accessed from our staging area (camp site).

We do appreciate the fact that Block 1 is an integral part of the timber area, however you will - I'm sure - appreciate the fact that Block 1 is basically swamp and was originally included in the Timber Permit application at the behest of the local population whom undertook to log their own area's (owned by themselves). As the highest population was around the swamp areas in which some valuable species were present we agreed to such and it is still our intention to log these areas (that are above water) utilizing local labour/native methods. Those areas that are accessible from the river have generally been exhausted as can be seen by our addendum drawings of Block 1 number B-1.

WE would also point out that our original proposal was over the entire area of 484,000 HA (approx) as per drawing no: KM 100 of that submission. It was on this basis that the Letter of Intent was issued and agreed between the State and ourselves.

There was in fact never any application by ourselves or the promoting Company Straits Contracting PNG Pty.Ltd., for Block 1 singularly or as a separate entity from the balance of the area applied for. This Block 1 area was introduced by Forestry as a stop gap measure to assist the Company's early commencement and was gratefully accepted as such at that time.

Speaking frankly Sir, Block 1 has since become a serious burden; for what was initially accepted as an interim measure has become a permanent obstacle to the Company's progression. You will appreciate Sir that we were awarded the area not so much (if at all) on our logging capabilities but on our marine capabilities to open distant reserves for exploitation accessible only by rivers, and it may well be that our understanding at that time

was vague and inexperienced respective T.R.P. acquisitions. However, we have indeed opened up the area "marine wise" and we feel that Block 1 as a separate entity was never applied for or accepted separately, other than as an interim measure to commence operations during the acquisition and release of the Company of its original proposal.

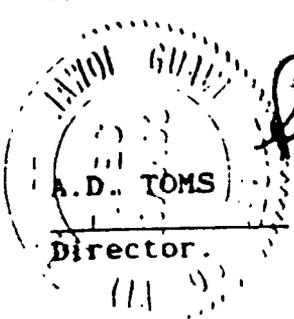
To summarize we do intend to log such areas in Block 1 that are viable to do so ; however we point out that a considerable period of survey time must be allowed prior to the issuance of any realistic logging plan for Block 1. In this respect during our recent problems which resulted in delay to our application for the release of Block 2, we tried desperately to find access to the eastern section of Block 1 to avoid a possible shut-down of our operations even when under pressure such as this, we still couldn't come up with an access route.

You may recall that on May 17th of this year your forest officer Mr. Amos Toubu together with Mr. M. Jourdain mutually agreed that much of Block 1 was not feasible with much of the area underwater.

Enclosed please find a map (scale 1:125,000) of Block 1 where the extent of swamp and periodic inundation of land is evident. Outlined are possible areas of extraction potential together with logged over areas as requested by your department. It can be seen that most of the area not yet logged has poor access to the river due low lying land, and extensive survey is required before any logging plan can be submitted. Any area with access has been logged already.

With the need to keep the operations going, the limited survey staff is fully occupied with keeping activities in Block 2 serviced. Please be assured that as soon as time permits, which will be within the next 6 months, serious study of remaining areas in Block 1 will be undertaken and as previously mentioned in our letter of October 25th, any operable areas will be incorporated into future plan amendments.

Yours faithfully,
WAWOI GUAVI TIMBER COY P/L



CC. Hon. Minister of Forest,
Hon. Mr. Lucas J. Waka, M.P.

Mr. Alan Ross - Office of Forest
Straits Contracting PNG P/L.



(4)

STRAITS CONTRACTING (PNG.) PTY. LTD.

HEALY PARADE P O BOX 1017 PORT Moresby PAPUA NEW GUINEA
TEL 257569 • FACSIMILE 25828 • TELE

ASSOCIATES IN
SINGAPORE
HONGKONG
PORT Moresby
NEW GUINEA

*107 ju
Sec*

YOUR REF

OUR REF

1 June 1986

Right Honourable Ted Diro, M.P.
The Minister for Forests
P.O. Box 5055, Boroko
N.C.D

Dear Minister,

RE: PURCHASE OF WAWOI GUAVI TIMBER COMPANY PTY LTD

As you are aware, based on our mutual discussions, negotiations are in progress between ourselves and your Department, the basic nature of which is as follows;

That Straits Contracting PNG Pty Ltd buys over the Wawoi Guavi Timber Company Pty Ltd on the following terms;

- a) That Straits Contracting PNG Pty Ltd together with the purchase price accepts responsibility for and will pay in full all shareholders loans, other debts, or liens incurred by the Wawoi Guavi Timber Company Pty Ltd prior to the purchase by Straits Contracting PNG Pty Ltd. The purchase price shall be agreed between the shareholders by private treaty.
- b) That the Wawoi Guavi Timber Co Pty Ltd shall after issuance of the Permit over Block 2 pay a premium per cubic meter to the landowners for each cubic meter logged; and shall assist the Landowners set up a company or a business group to be the recipient of these premiums.

We propose to conclude this amount on cubic meter basis on a percentage of the current royalty basis at 15% (being K 0.48 per M3).

This would equate to some K 96,000 per annum; together with their share of existing royalty (being some K 480,000 per annum) would leave an amount in excess of K 570,000 per annum.

374

c) That in consideration of Items a) and b) above, we propose that the area known as Block 3 be allocated by Permit to the Wawaia Guava Timber Co. Pty Ltd on completion of the Timber Rights Purchase by the State which shall be promptly undertaken. Such Permit shall be under the same infrastructure without addition as the Permit over Block 2. The area (Block 3) shall be subject to the payment of premiums as described in Item b) above.

We would, your Honour, greatly appreciate that you would advise us as to our proposals acceptability to yourself and your Department.

We remain Sir, your faithful servant.

Yours sincerely,
STRAITS CONTRACTING PNG PTY LTD

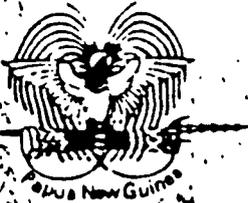
Hester Kuon

HESTER KUON
DIRECTOR

cc: Mr. Oscar Mamalai - Secretary
Department of Forests
PO Box 5055, Boroko
N.C.D.

*Guidelines for a proposal has been given to Wawaia Guava
A detailed proposal is awaited from the company.*

[Signature]
29/7/66



Office of the Ministry of Forests

TELEPHONE 2584501
TELEGRAMS FORESTS BOROKO
FAX 22380

P.O. BOX 6066
BOROKO
PAPUA NEW GUINEA

OUR REF MIN 200/86

18 June 1986

Mrs. Hester Kuhon
Straits Contracting(PNG) Pty Ltd
P O Box 371
PORT MORESBY

Dear Mrs. Kuhon

Further to my letter of 16th June 1986 and following your representation to me, I wish to advise that an additional condition has been deemed necessary by the State and this relates to the status of Block 3. The condition is as follows:-

- a. In consideration for State's desire to increase the volume of log export and to enhance the climate of large scale investment both long and short term, in the timber industry, the State agrees that it shall not grant a Timber Permit over Block 3 to any company other than Wawoi Guavi Timber Company Pty Ltd.

I wish to advise also that conditions relating to the payment of premiums as per my letter of 16th June will apply. However, no additional infrastructure development over the granting of licence over Block 3 will be imposed.

The Secretary of the Department of Forests and the Minister for Provincial Affairs have been advised of my decisions above.

Yours sincerely

B. R. Diko

B.R. DIKO MP
Minister for Forests
cc: SEC FOR FORESTS

*NB
Original copies of
Action 86-48 placed
on 151-1-4
AM
M - [unclear]*

File reference on fourth



Office of the Ministry of Forests

TELEPHONE: 258156
 TELEGRAMS: FORESTS BOROKO
 TELEX: INE 22360

P.O. BOX 5055
 BOROKO
 PAPUA NEW GUINEA

OUR REF

16 June 1986

Mrs. Hester Kuhon
 Straits Contracting (PNG) Pty Ltd
 P O Box 371
PORT MORESBY

Dear Mrs. Kuhon

I acknowledge receipt of your letter of 1 June 1986 in which you convey your Company's decision to purchase Wawoi Guavi Timber Pty Ltd. As you know, the issue has been going on for some time now and I would like both the State and your Company to conclude the Agreement as soon as possible.

To assist both parties in concluding the Agreement I have decided, after necessary prior consultations with the Secretary and the Department of Forests, to give assent to the sale of Wawoi Guavi Timber Company Pty Ltd.

Following conditions are to apply:-

- a. That the Straits Engineers Contracting Pte Ltd being the major creditors should purchase all available shares in the Company.
- b. That the Purchaser, in addition to the purchase price, accepts responsibility for and will pay in full all shareholder's loans, other debts or liens incurred by Wawoi Guavi Timber Company Pty Ltd prior to the purchase by Straits Engineers Contracting Pte Ltd.
- c. Whilst the State agrees that the question of the purchase price is a matter that should be decided between Wawoi Guavi Timber Company Pty Ltd and the Straits Engineers Contracting Pte Ltd, the State

Help perpetuate forests

176

accepts responsibility for ensuring that the interests of the national shareholders are safe-guarded. Accordingly, I further direct that the purchase price be agreed upon after consultations with the office of the Minister for Forests.

- d. That Wawoi Guavi Timber Company Pty Ltd shall, after receiving the Timber Permit over the Block 2, pay a premium per cubic meter to the landowner computed on the basis of 15% of the current royalty payments as per your letter of 1 June. This would amount to K96,000.00 per annum based on 48t per cubic meter. This is in addition to normal share of royalty payments equating to K480,000.00 per annum. In other words, a total payment of over K570,000.00 per annum is being envisaged.
- e. That Wawoi Guavi Timber Company Pty Ltd assists the landowners in setting up a landowner's company to be the recipient of these premiums. From past experience, dissipation of these funds often creates problems for the State. It is therefore requested that you agree to having a State representative on the Board of Directors for this landowner's company. This would also ensure that the interests of landowners who are largely illiterate are safeguarded against the educated few.

On the question of allocation of Block 3, I will advise you in due course.

I have directed the Secretary for Forests to assist you in every way possible in obtaining necessary NIDA approvals for changes in shareholders in Wawoi Guavi Timber Pty Ltd. Further, the Department of Forests has been instructed to conclude the Agreement within two months.

Since the project has been subjected to frequent delays, I would appreciate your assistance in early settlement in the negotiations.

Yours sincerely



E.R. DIRO MP
Minister for Forests

CC: SEC. FOR FORESTS

CC: MINISTER FOR FINANCIAL AFFAIRS

STRAITS ENGINEERS CONTRACTING PTE. LTD.

110
324
18/11/86

O. F.I.C.
ATTN: M. Cowan
COPY.

DATE: _____ PAGE |
REF _____
FROM: _____

Mike I thought you Fax to FMS
was great. Sorry I got my wires
crossed but I agree with you very

ASTUTE COMMENTS ESPECIALLY ABOUT

"How HE Had SOLD NEXT SHIPMENT WITH
NO SPECS"

all the best
Danif

12
300
10/11/86

TO: FIC

ATT MICHAEL COWAN

10th November 1986

FR: DAVID TOMS - ST.ENGINEERS

RE YR FAX REF NO 251 dd 10th November 1986.

As requested we remit pg 3 of our letter to the Secretary of Forests

REF: _____

3

Therefore it is our view on the financial benefits of processing to the State that we wish to address our argument on processing; because as we see it the financial viability is not the issue at all, processing at any price as a matter of policy is.

PROCESSING VIS A VIS EXPORT

NOTE The figures appearing herein have been obtained from FIC and are accurate as per today's market.

In unarguable mathematical terms, disregarding complete company's losses, we analyze the State's position:

Assuming (as it would be) that the majority of timber would be Mersawa and we processed say some 35,000 m³ logs.

EXAMPLE (AI) LOGS EXPORTED

35,000 m³ x US\$72 FOB Value = US\$2,520,000 in Foreign Exchange on which the export tax would be levied at 10% US\$252,000 approximately.

EXAMPLE (AII) LOGS PROCESSED

35,000 m³ @ 47% recovery = 16,450 m³ of sawn timber x US\$150/m³ = US\$2,632,000.

Salaries on local personnel would accrue at say 50 local men at US\$7.50 per day x 365 days at 30% Income tax.

Salaries US\$136,000 per annum (locals)

Tax to the State (say approximately) K40,000 per annum

Note this tax gain will be offset somewhat as less local staff will be required for shipping and stevedoring as the timber had been exported in log form, so it is not true net gain of additional employment by processing, rather a displacement of the marine staff to processing staff.

Summary: for an increase of US\$2,632,000 (sawn timber) US\$2,520,000 (logs), = US\$112,000 in foreign exchange plus K40,000 in taxes, the State forgoes US\$252,000 in direct export tax revenues.

Indirectly once 35,000 m³ of Mersawa is sawn it is obvious

27.11.88

ATTN: ~~D~~OWAN MICHAEL, URGENT

TIMBER PERMIT NO 195

COMMENTS OF D. TOMS:

PLS CONTACT HESTER.

- 1. Page 1 * OK
- 2. Page 2 * OK
- 3. Page 3 * OK
- 4. Page 4 * OK
- 5. Page 5 Minimum cut 100,000 m3 * clause- 4.1.1 OK. Export Schedule should be 206,000 m3 not 200,000 m3 in year one
- 6. Page 6 * OK
- 7. Page 7 * OK
- 8. Page 8 * OK (note: MC's draft on s/milling excellent)
- 9. Page 9 * OK (note: very well put 4.5/6)
- 10. Page 10 * OK
- 11. Page 11 * OK
- 12. Page 12 * OK (note: 5.4 good compromise)
- 13. Page 13 * OK
- 14. Page 14 * OK
- 15. Page 15 * OK
- 16. Page 16 * OK
- 17. Page 17 * OK
- 18. Page 18 * OK
- 19. Page 19 * OK
- 20. Page 20 * OK
- 21. Page 21 * OK
- 22. Page 22 * OK
- 23. Page 23 * OK (Appreciate the reference to Arbitration)
- 24. Page 24 * OK

- 25. Page 25 * OK
- 26. Page 26 * OK
- 27. Page 27 * CK
- 28. Page 28 * CK (best compromise)
- 29. Page 29 * OK
- 30. Page 30 * OK
- 31. Page 31 * OK
- 32. Page 32 * OK (Item (v) change to 7 days not 15 days)
- 33. Page 33 * OK
- 34. Page 34 * OK After Clause 16.7 (b) please add in "PROVIDED THAT" then followed by (i) etc etc
- 35. Page 35 * OK (slight problem you refer clause 16.5 * ARMS LENGTH PRICING * This clause was deleted earlier * suggest though you leave draft as it is.

- 36. Page 36 * OK
- 37. Page 37 * OK
- 38. Page 38 * OK
- 39. Page 39 * OK (Clause 23 good compromise)
- 40. Page 40 * OK
- 41. Page 41 * OK (No 26. para 1. after available * better add Block 3 again (because there is a clause that says the title of the clause shall not act as an interpretation in anyway)
- 42. Page 42 * OK (BUT I am concerned that they will say later the long term development proposal is unacceptable * but leave it * it will make it more acceptable to Oscar * Note YOU MUST CHANGE THE BLOCK TWO REFERENCE IN FINAL PARA TO BLOCK THREE. I really like the reference to NO ADDITIONAL INFRASTRUCTURE. Lets hope Oscar does not blow up.

...3

43. Page 43 → OK

44. Page 44 → OK

45. Page 45 → OK

46. Page 46 → OK

47. Page 47 → OK

48. Page 48 → OK

(Clause 31 → Arbitration → Para 2 line 1
Company change to "Permit Holder")

49. Page 49 → OK

ALL SCHEDULES OK ESPECIALLY PAGE 52

BRANCH TO
SOUTH PNY
7E PNG.

FAX 212911

IN 385

INDEPENDENT STATE OF PAPUA NEW GUINEA

M. COLMAN

Reg., Sec. 6

SECRET

Form 2

Forestry Act, Chapter 216

PERMIT No. 1-5

IN 385
29.11.86

I, E.R. DYRO, Minister for Forests, by virtue of the powers conferred by Section 10 of the Forestry Act, Chapter 216 and all other powers me enabling, grant to WAWOI GUAYI TIMBER CO PTY LTD whose registered address is at P O Box 1617, Port Moresby PNG (hereinafter referred to as "the Permit Holder") the exclusive right to take and remove from the area of land described in schedule 1 to this Permit (hereinafter referred to as "the Permit Area") which is delineated and edged in red on the plan in schedule 2 to this Permit, the timber, other forest produce and roadmaking materials specified in Schedule 4 to this Permit and otherwise to exercise the rights conferred by Section 12 of the Act for the period of 10 years commencing on 1st January 1987 to * 1-12-96 * 1st January 1997 (hereinafter referred to as "the Permit Period") from the date of issuance of this Timber Permit (hereinafter referred to as "the Permit Date") subject to the Forestry Act, (Chapter 216, the written authority of the land leaseholder (if any) and to the following additional covenants, terms and conditions:-

FOR THE SECRETARY OF

FORESTS.

BLACK INKED FOR CLARITY

BY J. TONG.

Bank 8
Bank
Bank

(d) if the ~~bank~~ ^{Bank} guarantee has not been lodged with the Secretary;
 (e) if logs are not graded using Southeast Asian Lumber Producers Association Grading Rules.

Bank 8
Bank
Bank

(a) The Permit Holder shall at its own cost construct a sawmill and all ancillary plant and equipment as required for its uninterrupted operation to commence commercial production on the following schedule of log input:-

- a. by end year one 6000 m3
- b. by end year two 8000 m3
- c. by end year three 10,000 m3
- d. by end year four 12,000 m3
- e. by end year five 18,000 m3
- f. by end year six 30,000 m3.

Depending on market requirements the Permit Holder is prepared to accelerate the production capacity before year six.

The Permit Holder has the right to operate other methods of timber processing depending on export and local requirements.

The Permit Holder shall only be required to process the volumes designated above providing it can achieve an equitable financial return for its produce.

TO: PERMIT OFFICER

Date 10 December 1986

MINJTE

File No. 151-1-5

SUBJECT

WAWOI-GUAVI TIMBER PERMIT

... Please find attached copy of Permit prepared for the Minister by Forest Industries Council and Wawoi-Guavi.

The Minister has signed it on 1st December 1986.

It is unfortunate that the Minister has seen fit to sign ~~to~~ permit prepared by FIC and Wawoi-Guavi the latter being the Permit holder. The Permit conditions are no doubt biased towards Wawoi-Guavi.

I also note that Block 3 is committed - to Wawoi-Guavi Timber Company.

I would like you to go through the Permit and draft a letter to State Solicitors of the situation and ask them for any advise, they may wish to offer.

I understand that in cases like this State Solicitors will not give advise. However, the Dept. needs to maintain its proper procedures and as such, I would like to take it up with State Solicitor's office.



D. KARI
Acting Deputy Secretary.

INDEPENDENT STATE OF PAPUA NEW GUINEA

TIMBER PERMIT NO: 1-5

TRP : WAWOI-GUAVI BLOCK TWO (2)

PROVINCE : WESTERN

COMPANY : WAWOI GUAVI TIMBER CO. PTY. LTD

01.12.1986

WAWOI GUAVI TIMBER CO. PTY. LTD.

PO BOX 1072 PORT MORESBY, PAPUA NEW GUINEA
TEL: 252569/253828, FAX: 212027, TLX: SEMAR NE 20420

IN 461

22/12/86

SE/207/86.

Attn: Mr Keith Leary
Manager - Straits Contracting

Fr: David Toms
Wavoi Guavi

22nd December 1986

I would advise you that based on strong feelings within Forestry Department, we have to increase the yield per hectare taking additional species and/or smaller diameter logs. I discussed this with Mr Grassie and he is in agreement. However the matter must be resolved to the satisfaction of FIC (Mr Cowan). Please liaise with him directly so that the matter be settled satisfactorily without unduly upsetting the Department of Forests. Please feel free to discuss with him at your earliest convenience.

It was further agreed between Inchcape and myself that contractor would not be required to road into the unusually low yield areas of forest. This means that if the contractor disagrees with the roading plan and he feels that he is put to unusual or unnecessary expenditure and he cannot agree to omission of such with yourselves, he will be free to bring it to myself or Mr Grassie.

I do not wish to demean from your authority and neither have done so as I believe we simply do not need to log the unusual lower yield areas in preference to the higher ones.

In this respect, although I have not cleared this part with your group, I feel that Mr Cowan should also be allowed to resolve these matters in so far as his opinion could be sought, to offset Forestry's complaints.

The latest situation is as follows:

- a. It appears Inchcape Marketing Contract will not be approved by the Department of Forests.
- b. A National Management Organisation will be put to the Wavoi Guavi Timber Company as a alternative to the usage of Foreign Company.
- c. Michael Cowan will be appointed as Chief Adviser to the National Timber Management Group with his capacity with FIC.
- d. We are currently working on allotting Inchcape an alternative area (Block 3). However, this is not quite settled.
- e. Straits Contracting at this time is operating illegally so far as the Management Agreement has not been approved, would instruct you on behalf of Straits Contracting to adopt a low profile and comply with any instruction we receive from FIC/C relating to the increase of production yield per hectare.

David Toms

Regards/David Toms

cc: Mr Iain Grassie - FMS cc: Adel/Bill - Straits Marine
Mr Michael Cowan - FIC
Mr Iain Fergusson - Department of Forests

P.O. BOX 1829 PORT MOWSE.
LOT 4 SECTION 405
WAIGANI DRIVE
Phone 75 6395
256307
Telex NE 22226 FOMINLO

OUT
453
24.12.86



**FOREST INDUSTRIES COUNCIL
OF PAPUA NEW GUINEA**

FACSIMILE MESSAGE

DATE:24/12/86..... REF NO. 453.....

NO. OF PAGES INCLUDING THIS ONE ...FOUR.(4)..

TO: ..MR M.MARALEU.....

FROM: ..M.J.COWAN.....

SUBJECT: ..(AS PER ATTACHED).....

MESSAGE:

MERRY CHRISTMAS

IMPORTANT: IF YOU DO NOT RECEIVE ALL PAGES PLEASE LET US
KNOW IMMEDIATELY. OUR FAX NO:-

21 2911

WAWOI GUAVI TIMBER CO. PTY. LTD.

P. O. Box 1617 PORT MORESBY

PAPUA NEW GUINEA

TEL: 257569

TLX: 23423

17th December

86

19

OUR REF:

OUR REF:

DIRECTORS AND SHAREHOLDERS SPECIAL RESOLUTION AND UNDERTAKING

Validity is for twelve (12) months for completion of Timber Permit issuance

It is agreed this 15th day of December 1986 between Metepikai Pty Ltd of P O Box 33, Kavieng, New Ireland, Papua New Guinea and the Wawoi Guavi Timber Company Pty Ltd, with registered office at 2nd Floor, United Church Building, Douglas Street, Port Moresby, Papua New Guinea, as follows:

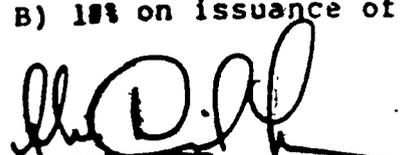
That on issuance of a timber permit to the Wawoi Guavi Timber Company Pty Ltd by the Department of Forests on terms and conditions similar in nature to those contained in the Timber Permit 1-5 over Wawoi Guavi Block 2 the exportable cut being in the vicinity of 120,000 m3 per annum over the area known as "Makapa", being some 120,000 hectares situated due West of Wawoi Guavi Block Two, and/or Block 3 as described fully in Timber Permit 1-5 clause 26 pg 41.

Then the company shall give over a total of eighteen (18) percent of its issued shares as scheduled below to Metepikai Pty Ltd or its nominee in consideration for its services in obtaining these assets for the company; together with all such rights and obligations that so accrues to the owner of these shares, whom shall thenceforth be a shareholder in the Wawoi Guavi Timber Company Pty Ltd.

Schedule: A) 8% on issuance of Block 3 Timber Permit

B) 10% on issuance of Makapa Timber Permit

SIGNED:


Mr A D Tors

Chairman - Wawoi Guavi Timber Company Pty Ltd

Director - Straits Contracting (PNG) Pty Ltd

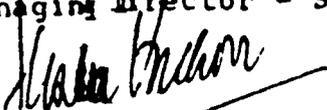
General Manager - Straits Engineers Contracting Pte Ltd


Mr G A D Seet

Director - Wawoi Guavi Timber Company Pty Ltd

Director - Straits Contracting (PNG) Pty Ltd

Managing Director - Straits Engineers Contracting Pte Ltd


Mrs Hester Kohon

Director - Wawoi Guavi Timber Company Pty Ltd

Director - Straits Contracting (PNG) Pty Ltd


Feng Si Roan

Director - Straits Engineers Contracting Pte Ltd

Secretary - Straits Contracting (PNG) Pty Ltd

WAWOI GUAVI TIMBER CO. PTY. LTD.

P. O. Box 1617 PORT MORESBY
PAPUA NEW GUINEA
TEL: 257569
TLX: 23423

UR REF:

19th December 1986

OUR REF: ADT/sr/064/86

It is agreed this 19th day of December 1986 between Wawoi Guavi Timber Company Pty Ltd with its registered office at 2nd Floor, United Church Building, Douglas Street, Port Moresby, Papua New Guinea, hereinafter known as the **EMPLOYER** and Metepikai Pty Ltd, P O Box 33 Kavieng, New Ireland, Papua New Guinea hereinafter known as the **CONSULTANT** as follows:

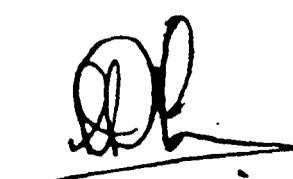
That the consultant possessing expertise in the Running and Marketing of **Forest Produce Operations** and the Employer being the owner of such an operation wishes to employ the consultant on the following terms and conditions.

1. TERMS

- a. The term of employment is to be 10 years subject to satisfactory performance commencing 1st January 1987, renewable on a yearly basis.
- b. The remuneration is US\$20,000 (United States Dollars Twenty Thousand only) per calendar month.
- c. The requirements are to oversee the operations of the **EMPLOYER'S** forest area's being :

- i. Block 2 Wawoi Guavi under Timber Permit

1-5



Alan Keet



REF. ADT/sr/064/86

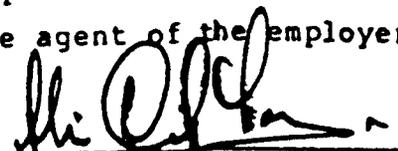
- ii. Block 3 Wawoi Guavi under Timber Permit to be issued..
- iii. Makapa Timber Permit to be issued

2. DUTIES

- a. To oversee directly roading/logging operations
- b. To oversee directly produce preparation for market.
- c. To assist in the marketing of the produce

SUMMARY

To generally use such skills, expertise and goodwill as the consultant possesses in its full capacity for the benefit of the company and its operations not to enter into any other agreement with any other party that may through itself or a subsidiary bring into effect a conflict of interests between the Employer and the other party by virtue of the consultant working for two parties who are in competition with each other. In this respect the consultant is to maintain his position as sole agent of the employer.


 MR A D TOMP
 CHAIRMAN


 MRS HESTER KUHN
 DIRECTOR

AGREED BY:

METEPAKI PTY LTD.


 MR G A D KEET
 DIRECTOR

APPENDIX 2

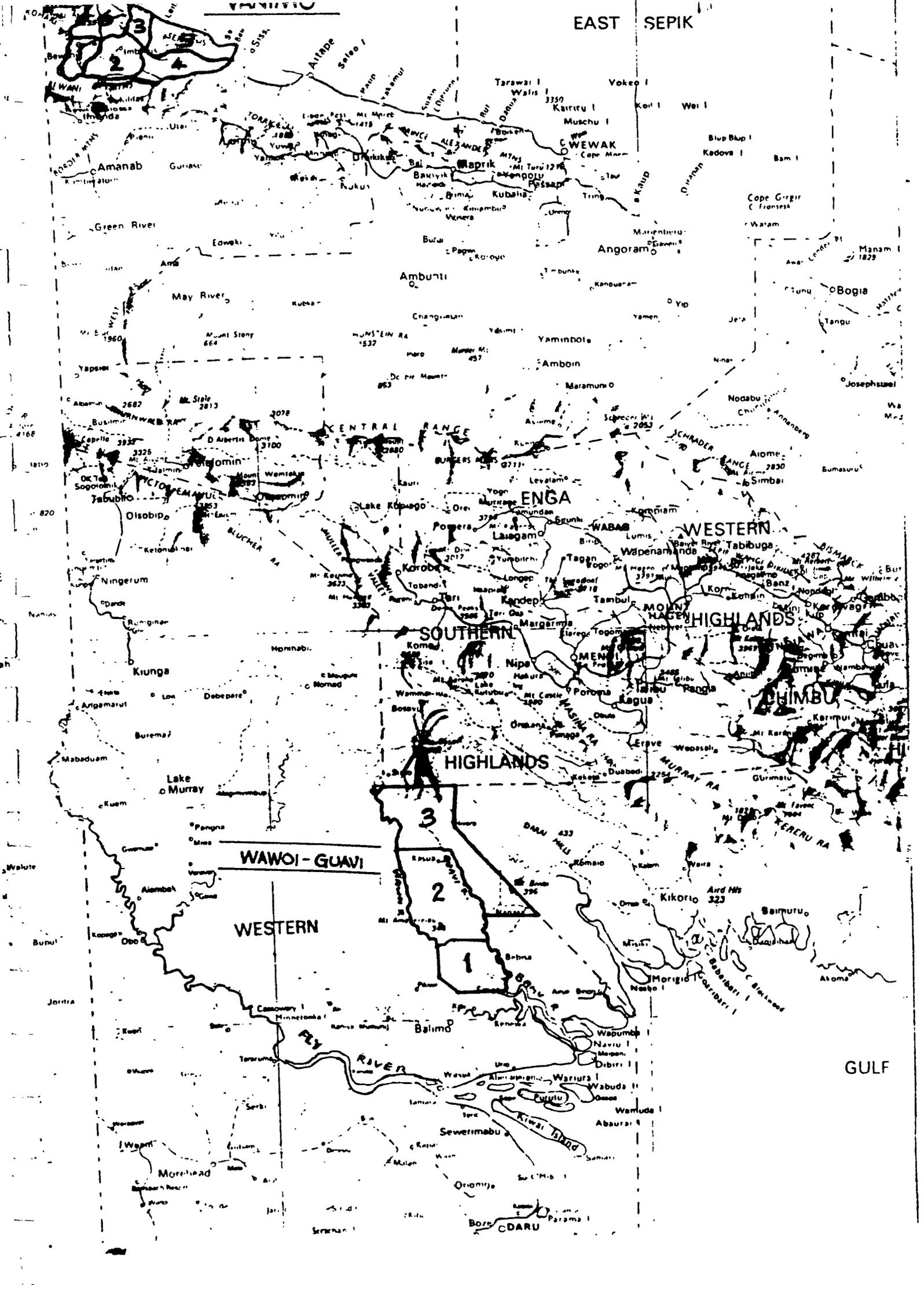
VANIMO TIMBER AREA

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EAST SEPIK



Maprik
Kubalia
Angoram
Ambunti
Yaminbola
Maramuro
Nodabu
Arome
Simbar

Green River
May River
WABAB
WESTERN
MOUNT HAGEN HIGHLANDS
CHIMBU

ENG
SOUTHERN
WABAB
MOUNT HAGEN HIGHLANDS
CHIMBU

WAWOI-GUAVI
WESTERN
HIGHLANDS
CHIMBU

WAWOI-GUAVI
WESTERN
RIVER
BALIMO
WABAB
WABUDA
WAMUDA
WAMUDA I
WAMUDA II
WAMUDA III
WAMUDA IV
WAMUDA V
WAMUDA VI
WAMUDA VII
WAMUDA VIII
WAMUDA IX
WAMUDA X
WAMUDA XI
WAMUDA XII
WAMUDA XIII
WAMUDA XIV
WAMUDA XV
WAMUDA XVI
WAMUDA XVII
WAMUDA XVIII
WAMUDA XIX
WAMUDA XX
WAMUDA XXI
WAMUDA XXII
WAMUDA XXIII
WAMUDA XXIV
WAMUDA XXV
WAMUDA XXVI
WAMUDA XXVII
WAMUDA XXVIII
WAMUDA XXIX
WAMUDA XXX

WAWOI-GUAVI
WESTERN
RIVER
BALIMO
WABAB
WABUDA
WAMUDA
WAMUDA I
WAMUDA II
WAMUDA III
WAMUDA IV
WAMUDA V
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WAMUDA XXIII
WAMUDA XXIV
WAMUDA XXV
WAMUDA XXVI
WAMUDA XXVII
WAMUDA XXVIII
WAMUDA XXIX
WAMUDA XXX

GULF

VANIMO TRP AREA

INTRODUCTION

The Timber Area consists of approximately 340,910 ha. in the North West corner of the West Sepik (Sandaun) Province at an altitude of about 500 m on the coastal ranges. The Timber Rights Purchase was completed in 1967 and was for a period of forty years. The value of the resource was set at K231,115 of which the sum of K28,965 was paid in a lump sum to 120 agents representing 30 land groups. The balance of K202,150 was paid into Treasury investments in the names of the various groups. The area has been divided into six blocks. The area was advertised and a company Hetura Major was originally chosen for negotiations but was unable or unwilling to come up to the required conditions. Negotiations with Halla Resources also came to nothing. After re-advertising and re-issuing the guidelines Vanimo Forests Products Pty Ltd was chosen and acceptable conditions were negotiated. The allocation was put before NEC before final approval. VFP is a wholly owned subsidiary of Bunnings Pty Ltd, a large Australian Timber and Sawmilling Company with vast experience in the industry.

ALLOCATION

In accordance with the 1979 Policy it was decided to develop the area as an integrated large scale logging operation issued to a foreign company in exchange for the performance of substantial infrastructure obligations. Intergrated with the timber operation there was to be a substantial effort put in to assisting the local people to have job oportuntities within the project and business oportuntities associated with it. The initial permit was to be for a trial five year period during

which the company's performance could be assessed and various feasibility studies for potential future conditions were to be completed.

Neither landowners nor Provincial Government receive a share of the equity or take a percentage of the FOB prices under this type of arrangement. The benefits they receive are by way of royalties and the fulfilment of infrastructure conditions and the promotion of business and employment opportunities and general economic development.

While matters were being finalised two short term permits were issued on the 6 March and 8 October 1985 and the present Permit No. 10-6 was issued on 14 March 1986 for a period of five years (running from 1 January 1986). It contained the general standard condition for performing the operation and was supplemented by a project agreement.

The Project Agreement spelt out the details of the main obligations with regard to construction of roads and bridges and other capital works, promotion of social and economic development and the obligation to carry out a series of feasibility studies into possible projects. It sets out the timescale for the performance of these functions. Because of the difficulty previously experienced in reaching an agreement with Halla Resources and Hetura Major the infrastructure conditions imposed on VFP for the first five years were not very onerous.

CONDITIONS

INFRASTRUCTURE CONDITIONS

The main conditions accepted by the Company for the five year trial period can be briefly stated as follows:

Cl. 4.1(b) Pual River Road Construct the Pual River Road by the end of 1987. This road is designed to form part of the Aitape - Vanimo Highway and in the meantime would be required by VFP to transport its product to Vanimo.

This was completed to acceptable standards within the scheduled period.

Cl. 4.1(c) Design the Pual River Bridge by the end of 1987. This bridge will be required if the company is granted a permit over the remaining blocks and is required to be completed before the end of 1989.

The design was completed on schedule but construction has not yet started. The company is arguing about meeting the full cost of the bridge which has risen since the agreed estimate of K250,000. The company is now delaying to see if its permit will be extended before committing further finance to this project.

Cl. 4.3 Sawmill Construct a 30,000m³ input sawmill by the end of 1987. There is an obligation to process 10,000m³ in 1987 and 20,000m³ in 1988. As an enticement to perform this condition VFP was promised a 50 per cent rebate on log export duty paid and a supplementary log export quota calculated on a formula which rewarded it for exceeding the minimum required input.

The sawmill was completed in time and as it is functioning above the minimum requirement it is earning the company the promised additional log export quota and the export duty rebate.

Cl. 4.5 Land backed wharf This was to be constructed only if VFP thought it would be desirable.

It has been completed and is the loading point for VFP's export operation.

CONDITIONS NOT PERFORMED:

The following important conditions have not been fully performed.

Cl. 4.2 Reafforestation Trial: Establish reafforestation plantations experimenting with various species according to the following schedule:

1987	20 hectares
1988	40 hectares
1991	40 hectares

These plantations have not been established. VFP points out that the State undertook to make government land available for these projects but the land provided was the subject of a dispute by customary owners who have refused permission for the company to establish the plantations. VFP claims it has done all it can to fulfill this condition and has completed mapping and road design.

Cl. 4.4 Urban Development: VFP was obliged to prepare serviced township lots and build houses for its employees in Vanimo. This is intended as a large project which will involve levelling and draining, house construction, provision of power and water, roads, and community facilities such as tennis courts, sports fields ... etc.

The local lands authority has issued leases for 30-40 blocks as part of a larger area to be made available later. Work has not commenced as VFP maintains that it makes more engineering sense to make the whole area available so that levelling and draining can be done in one operation. This very probably is the correct engineering approach but the result is that instead of contributing to Vanimo's urban environment and solving

its acute housing problem VFP has in fact bought up all available housing for its employees and made the housing problem much worse.

It is a major cause of the opposition VFP is getting from the community and the Provincial Government.

Cl. 28 Business Development: (See below)

FEASIBILITY STUDIES

VFP is also required to conduct a series of feasibility studies which are, presumably, intended to show which way the project should develop in future and to be the basis for the project conditions to be imposed over blocks 1-5. The studies were to include continued studies into existing project obligations such as the promotion of business development and the continued development of the East West road.

VFP set up a prestigious committee to oversight the feasibility studies consisting of senior personnel from its Australian parent company Bunnings. It is fair to say that where the subject matter of a study was of immediate relevance to VFP's operational requirement the feasibility study has been pursued energetically and the results in several cases have already been implemented or at least developed as far as possible. Instances are the wharf construction, planing and moulding, additional sawmill capacity (sites selected), East West Road (completed). Other studies have been completed and pronounced as not feasible during a short term operation but feasible in the event of VFP being awarded the longer term permit over the remaining blocks. These long term possibilities include drying and seasoning of sawn timber and development of alternative energy systems (solar power is thought to be feasible in the long term). Some investigations showed that a proposal was feasible but

VFP recommended against it on environmental grounds. These included wood chipping and pulp and paper production.

The company has reported little or no progress on some of the very important studies.

- (i) **Reprocessing:** Specifically this study was intended to consider the possibility of establishing an industry to construct pre fabricated structures, joinery items and housing. Presumably this industry was to cater for the expected boom in the local building industry as VFP commenced building the 300 - 400 staff houses and the office building required to support its operations. VFP's comments that a furniture manufacturing industry was possible but that it would compete with Moresby furniture makers who presently bought VFP's sawn timber is an unsatisfactory conclusion to that study.
- (ii) **Log slicing and peeling facilities:** This study had not yet commenced during 1988 and this is unsatisfactory.
- (iii) **Forest plantations and regeneration of natural forests:** This study has not commenced and again this is unsatisfactory and reveals a lack of committment or even interest in a vital area of PNG government policy.

Failure of the Government to provide a license over the State's land for reafforestation plots cannot be accepted as sufficient explanation for total lack of progress in this area. The dispute over ownership need not have blown up into a major issue if the people claiming ownership had been shown that the plantings

would be for their benefit in the long run.

VFP's lack of commitment for developing techniques for improving logging practices, protecting the environment and encouraging natural regeneration is again demonstrated by the way it caused the FAO research programme to end in fiasco (see below):

PROJECT AGREEMENT

Layout of Project Agreement:

The conditions are set out in the Project Agreement in a rather confusing way. As just discussed, Clause 4 sets out "The Project" and its sub-clauses specify various infrastructure obligations and set deadlines for their physical implementations. Clause 4 also imposes a requirement to carry out the feasibility studies mentioned above. Then there is clause 5 which obliges the company to submit proposals on a number of subjects which (after DOF approval) are to be scheduled as part of the project agreement. Further obligations are imposed under separate clauses thus for instance, clause 28 provides VFP's obligation to promote business development. As the same subject matter is sometimes mentioned as a clause 4 obligation, a clause 4.5 feasibility study and also as a clause 5 proposal, forestry officers and VFP management staff claim they have sometimes misinterpreted the requirements imposed upon VFP.

Cl. 28 Promotion of Business Development:

This clause obliges VFP to promote, support, encourage PNG individuals, groups and companies in the establishment of enterprises which are capable of providing goods and services directly and indirectly in support of the project or of using products of the

project. VFP is required to provide technical advice and assistance, management and training, assistance with repair maintenance and spare parts assistance. There is a let out proviso which releases VFP from this obligation if it would substantially increase VFP's operating costs. VFP is obliged to give priority to PNG subcontractors but again there is the proviso releasing VFP if it would increase operating costs or if the standard of service would be inferior.

To implement the Local Business Development Clause the Company must convene a quarterly meeting of a Business Development Committee consisting of representatives of VFP, Provincial Secretary, National Department of Industrial Development, Secretary DOF and the Provincial Division of Commerce.

To implement its obligations under Cl. 28 VFP is required (by Cl. 5) to put forward proposals as to:

"(g) Local Business Development (Clause 28)"
within 100 days after execution of the Project Agreement. Once the proposals have been assessed and approved they were to be included in Schedule 12 as an integral part of the Project Agreement. In the case of Local Business Development Clause 28.5 itself specified certain things which must be included in schedule 12 when it is prepared in fulfillment of the Clause 5 requirement.

These are:

- (a) a detailed analysis, on an annual basis, of the likely goods and services required by the Project, both directly to support and service the needs of the Project, and indirectly to support and service the needs of the Project population;

- (b) a detailed analysis, on an annual basis, of the likely industries and enterprises which are, or could be, established to provide goods and services identified in Sub-clause 28.5 (a);
- (c) a detailed analysis, on an annual basis of the likely industries and enterprises which could be established utilising products of the Project;
- (d) an assessment of the ability of existing enterprises in the Project area to provide goods and services, or to utilise products of the Project, as identified in Sub-clauses 28.5(b) and 28.5(c); and
- (e) a plan to maximise the use of groups registered, and companies incorporated, within Papua New Guinea, especially these owned and operated by Papua New Guinea citizens, as suppliers of goods and services to the Project; such plan shall set out the target proportion of goods and services identified in Sub-clause 28.5(a) to be provided each year by:-
 - i) Papua New Guinean individual, groups and companies having their main place of business in the West Sepik Province;
 - ii) Papua New Guinean individuals, groups and companies; and
 - iii) groups registered, or companies incorporated, within Papua New Guinea.

VFP has satisfied the Clause 28.5(a)-(c) requirements by tabulating lists of goods and services it will require in a specified time frame together with brief comments about whether a local business would be viable. It fails however to satisfy the Clause 28.5 (e) requirement to provide a plan to maximise the use of groups registered, and companies incorporated, in PNG, "especially those owned and operated by PNG citizens".

Despite its failure to provide the Cl. 28.5(e) plan, Schedule 12 does provide very useful information upon which an impetus towards local business development can be created and sustained.

Project Co ordinator: Under the agreement the State undertook to provide a full time Project Co-ordinator to oversee economic and social development within the project area. His duties are set out in cl. 27.1 as:

- (a) he shall act as a link between the State and the Sandaun Provincial Government on the one hand and the people of the Project Area and the Company on the other hand;
- (b) he shall advise the people of the Project Area of the Project and the proposals and aspirations of the Company;
- (c) he shall inform the State, the Sandaun Provincial Government and the Company of the perceived desires and needs of the people of the Project Area, of their attitudes to the Project and of the effect of the Project on the physical and social environment of the people of the Project Area;
- (d) he shall act as chairman of the Committee provided for in Clause 28.3 hereof; and
- (e) where possible he shall assist in the settlement of any disputes arising between the people of the Project Area and the Sandaun Provincial Government on the one hand and the Company on the other hand.

National Project Team: The intention of the State that this project should be geared towards the economic and social development of the people was further shown by the establishment of a National Project team to work under the Project Co-ordinator. The establishment was:

PROJECT OFFICER/CO-ORDINATOR - T. WARRA

(Scientific Officer)	Grade 3
Forest Officer	Grade 1
2 Silvicultural Research officers	Grade 3
Health Extension Officer	(Positions unfilled)
Business Development Officer	(Positions unfilled)
Customs Officer	(Positions unfilled)

Unfortunately only the forestry officers were ever appointed; the Health Extension, Business Development and

Customs Officers were never appointed (allegedly because of lack of housing). The Project Co-ordinator was also a forestry officer with no training or experience in the social, economic and community development aspects. As a result the team's focus has been very much on forestry aspects and the other goals have been badly neglected.

THE PROVINCIAL FOREST OFFICE

The National project team shares offices with the provincial forestry establishment which consists of:

ASSISTANT SECRETARY - WILLIAM AO

Scientific Officer	Grade 1
Forest Officer	Grade 1
Assistant Forest Officer	Grade 3
Assistant Forester	
2 Royalty Clerks	
1 Filing Clerk	
1 Typist	

As there is only one other small project in the province it should have been easy for the provincial forestry staff to effectively monitor VFP's operations. This was not happening however. Pleading lack of transport, the staff were doing very little. On the other hand the national project team (which had a vehicle) was tending to do the professional forestry work. Neglecting the social development goals of the project, they were concentrating on helping the Provincial Officers do the routine monitoring aspects. Provincial Foresters seem to be grossly under-employed. There is really only the one Project in the West Sepik Province and that is the Vanimo Forests project. In addition to that there is a small sawmill at Telefomin, called Telefomin Base Development Pty Ltd which puts out only about 200 cubic metres of Timber a year. There is a nursery which deals only with ornamentals for the town and a 15 year old 300 hecatres plantation of teak and

Kamarere which now requires no maintenance. No more is being planted by Provincial Foresters all of whom are therefore looking after the VFP. A Provincial Forester also very occasionally visits Telefomin but that is very occasional as there are no funds for flying. The other thing they do is to allocate one man for approximately two weeks a year to help the Silvicultural Research Unit from Madang, which is doing a project measuring a small plot somewhere in the bush nearby.

The Loading point at the wharf is not continuously inspected throughout the loading of a ship but it is claimed that spot checks are carried out on each shipment. There are four logging areas in the current VFP operation and Assistant Secretary Ao, said that it would be ideal if a man could visit each operation each day, however there is only one vehicle and he often needs it himself to attend meetings. Also because they have now no driver, the only way that he can get his men out in the bush is to use the Forestry Officer Grade 1 as the driver to drop the other people out there. Consequently there is not much inspection being done - certainly not a complete coverage. I suggested that his staff could go out on the company PMV which takes it's own staff out and come back with it but he didn't think that was a good idea because the PMV leaves at 6 am, and that would be too early for his officers. He considered that, perhaps, if he could arrange for them to be driven out and dropped off, they could come back on the Company PMV at the end of the day.

William Ao appeared to be a slack officer with little interest in his job, certainly no demonstrated interest in assisting the Commission of Enquiry. He managed to either avoid or withdraw from each meeting which I held and to miss out on each inspection trip.

The Project Team under Terry Warra appears to be spending approximately 40% of it's time inspecting bush operations which really should and could be effectively monitored by the Provincial Forestry Officers. He feels that his team does at least 70% of the monitoring with only 30% being done by Provincial Foresters. I believe that he probably over-states the work of the Provincial Foresters. It is clear that the original intention of the Project was to put a lot of effort into the social and economic development side of the project and for this reason a Health Extension Officer and a Business Development Officer were included in its establishment.

The fact that these officers have never been appointed indicates that the government has really created little more than a supplementary unit to help monitor the forestry operations. The other aspects of the projects are not being fully developed. This is one of the reasons why there has been only very modest success in promoting business development. The other reason is the attitude of VFP - especially of its local manager Kevin Donohue.

BUSINESS DEVELOPMENT

There is a Business Development Committee which meets once every 3 months and consists of:

Project Officer (T. Warra) as chairman and the following groups are represented on it -

Provincial Department of Commerce	(Felix Rotsmana)
National Department of Trade and Industry from Waigani	(Andy Watson)
Provincial Government Representative	(Danny Lane)
FAS (Economic Services)	(Mel Kapaith)
Company Cordinator	

The Committee has been established pursuant to clause 28 of the Project Agreement. It was established

to implement and co-ordinate the creative plans and projects originating from the combined work of the Feasibility Study Committee and the (not appointed) government Business Advisory Officer. As VFP did not pursue its business development studies to the stage of proposing specific plans, and as the Business Adviser who could have identified and assessed opportunities and promoted suitable projects, was never appointed, the work of this Committee has been limited to the fairly mundane tasks of screening applications for subcontracting requirements. The idea of promoting business enterprises which do not work directly to VFP (such as hotel/motel, pharmacy ... etc.) has not really been followed up. There seems to be very little agricultural or business development being stimulated to take advantage of the opportunities created by the mere existence of VFP and its large work force.

The enterprises so far promoted by VFP and the project team are ones which service VFP directly and VFP plays a very paternal role for the benefit of the few lucky contractors:

(a) Vehicle Hire

The main contracts which appear to have survived the test of time involve vehicle hire. The Company buys vehicles, depreciates them and then sells them to agreed contractors. The vehicles concerned are PMVs and dump trucks. The PMVs are used to transport company workers to and from work, and the dump trucks do normal work for the company on full time hire basis.

The potential applicants own, or rather buy, the vehicles on lease from a Finance Company

and hire them out to the Company. The Company provides a driver and really controls where the vehicles are going to be. The PMVs are taken on a 24 hour basis and are treated very like company vehicles. The dump trucks are guaranteed 1800 hours of work per annum. The 40 seater PMVs are hired on a 24 hour per day basis at the rate of K1250 per month.

The hire contract specifies that the PMVs are to be parked in the Company yard at night so that they are not "used as PMVs for the benefit of the owner during the night time and so they will be there at the time we need them for commencing work".

There are complaints about the rate of hire. It used to be for the dump trucks K28.00 an hour but has now been increased to K30.00 an hour after a series of complaints. People were reluctant to commit themselves to buy more dump trucks unless the rate was increased. The Company services the vehicle free and charges only for oil and spare parts. The PMVs are serviced by Ela Motors (at contractors expense) as part of the Contract agreement when they bought the vehicles.

(b) Security Contract:

A Security Firm was organised by the people from one particular village. They were to provide security services for the sawmill and the company premises. It was closed down, according to VFP, because the workers failed to turn up and there was no security. This was the basis of a complaint at a public meeting on

my last day there by the owner of the security firm. He said that he was given no reasons why the company suddenly put him off.

(c) Chain-saw Group

This group purchased chain-saws and provided the operators to saw trees for the Company on a piece work basis. It also ceased operating, according to the Company, because of lack of productivity. Its cut rate fell from something like ten trees, (as compared with the Company employees 15 trees) per day until it came down to a low of about 2 trees per day.

(d) Grass Cutting:

The minutes of the Business Development Committee, record other contracts also for Grass Cutting along the sides of the roads at K150 per kilometre and around company premises.

VFP's Performance at Promoting Business Development

There were strong complaints by the Provincial Administrator and the Secretary and the FAS (Economic Development) that the company was not taking its obligation to promote business development seriously. They said that the Company had consistently refused to appoint a Business Development Officer and had said that the co-ordinator Mr Kapaith was sufficient. The Government Officers said that he was already over-worked and that a full time company employee should be working to promote Business Development. The minutes of the Business Development Committee confirmed that these requests and refusals occurred.

The Government officers also complained that the

Company had not produced a report on the feasibility of business development projects as required by the project agreement. When I checked this with the Company however, I found that there was such a report and it's quite a large document entitled Feasibility Study for the Further Development of the Vanimo Timber Area (Volume 3). It sets out for the next five years, the various requirements which the company could foresee it would have which could possibly be tackled by local business men or business groups. These range from low level things like, plumbing and building contracts for ditch digging, mechanics and chainsaw sharpeners right up to improved motel and hotel facilities, pharmacy, cinema etc.

The projected date when each particular need of the Company would arise was indicated. There were however, no suggestions as to how these projects should be initiated or financed. It is a list of possibilities to be taken or left by the Provincial Government Officers or the general public.

This report had been delivered by VFP direct to National Forestry as required by the Project Agreement. VFP failed to inform the Provincial Forestry Office and this lack of communication was typical of the poor relationship existing at provincial level. As communications between DOF Waigani and the Vanimo Forestry Office is also very poor the Provincial Officers, left in the dark, assume the worst and build up resentment and hostility against the company.

With regard to the goal of promoting local business development my impression is that the top management of VFP's Australian parent company may have taken the idea seriously but that the local management never really had its heart in the idea. Attempts were made to honour the

letter of the agreement but the general manager Kevin Donohue never really had much confidence in the ability of local people to conduct an efficient enterprise and his prime aim was very much to run an efficient logging operation. He impressed me as an honest straight talking Australian logger with little sensitivity to the problems of promoting PNG business enterprise. He really saw no point in wasting his time, and company money, on such projects. Perhaps he would have had a different approach if he had realised that VFP's prospects of winning the long term permit could be positively advanced by proven willingness to become involved with the letter and the spirit of promoting local business development.

TRAINING AND LOCALISATION

Similar comments need to be made about VFP's performance of its duty to employ citizens and to train and localise its work force.

The Provincial Foresters said that the Company had not submitted and obtained approval for a Training and Localisation Programme as required by Clause 5.1(b) and Clause 7. They also stated there was no evidence of such a programme being implemented.

VFP however was able to show me a fairly thick document which purported to be that proposal and a letter from the Secretary for Labour and Employment which approved it. On examination it proved to be the normal vague sort of document setting out a chart which indicated the target for localising a number of jobs and a general statement that on the job training would be given to selected employees and they would attend training courses at institutions when available. There was no detailed training scheme outlined. This was followed by a request to extend the employment of

Failure to submit the annual update due in 1987 was one of the factors which resulted in a cease logging order in July 1988. New requirements have now been requested by the Secretary with a view to encouraging more careful logging practices such as making a pre-cut inventory of residual trees and assessment of damage (Schedule 1). These ideas originated from the work of an FAO team which conducted research in the Vanimo Forest Area.

ENVIRONMENTAL

Clauses 5.1(1) and clause 14 of the project agreement set out minimum environmental requirements and in addition require that the company submit and gain approval for a detailed environmental plan.

On my brief tour of part of the area I observed the following obvious breaches of Clause 14:

- (a) logging on two slopes in excess of 30 degrees
14.3(a)
- (b) logging within 50 metres of streams 14.3(d)
- (c) reckless felling and taking practices 14.4
- (d) unfavourable ground conditions snigging occurring through extreme mud conditions but not prohibited in writing by Secretary (in fact it was being encouraged by DOF)
- (e) river bank damage 14.11
- (f) river obstruction 14.13
- (g) snig gradients in excess of 10 degrees with no cross drainage 14.16
- (h) non ripping of compacted soil at ramps.

In addition to my observation, reports by officers

of the Department of Environment and conservation provide detailed expert testimony of environmental damage (Schedule 2). Reports dated 24-27 August 1986 and 3-6 November 1986 (Schedule 3).

LAND REQUIREMENTS

The important question of making land available for company purposes is dealt with in clauses 5.1(e) and 15. VFP is to nominate areas of land required for town construction, industrial development, reforestation and wharf installation together with plan. If reasonable the State shall approve the siting proposals.

VFP then is to lodge applications under the Land Act for all the approved sites 15.2.

If the land is owned or leased by the State it shall procure a grant to VFP of the necessary lease or licence for period of 99 years.

If it is customary land the State will use its best endeavours to acquire it and then grant lease/licence to VFP.

If the state is unable to procure the grant of lease/licence it shall notify the Company and nominate alternative areas. If VFP agrees to the new areas the State will procure the lease/licence.

These clauses have caused problems regarding urban development and reforestation:

(1) Urban Development:

To fulfill it's obligation to carry out urban development to provide houses for it's employees VFP sought to lease a large area of low lying land in Vanimo known as Portion 56.

On 24 April 1987 the Department of Lands issued Licence No 3 NR to develop Portion 56 under TSL arrangements.

The Land Board granted a lease (over 30-40 blocks), but VFP refuses to start leveling and draining until it has rights over the whole lease to facilitate the engineering problem of leveling. The Administrator of the West Sepik Province and Secretary said they did not want to see VFP get a 99 years lease over the whole area until it showed its commitment to fulfill the terms of its Project Agreement. They feared the Company could pull out and sell off a valuable asset for its own profit. Instead of proceeding to develop the 30 - 40 blocks VFP has competed with other organisations to buy up and renovate existing town houses.

(11) **Reafforestation:**

The State has approved the 20 ha and the two 40 ha plot sites for reafforestation required by Cl. 4.2. It is on a very large area of State Land. However, the whole area is disputed by local landowners who refuse to let the trees be planted. VFP claims it has mapped the site and built the roads but cannot commence planting in view of the local opposition. This is confirmed by the Government officers and a stalemate seems to exist.

COMMISSION'S INSPECTION OF FOREST

The inspection was brief but I had three main aims:

- (a) Inspect FAO natural regeneration research plots and compare with the nearby areas where company operation was unsupervised.
- (b) Inspect the area where stranded logs had been the cause of a cease logging order.
- (c) Get a general impression of the nature of VFP's logging operations.

(a) I saw one FAO Research plot that had been logged 9 months earlier after careful prelogging preparation including 100% inventory and marking of trees to be felled and direction of fall.

The forest looked to be in reasonable order and undisturbed but it was just a glimpse downwards from the road. Undergrowth had covered any bare patches.

A neighbouring non research area coup also seemed to have recovered well from the logging operation. There was more open area but the remaining trees looked healthy and the undergrowth was vigorous. There was no sign of apparent damage from the roadside. Scientific evidence of this comparison is now available from FAO research unit.

(b) The area where stranded logs were being snigged and extracted was a disaster area. The loading ramp was huge (about 100 metres square) the whole site was on the edge of a swamp and there was clay/mud pushed up in banks all around it. The ungravelled road was destroyed and the continuation of that road along its present alignment was to be abandoned because it had been incorrectly placed and was going straight through a swamp. In fairness to VFP it needs to be said that it had decided to leave these logs until the weather dried out and in

the meantime to shift the operation to higher ground. It recommenced extracting the logs from the low-lying area on direct instructions from DOF and because a cease work order had been placed on other areas.

(c) The general logging scene seems to be slightly worse than the normal PNG logging techniques, there was not time, however, for a detailed inspection and ground conditions were very wet and difficult. Instead I have relied a lot on reports by Forestry and Environment Officers and on information reported by the FAO research team.

FAO RESEARCH PLOTS

During 1987 VFP agreed to allow a DOF sponsored FAO team to establish a research project in its timber area and to give the team its full cooperation.

The aim was to study sustained yield logging practices and natural regeneration. From July to October an area of 31.5 ha was divided into two logging set ups. A total inventory of all trees from 20 cm diameter at breast height (20 dbh) was made and each tree was located on stock maps. The alignment of VFP's proposed forest road was marked and then plot A was left alone. On plot B however preparations were made to ensure that planned logging occurred in a way which would minimise unnecessary clearing, wastage and damage to residual trees. The aim was to allow VFP to log plot A in its normal way but log plot B under carefully controlled circumstances and then to compare the results.

For plot B the skid roads were carefully mapped and then marked on the ground with plastic tagging. Trees to be harvested were also marked and the direction of fall was indicated on the trunk. Felling was planned so as to avoid damage to residuals and watercourses and so as to

fell in a direction which would facilitate snigging so as not to require unnecessary turning of the log and consequent damage to residual trees.

VFP co-operated well in assisting the FAO team to establish the two set ups and promised that logging in plot B would be done at a slow pace using minimum (specified) equipment under the supervision of the FAO team. This would enable careful recordings of the operation to be taken and a valid post logging comparison of the two plots to be made.

At the time of logging however things went seriously wrong and Plot B was logged with extreme recklessness using an overabundance of heavy equipment. There is a disagreement between VFP and the FAO team as to what caused this situation. It occurred at a time when landowners had blocked roads and forced operations to cease. Agreement was reached to allow the logging of the research plots to proceed and VFP used a lot of its idle equipment to do the job at full speed.

Whether this was done deliberately or because of a break down in communications I cannot, and am not concerned to, establish. The fact is that it occurred and a valuable experiment was ruined.

The FAO team however managed to salvage something from the wreckage of its experiment. It continued on and did its post logging inventory in both plots and was able to measure the areas actually cleared in each plot for roads, snig tracks and loading ramps and to measure the volume of timber which was cut and to estimate what proportion of this was profitably utilised and what proportion was wasted.

Although it was not possible to compare these figures from Plot A against the actual controlled result

obtained in Plot B (because the plot B logging had been uncontrolled) the FAO team was able to estimate what the comparative figures in Plot B would have been if the controls had been followed.

Those comparisons showed that in Plot B three loading ramps rather than the planned one were established (two were huge and unnecessary). Skid tracks were 5m rather than 4m wide and far more numerous than planned.

The proportion of forest cleared for roads skid tracks and log landings in Plot B was 26.9 per cent compared with the 7.8 per cent planned. It is estimated that only 41.1 per cent of residuals were saved and that 76.9 per cent could have been saved if the controls had been followed. The FAO researchers estimate that ten years after logging in Plot B there will be only 13.4 trees per hectare with a volume of 26.8m³ and that consequently it will be necessary to wait 20 years before a similar volume to the present cut could be harvested. Had the controlled logging occurred as planned there would, after ten years, have been 22 trees with a volume of 44.3m³ ready for harvest and it could have occurred at the end of that 10 year period. (See Schedule 4.1 for an "Abstract" description of the FAO research; 4.2 for the conclusions and 4.3 for maps comparing the land use planned for the research area with the land usage which actually occurred).

MARKETING

General

VFP appointed Quarter Enterprises (then owned and run by an Australian, Ron Gibbs) as its sole marketing agent. Subsequently Gibbs was appointed a Director of VFP and a joint marketing company was recently

incorporated in PNG which now handles VFP marketing.

VFP marketing strategies in pioneering sales into the Indian market were reported on in detail in the Commission's Interim Report No 3.

VFP, with other companies was required to answer a marketing questionnaire and to provide a marketing table detailing its marketing during 1986 and 1987. The reply to the questionnaire is Schedule 5 and the Marketing Table is Schedule 6.

From the Marketing Table details on a shipment by shipment basis of unit prices, destination countries and MEP margins were extracted (Schedule 7).

VFP's answers to the questionnaire are far more forthcoming and expanded than those provided by any other company. One of the main reasons for this is that VFP (and its parent Bunnings Limited) do not have corporate relationships in the traditional markets for PNG logs and are thus to a genuine degree independent marketers. A second and important reason is that VFP, more than any other company, has sought to plan marketing strategies and to penetrate new markets for PNG logs with a view to achieving a broad market base using its major log species.

In doing this it has gone outside the traditional Japanese and Korean markets with sales to Hong Kong and pioneering sales to India and has also made experimental shipments to Amsterdam (and earlier to other European centres) and to Singapore. This demonstrates in practice VFP's genuine endeavours (unlike so many other companies) to diversify markets.

Indian Market Strategy

VFP's strategies in the Indian market appear to have been well conceived and to have demonstrably and significantly raised the prices of Kwila logs. VFP dealt with only one buyer - Centaur Exports. These efforts were jeopardised by FIC's involvement in the Indian market in 1986 (See Interim Report No 3) and by a shipment by Kumusi Timber Company through Sumitomo Forestry Company in February 1988 (See Interim Report No 6 Volume 2 Schedule 2).

Hong Kong Market Strategy

VFP's parallel strategies in the Hong Kong market have provided an alternative and competitive market for Kwila as well as for other species and have created an opportunity to penetrate the Chinese market. VFP dealt with only one buyer Cheung Hing Co. Ltd. Again in this Hong Kong market for Kwila VFP's efforts were jeopardised in early 1988 by a sale of Kwila from Madang Timbers into the Hong Kong market at prices below the benchmark price levels established by V.F.P.

New market strategy

The incidents mentioned above illustrate the need for co-ordination and the benefits which could flow from co-operation between producers in PNG (and perhaps in neighbouring log exporting countries). Without that co-ordination and co-operation well conceived marketing strategies can be either deliberately or inadvertently damaged. If this co-operation and co-ordination cannot be achieved voluntarily by producers within PNG there could well be merit, in the national interest, in the Government intervening. That intervention could, in the case of Kwila logs, take the form of prohibiting Kwila

logs from export save with the specific approval of a Government authority which administered a planned marketing strategy, gathered market information from all sources on available Kwila log supplies and established buying price benchmarks and trends. Kwila exporters would only obtain export approval if the sale accorded with the strategy and prices were at market levels.

Traditional Market Strategies

In the Korean market VFP appears to have sold to the highest bidder and to have sold to end users and stockists. In 1986 it sold twelve shipments into the Korean market to six different buyers. Its major buyers were Oriental Chemical Ind. Co and Sun Chang Ind Co. Ltd each buying four shipments with one shipment each to Chungkoo Lumber, Borneo Mercantile Co., Hyundai Wood Ind Co. and Lotte Trading Co.

In 1987 VFP sold nine shipments into the Korean market to four different buyers. The dominant buyer was Taesung Lumber Co. which bought five shipments. Ok Son Industrial Co. bought two shipments and one shipment was bought by each of Dong Chang Timber Co. and Young Lim Timber Co.

None of the 1986 Korean buyers bought in 1987 and none of the 1987 buyers bought in 1986. Over the two years sales to Korea were made to a total of ten different buyers.

In the Japanese market VFP actually made sales to only three different buyers. In 1986 four shipments were made to Japan - three to Sonko Co Ltd and one to Sanno Lumber. In 1987 seven shipments were made to Japan - four to Sanyo Kokusaku Pulp, two to Sonno Lumber and one to Sanko Co. Ltd. VFP explained its marketing into Japan as being constrained by well entrenched systems of

importation and distribution. Ashenden (1983) had comprehensively described the Japanese market, the established relationships which characterise that market and the difficulty which a non Japanese independent would have in penetrating the Japanese market. VFP's experience appears to illustrate the accuracy of Ashenden's analysis and conclusions as does FIC's lack of success in the Japanese market.

A problem with VFP's marketing in traditional markets is that it relies to an extent on information from major Papua New Guinea shippers on market trends in both the log and shipping markets. There is reason to conclude that at least a number of those major shippers are manipulating prices paid to PNG producers to keep those prices depressed below true market levels so as to maximise their offshore profits. For this reason VFP may have been pitching its prices at a falsely low level.

This problem may have been surmounted to an extent by VFP (through Quarter Enterprises) having contact at the buyer end of the market with the Japanese and Korean end buyers and stockists to whom it was seeking to sell.

The problem would prove unsurmountable if, as has been contended, there is a cartel of buyers in traditional markets who together plan strategies for purchase from producers in the South Seas Log Market. Such a cartel by manipulating demand pressures would, if its unity was secure, be able by this means to control prices paid for South Seas (including Papua New Guinean) logs. This buying cartel theory was put to Mr Ron Gibbs in evidence and quite surprisingly Mr Gibbs told the Commission not only that he had every reason to believe that there was such a cartel but that he had what he regarded as certain knowledge of it. Mr Gibbs said in evidence that when he was in Asian buying countries he

had learned of the system whereby in about March or April the major buyers in Korea met and that major buyers from Korea, Japan and Taiwan later met to agree on buying strategies for the following year. He said the organisation is loose and informal and that a consensus is reached and then implemented.

Mr Gibbs said that in 1987 this informal buying strategy had come undone because the Taiwanese buyers reneged on the agreed strategy and got involved obtaining early supply at higher than agreed levels of prices. This led to the breakdown of the structured buying system and Japanese buyers went into the market and sought to outbid the Taiwanese buyers. This in turn led to the rapid and dramatic price rises in 1987.

If this buying cartel theory is, as it seems, a fact then one solution would be for PNG producers to seek to diversify sales into markets outside the cartel. A further but more difficult solution would be for the South Seas Market log exporting countries to form a producers cartel and to use their combined power to manipulate supply pressures. Such a cartel may be capable, if its unity was secure, of controlling prices by this means or at least achieving higher prices.

If both cartel structures were to hold firm to their agreement it would be necessary to remove the impasse and this may result in better prices for producer countries. I say this solution option may be difficult only because the buying cartel may have a superior bargaining position simply because its members may be better able financially to hold out longer than the suppliers.

Pricing patterns in VFP sales are quite interesting and are probably most fairly approached market by market because specific species mix shipments were compiled for

the Indian and Hong Kong markets whereas more general run of the bush composition shipments were supplied to the Japanese and Korean markets.

Indian Market Achievements

Four shipments to India were made in 1986 and only two in 1987. The unit prices in 1986 progressed from USD69.40, to USD82.75 to USD88.72 and back to USD86.66 per m³. These prices were respectively 27%, 37%, 23% and 14% above MEP prices.

In 1987 the unit price on the first shipment in January was USD89.28 and on the second in June USD81.15 per m³. The prices were 11% and 1% respectively above MEP prices. The figures illustrate the increased price levels achieved and the buying pattern illustrates the damage flowing from FIC's ill-conceived involvement in the Indian market and the decline in buying interest which resulted. This was compounded by the sale of Kumusi logs at less than competitive prices by Kumusi and Sumitomo Forestry Company in February, 1988.

Hong Kong Market Achievements

The impact of price increases in the Hong Kong market is complicated by the fact that one 1986 shipment and two 1987 shipments were joint shipments to Hong Kong and Korea and the prices for each destination are not segregated in the marketing table.

In 1986 three shipments went to Hong Kong. The unit prices were USD79.84, USD71.26 (shared with Korea) and USD76.50 per m³ and represented price levels 32% above, slightly below (on the shared shipment) and 27% above MEP levels.

In 1987 six shipments went to Hong Kong. The unit

prices were USD100.22, USD99.93 (shared with Korea), USD155.43, USD168.29, USD168.26 and USD88.44 (shared with Korea) per m3. Price levels were at about MEP, 5% above (shared shipment), 27% above, 40% above, 41% above and 4% above (shared shipment) MEP levels.

Again the figures show the trend of rapid price increases as the marketing arrangement was established and developed.

Promotional Shipments

In 1986 there was one shipment to Amsterdam at USD76.50 per m3 (40% above MEP) and one to Singapore at USD92.13 per m3 (23% above MEP). No further sales resulted from these efforts in 1986 or 1987. It could be fairly surmised these shipments were of higher value species.

Korean Market Achievements

In 1986 prices to Korea were in the USD53.00 to USD58.00 price range through to December. In December prices achieved were USD63.52 per m3 on the first shipment and in the same rough price area with a shared shipment to Hong Kong at USD71.26 per m3. (This provides an interesting contrast to price trends of other marketers to Korea in 1986. Up to December prices ranged from slightly below MEP to 10% above MEP level with an average and concentration around the 5% above MEP level.) In December VFP prices were 13% above MEP and slightly below MEP on the shared shipment to Hong Kong. In 1987 the December 1986 price levels were sustained up to September with prices ranging from USD64.24 per m3 to USD66.54 (on a shared shipment to Japan) and with levels in the 3% to 5% above MEP range. In and after September 1987 prices surged dramatically to USD99.93 (on a shared shipment to Hong Kong) USD95.00, USD100.00, USD96.57 and

USD88.44 per m3 (on a shared shipment to Hong Kong) at levels 5% (shared shipment) 8%, 17%, 9% and 4% (shared shipment) above MEP.

Again the trends provide an interesting contrast to other marketers to Korea during 1986.

Japanese Market Achievements

In 1986 prices to Japan fluctuated with no clear pattern at between USD54.00 per m3 to USD69.92 per m3 at levels ranging between slightly below MEP levels to 22% above MEP.

In 1987 prices to Japan fluctuated with no clear pattern up to July at between USD66.54 (shared shipment with Korea) and USD74.46 per m3 with the range between 3% (shared shipment) and 18% above MEP. From July 1987 prices rose dramatically to USD80.20, USD92.85, USD98.31, and USD102.16 per m3 with levels 4%, 21%, 38% and 14% above MEP levels.

These trends also provide an interesting contrast to other marketers to Japan during 1987.

General Comments on Marketing

The prices obtained and levels above MEP tend to show the benefits gained from well considered carefully conceived plans to diversify markets. The trends in traditional markets show only a small range of fluctuation to Korea up to December 1986 with no discernible pattern in Japanese sales. During December 1986, when FIC was well and truly actively involved in marketing, substantially increased prices were achieved in Korean sales. The increase was sustained to past mid 1987 as was an increased range of prices to Japan.

From about August/September 1987 there were combined

and dramatic increases in price levels to Korea and Japan. The magnitude and continuity of those levels is quite consistent with what Mr Gibbs described on the breach of a demand pressure monopoly followed by the operation of free market forces.

TRANSFER PRICING

Apparent honesty

Subject to what is said below no suggestion was received by the Commission that VFP was engaged in transfer pricing. Its diversity of markets and buyers and ranges of price levels (in unit and MEP margin terms) suggests that it was not doing so. Having said that it must be said that superficial examination of Shin Asahigawa's marketing figures gave the like impression yet that company was involved in significant price transfers (see Interim Report No 6 Volume 2 Appendix 1).

Evidence before the Commission indicated that the bulk of VFP's sales were direct and that there were direct letters of credit from buyers and there was direct invoicing to buyers - this does not allow the common practice of transfer pricing through third country invoicing.

The notable exceptions to this practice were:

- (a) Sales to India.
- (b) The September 1986 sale of a small volume to Singapore.

The latter sale is explained in the questionnaire answers. The problem with sales to India arises from the insistence on after sight letters of credit and the limitation on interest rates imposed by the Indian Government. The problem, and solutions to it, are reported in detail in the Commission's Interim Report No

3.

It had been alleged in newspaper articles before the Commission was established that VFP had engaged in transfer pricing on a sale to India. The allegation was based on the fact that there was a differential between the sum of the PNG FOB price and the ocean freight on the one hand and the CNF price paid by the Indian buyer on the other hand. It was said this differential amounted to transfer pricing. Both Mr Vikani of Centaur Enterprises and Mr Gibbs offered to produce all their records and explained how the differential consisted entirely of the difference between Indian Government prime rates and commercial interest rates on the CNF price for the credit period and commissions payable to Hong Kong banks. I did not have the files produced as calculations made by Commission staff verified the explanation. On subsequent Indian sales Mr Gibbs said the buyers letter of credit was opened to Australia (where banks accept credit term letters of credit) and an at sight back to back letter of credit was established to PNG. In some sales to Korea Mr Gibbs also said credit terms were involved and in such cases the Korean buyer established his letter of credit to Bunnings in Perth Australia and an at sight back to back letter of credit was established to PNG.

The exceptions were openly and frankly volunteered to the Commission in evidence and were not forced admissions.

Had time permitted I had prepared to examine each of these transactions in order to be satisfied that there were no differentials which were dropped off in Australia.

I had also proposed to examine the offshore

retentions of funds by VFP pursuant to Clause 30.2 of the Project agreement and particularly the basis for and reasonableness of service charges, charges for goods, consultancy fees on like matters where there is a possibility of what is commonly called import transfer pricing. Again time has not permitted this.

In these circumstances I can only conclude that in the back to back letter of credit cases the possibility of transfer pricing exists, I doubt that it has occurred but have not had the time to verify this. On import transfer pricing of goods and services I have no basis to make any finding.

Marketing Agency Fees

VFP disclosed in its questionnaire answers that a fee of 3.5% of FOB log sale value was paid to Quarter Enterprises Pty Limited and that for sales to Korea an additional fee of USD1.00 per m3 was paid. Both VFP and Mr Gibbs said this fee covered more than marketing and that the services performed for the fee included market research and promotion, promoting sales into new markets and planning marketing strategies, personal attendances on customers by Mr Gibbs, arrangement and coordination of shipping (with VFP receiving brokerage as a deduction from freight) and development of a computer program as a marketing aid which compares demands for species and sizes of logs in various markets with VFP's log stocks.

In 1986 VFP's total FOB price for log exports was over USD6,350,000 and in 1987 was over USD11,500,000. A commission of 3.5% on these figures would have amounted to USD222,250.00 in 1986 and to USD402,500.00 in 1987.

In 1986 over 50,000m3 of logs was exported to Korea as was over 40,000m3 of logs in 1987. These sales attracted additional fees. The fee paid by VFP to

Quarter Enterprises amounted in total therefore to over USD272,000 in 1986 and over USD440,000 in 1987. The above figures are gross figures and these would doubtless be significant expenses. Though VFP appears to obtain satisfactory service from Quarter Enterprises both the gross fee rate paid and the dollar amount of it are at comparatively high rates and give cause for concern as to whether they are reasonable.

During 1986 and 1987 these fees were paid to Quarter Enterprises in Australia and presumably the funds were deducted offshore pursuant to Clause 30.2 of the Project Agreement and the profits earned presumably did not attract tax in PNG.

It is pleasing to note that as from about mid 1988 this function was transferred to a newly formed Papua New Guinean company and profits made will presumably be subject to tax in PNG in and after 1988.

MONITORING OF OPERATIONS

The observations of the Commission and the environmental reports indicate that highly destructive logging practices have been occurring continuously under the very noses of provincial forestry officers. There simply is not enough regular supervision by forestry officers and when they do inspect a section of the field operation their remedial actions are ineffective. Usually the Officer merely makes comments to the logging supervisor and that is the end of the matter. Sometimes a matter is raised at management level but there is little observable flow-on back down to the logging supervisors and operators.

It is clear from discussions with officers and management, and from studying files, that there is not nearly enough monitoring activity carried out. Lack of

nearly enough monitoring activity carried out. Lack of transport is one serious problem. Although the officers could become more mobile by using VFP vehicles this is an undesirable situation. Management stated that when it wanted forestry inspections for urgent company reasons VFP would send a company vehicle.

There simply is no strong forestry presence likely to turn up unpredictably and enforce logging and environmental controls. When an officer does get out to the bush he walks meekly amongst the debris in, perhaps dazed, acceptance of the mass destruction which is occurring and waits for his lift home.

CONCLUDING COMMENTS

Vanimó is a very large project in an undeveloped area amidst uncoordinated and unprepared landowners. It was the first chance for a major economic development in the Sandaun Province.

It was designed to achieve an integrated approach to log exports, local processing, reforestation and substantial social and economic development by promoting local business and urban development. The idea was to make the timber pay for real and appropriate development benefits for the people and expectations were high.

A National Government project team was established to help identify the opportunities, to develop suitable projects and to work alongside the Provincial Forest Office team which would do the regular forestry monitoring and administration.

It was also decided to adopt an inter-departmental approach for co-ordinated National and Provincial

government effort to stimulate, match and reciprocate efforts to be made by VFP.

VFP was (in effect) put on five years probation with very light infrastructure conditions but with an obligation to come up with proposals for bringing about the desired results and to conduct feasibility studies into possible projects to be carried out when the longer term permit was issued at the conclusion of the initial five year period.

No party has carried out its role satisfactorily.

National Government Performance

(a) The National Government failed to appoint the non forestry components of its project team so there has been no expertise in the social and economic development aims of the project. There has been inadequate creative stimulation from the National Government to seize the opportunities offered by this large timber project. The project team spends most of its time in the routine (provincial) task of monitoring and offsetting the harmful effects of logging on the forest.

(b) The National Government failed to communicate and work with the provincial foresters to enforce national forestry policy and failed to give consistent and strong indication to VFP of what national government policy is. (See Schedule 8 Letter from VFP to DOF illustrating lack of communication.)

(c) The interdepartmental co-operation was a failure; particularly the failure to provide the land required for urban development and reafforestation.

Provincial Government Performance

(a) Provincial Foresters failed to provide strong and effective monitoring of the project. Consequently the logging has had an unnecessarily severe effect on the environment.

(b) Its interdepartmental approach failed to see the vision and work towards fulfilling the project's potential.

(c) There is evidence that political decisions were possibly influenced by the desire of some provincial politicians to gain personal benefit from a company which refused to play that game.

Vanimo Forest Product's Performance

(a) This company fulfilled the basic infrastructure conditions required of it to a greater extent than most companies studied by the Commission.

- (b) It failed to fulfill two vital obligations:
- . reforestation
 - . urban development

It claimed that the failure to provide land justified its failure but some land which was made available in urban development was not used. Some reforestation and experiment was possible but not done.

(c) It fulfilled requirements to conduct most of the feasibility studies, but not all, and some were not done with creative enthusiasm.

d) It made proposals on matters required by the project agreement but not always with full commitment.

e) Logging practices and forestry operations and planning were defective and caused damage, waste, and landowner discontent.

(f) Efforts in promoting local business development, PNG contractors and localisation and training have been half hearted.

(g) VFP's failure to help FAO complete its valuable study into logging practices has left a very unfavourable impression.

(h) VFP's degree of localisation is quite impressive and certainly better than most other timber companies. But far more could be done in planning for localisation by way of training. Had VFP believed, for instance, that extension of its five year permit truly depended on its attaining a given level of localisation in its workforce then far more emphasis would have been put on in-service and formal training and personnel development.

(i) VFP has failed at the level of local community relations. A large (Australian) company which intends to acquire rights to harvest/damage a huge local forestry asset at the expense of an under developed people and provincial government needs to put a lot of effort into ascertaining the needs of the province, as perceived by those people, and then to actively and conscientiously work towards fulfilling those needs. The needs were for urban development, local business development, landowner involvement in the project as unskilled employees and as skilled employees in training and (perhaps) landowners' involvement in associated agro-forestry projects.

If VFP is to be popular, and thereby to be acceptable on a long term basis, it is necessary for it to portray itself as a company with a conscience and an active sense of community responsibility.

This it has singularly failed to do. At the time of the Commission's visit, VFP was besieged to such an extent that its continued operation was in the balance:

- (a) Landowners were objecting strongly to its operation and were blocking roads and forcing cease work periods as a matter of routine. They complained about:
 - (i) damage to streams and watercourses
 - (ii) wastage (and consequent royalty loss)
 - (iii) late payment of royalties (but usually caused by government delays)
 - (iv) lack of business opportunities
 - (v) failure to receive a fair share of the benefits

- (b) The Provincial Government considered VFP was exploiting the people for insufficient return. Failure to develop the 30-40 urban lots made available was taken as a sure sign of a colonialist exploitative attitude by the company. There was lack of trust and the Administrator of the suspended Provincial Government and Secretary and senior officers were actively conspiring to oppose any extension of VFP's operating permit.

- (c) The National Government had intervened to stop operations because a huge volume of logs were stranded in the bush due to wet conditions and ungravelled roads and because VFP did not seem to be adhering to its (not updated) Forest Working Plan. To the Forest Inspector VFP's operations seemed un-coordinated and unnecessarily damaging to the environment.

At this stage the DOF imposed new requirements on the FWP which sought to require more scientific logging practices designed to reduce wastage and unnecessary environmental damage.

These requirements were based on the practices advocated by the FAO team which had carried out the (frustrated) research in the Vanimo Timber Area (Schedule 4) and in the Wawoi Guavi timber area in Western Province.

The loss of profits (approximately K46,000 per day) and disruption to its operation by the Cease Work Order stimulated VFP's parent Company to send up a top level management team to assess the situation in PNG and they met with the Commission. Subsequently Mr Donahue was replaced as General Manager and the community relations problems seem to have been reduced.

There is however still no progress on the urban development, reforestation or business development conditions of the permit.

The image of VFP however is not all negative. Its marketing has been creative and, apparently, honest. High prices have been achieved and taxes have been paid. VFP has listed for me the benefits which it claims have flowed on to the people of the province from its operations (VFP's submission on these matters is set out in full as Schedule 9). It lists total royalties of K2,075,147 paid since June 1986. (The landowners receive 75% of these royalties which in 1988 amounted to K700,000. It lists export duty totalling K2,365,363, import duties of K800,000 and company and group tax now amounting to approximately K600,000 p.a. .

Against this however it must be realised that neither the landowners nor the provincial government hold

shares in the company and do not stand to share the profits with the Australian parent company. I believe this factor goes a long way towards explaining the continuing ill-will felt towards VFP by Provincial Government and landowners. Except for the royalty payments which, as usual, are set at an unattractively low rate, the people feel they are getting few tangible benefits from the project. They rely on VFP honouring all the conditions imposed upon it under the Project Agreement. For this reason it is a matter of deep concern when major conditions are not performed (such as the urban development and the reafforestation) or are not adequately performed (such as the promotion of business development).

The landowners hear of other groups receiving major cash benefits from their own timber operations which have been arranged differently and they become resentful. This is not surprising if one calculates the figures. For instance, if the Vanimo project had been organised by granting the permit to a genuine landowner company representing the land groups which then contracted with VFP to do the logging and marketing on the basis of splitting the FOB price received on a 75/25 per cent basis the calculations would have been along the following lines for 1986 and 1987. On the basis of VFP's FOB price of USD17,850,000 the landowners 25 per cent share would roughly equal K4,000,000. If the landowner company was required to pay export duty its net share would be about K1.1 million and if not required to pay export duty its share would be about K2.6 million. In each case the landowners themselves would receive in addition the royalties of K1.35 million. It is not possible to make a simple comparison between these cash figures and the advantages landowners and both levels of government have received under the existing project

agreement but I can easily understand why people may sense that they are not being treated fairly.

My overall impression of this large project is that the Bunnings parent company is sufficiently well motivated to convert its operation into an enlightened model of a forestry operation integrated into a wider project achieving significant social and economic development for the people and government of the Sandaun Province. It has been hindered from achieving this by the limited vision of the management of the local company, VFP, and by the lack of co-ordination and drive of the National and Provincial governments and of the officers on the spot. The outspoken nature and outdated "colonialist" attitude of its (direct and honest) Australian manager sparked off deep resentment in the key officers in the Provincial Government so that, by the time of my inspection, there was almost total lack of communication and understanding between the various parties in PNG. At that stage the stupid situation had been reached where the company was refusing to commit itself on a number of matters until it knew that it had secured the long term extension of its permit and the Authorities were refusing to consider an extension because the company was not demonstrating commitment. In fact cancellation of the permit was being actively considered.

SCHEDULE 1

TO: MINISTER OF FORESTS

BRIEF - VANIMO FOREST PRODUCTS

FACTS AND CONSIDERATIONS

The felling operation of the company was stopped on the 27th June, 1988 due to an oversupply of cut logs in logging areas and landings which are not hauled to the mill for processing and for export. The stoppage of felling was necessary in order that the logging operation can catch up with felling operation. Skidding and transporting of logs continued in order to reduce the log inventory in the area.

The causes of the imbalance between felling, logging operation, and road construction is due to mismanagement of the operation and the absence of planning. Extraction is very disorderly leaving an unproductive forest when logging is finished. The operation spends more time destroying the forest rather than snigging logs with a minimum of disturbance to the forest stand.

Report on the performance of the company shows the following.

CAUSES OF DAMAGE	% OF DESTRUCTION
A. Damage caused by construction of wide snig tracks	18.3%
B. Damage caused by construction of log landings	4.2%
C. Damage caused by construction of roads	4.4%
D. Damage caused by felling	17.76%
Total Damaged Area	44.66%
Total Trees Damaged	65.55%
Total Trees saved	34.45%

Sampling of trees in watercourses shows that for every 32 hectares, the company dumps 36.5 trees in watercourses.

The destruction can easily be minimized if the attitude of the company is corrected more towards benefiting the people of Vanimo and Papua New Guinea.

The temporary stoppage of felling operations immediately corrects the imbalance between felling and production.

DEPARTMENTAL VIEWS

Section 4 : The permit holder shall comply with the Forest Working Plan as currently approved in accordance with the agreement.

Violation : The Department rejected the revision of the annual plan towards increasing of allowable cut due to the damages in their logging operation in Nov. of 1987. The company ignored this rejection and insisted that they are following the approved 5-year forest working plan. The order to stop felling is in accordance with 4 (2) where their operation is confined to existing log inventory stocks.

Section 6 (2) : The permit holder shall use its best endeavours to overcome and minimise deleterious effects caused by its operations on the physical environment and inhabitants of the permit area and in particular shall comply with the following provisions and with all environmental control conditions included in the approved Forest Working Plan.

Violation : The unnecessary damage caused by the following violates this section:

	Damage	Allowed (%)	Actual (%)
A.	Road Construction	3.0	4.4
B.	Log Landings	1.0	4.2
C.	Snig tracks	3.4	18.3
D.	Felling	5.0	17.76

The information is a clear view of the attitudes of the company and the gross mismanagement of the operations in the area. The performance is indicative of unqualified managers employed by the company.

Section 6 (3) In taking and removing trees under the Permit the Permit the permit holder shall do so with as much care as is consistent with sound forest felling and removal techniques and in a proper and workmanlike manner and in accordance with the approved Forest Working Plan.

Violation : The company does not care at all at the future of the forest resources. Indication of information collected shows that company does not follow any felling direction, does not have plans on the ground, does not have supervision in the logging operation, does not have control of the operators.

Section 6 (6) The permit holder shall take all precautions consistent with sound forestry management to minimise soil erosion resulting from its operation.

Violation : The company does not care about soil erosion and sound forestry management. Field conditions very destructive.

Section 6 (9) If the Secretary considers that ground conditions in any part of the permit area are unfavourable he may by notice in writing require the permit holder to discontinue operations in that part of the permit area

Action : Felling stoppage corrects the present situation which the company is resisting. The attitude of company to persist on doing the damage does not follow TP condition. .../4

Section 6 (12) The permit holder shall take all measures consistent with sound forestry management to ensure that no river or stream is obstructed by forest produce, logs, timber, debris, waste or other materials from its operations.

Violation : VFP dumps logs in watercourses at a rate of 1.14 logs per hectare of area. This implies total disregard for the TP condition above.

Section 6 (13) The permit holder shall take all measures consistent with sound forestry management to ensure that no river or stream is polluted by sawdust, oil, waste, refuse or other materials from its operations.

Violation : Same as Section 6 (12)

Section 10. Prohibits unnecessary damage of young forest growth by its logging operations under the TP. The permit holder shall comply with all directions concerning the operation of its logging equipment, which may be given by the Secretary to prevent unnecessary damage to young forest growth.

Violation : Company disregard future of young forest growth.

Section 11the Secretary may by notice of writing require the permit holder to cease its operations in any part of the permit area which in the opinion of the Secretary has been satisfactorily logged out to the level of utilization acceptable to the Secretary at that time

Action : Secretary believes that logging in present area is already excessively detrimental to the future of the forest in the area. Action has legal basis.

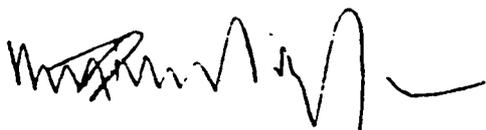
RECOMMENDATION

The deleterious effect of the logging operations of Vanim Forest Products Ltd. can be improved by managing the natural forest. It is recognized that the high volume extracted per hectare makes logging very destructive. The company has to perform the following in order to minimize destruction:

1. Company should organize a Forestry and Planning Department staffed by experienced fieldmen to implement plans and prevent destruction of forest.
2. The company should declare that management of natural forest is sustained yield. Heavily logged area shall be voluntarily revegetated for future harvest.
3. The company must organize a Forestry and Planning Department and provide the department with better plans on the ground rather than merely on paper.
4. The company must implement interim management approach as:
 - A. Survey of road alignment and establishment of landings before logging operations.
 - B. Marking all trees with paint, to be cut and to be protected.
 - C. Snig tracks survey and field locations.
 - D. Inventory of set-ups prior to any logging operation and inventory after logging operation.
5. The company shall not allow D85 for construction of snig tracks and snig logs out. The wide blades of D-85 creates a very wide snig track.
6. Input of logs through the sawmill should be reviewed by inputting all good logs as in log export and be able to determine viability of market from the area.

7. Company should submit monthly inventory of felled logs and report about progress on implementation of minimum log inventory for the month to the Secretary.
8. Company should continuously inventory areas prior to logging operation and inventory same area after logging to check residual saving from logging operation.

Company can resume normal operations when inventory requirement is satisfied.



M. KOMTAGAREA
SECRETARY

Awaiting Report from Field Officer
Vanino
Terry Wana

SCHEDULE 2

FIELD VISIT REPORT:

VANIMO TIMBER PROJECT

24-27 AUGUST, 1986

PREPARED BY

TITI NAGARI
DEPARTMENT OF ENVIRONMENT & CONSERVATION
P O BOX 6601
BOROKO
PAPUA NEW GUINEA

FIELD VISIT REPORT:

VANIMO TIMBER PROJECT

24-27 AUGUST, 1986

PREPARED BY

TITI NAGARI
DEPARTMENT OF ENVIRONMENT & CONSERVATION
P O BOX 6601
BOROKO
PAPUA NEW GUINEA

VANIMO TIMBER PROJECT: FIELD VISIT REPORT

1. INTRODUCTION

The Vanimo Timber Resource presently being developed by the Vanimo Forest Products Pty. Ltd., was given an Environmental Plan approval with conditions by the Minister for Environment and Conservation Hon. Avusi Tanao, M.P. on the 31 December, 1985, in compliance with the Environmental Planning Act. The conditions of the Environmental Plan approval require the company to undertake the development in an environmentally sound manner. Clause 14 of the Master Agreement between the State and the company also provides further support as a measure of sound forestry management. Since the approval, no follow up compliance monitoring visit to the project area has been carried out. Therefore the purpose of my visit was to:

- a) To conduct a general compliance monitoring survey on the project with reference to the conditions imposed on the approval decision dated 31 December, 1985; and
- b) To inspect the sawmills (both old and new but mainly the new sawmill)

2. ITINERARY

- 24 August 1986 - Arrived Vanimo on PX 132
- 25 August 1986, Morning - Met with the Provincial Secretary, Mr. L. Saulep and his Deputy, Mr. Danny Lane. Briefed them on the purpose of my visit.
- Morning - Met the Vanimo Forest Products Executives, Mr. K. Donohoe and Mr. M. Kapaith. Mr. Kapaith later escorted me around to the new sawmill.
- Afternoon- Visited logging area.
- 26 August 1986, Morning - Met with Premier, Mr. Langro and briefed on the purpose of my visit.
- Visited the present operational sawmill.

Afternoon- Visited logging area around west coast.

27 August 1986, Morning - Visited the water-bore sites.

Afternoon- Departed Vanimo for Port Moresby on PX 039.

3. OBSERVATIONS ON GENERAL COMPLIANCE MONITORING

About seven main conditions were imposed on the company in the approval of its Environmental Plan for the timber project. The project is the biggest in the country and although the company is doing its best to operate within the confines of the conditions they have breached quite a number of them. As observed the following are the evidence of what I have seen during my visit.

3.1 Environmental Precautions

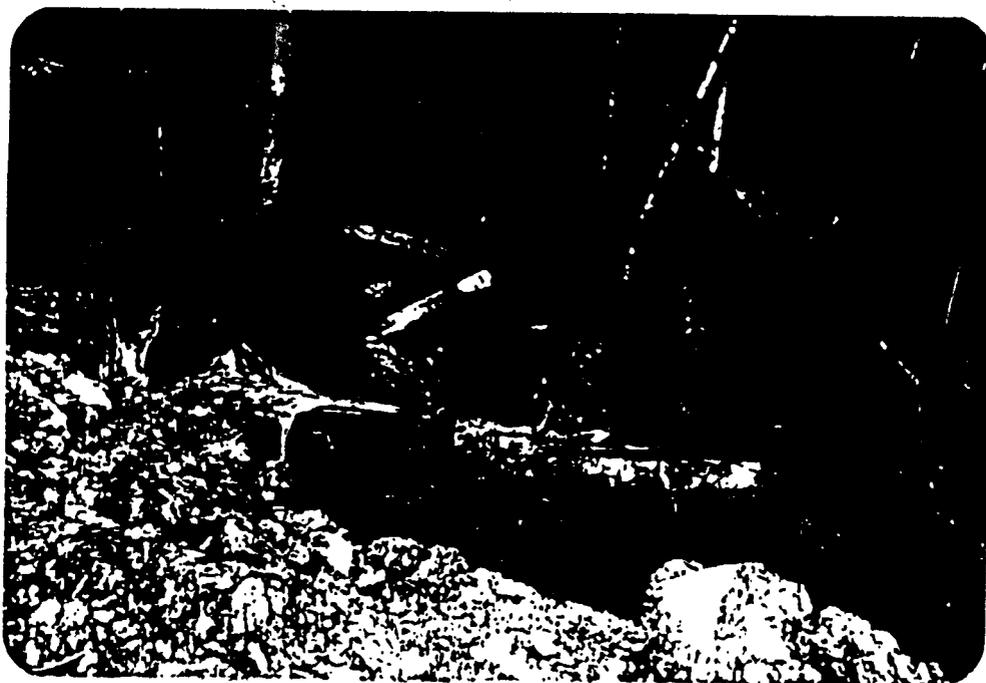
In the Clause 14 of the Master Agreement and also supported by the Minister for Environment and Conservation's letter of approval that the company must use its best endeavours to overcome and minimise the deleterious effects caused by its operations on the physical environment and the inhabitats of the timber area and in particular must comply with all the environmental control conditions which were included in the approved Forest Working Plan. The company although doing their best in these precautionary measures the points below are evidence of what they did not observe.

- a) Selective logging were observed to exceed 30 degrees (40-50 degrees approx.). Below is an example of this case which can be seen at the hill around Dasi area, situated at the back of Vanimo township.



PHOTOGRAPH 1.

- b) Logging were observed to occur within 50 metres of rivers and streams. Actually such activity must not take place within 50 metres and examples of this can be seen at Pual River (pers. comm. with Mr. Saulep) and also the company's new logging area referenced VFP Road 14. Photograph 2 shows an example along Road 14.



PHOTOGRAPH 2.

3.2 Soil Erosion

Areas which are too steep or unstable for timber extraction should remain as protection forest so that they basically perform the functions of soil protection and also water regulation. This point was recommended that the company must take all precautions consistent with sound forestry management to minimise soil erosion resulting from its operations. Photograph 3 (below) from hill around Dasi area illustrates that this condition is not observed.



PHOTOGRAPH 3.

3.3 Revegetation

Even though natural regeneration of cover plants occur fast within the area, there are still certain bared areas that result from the logging or roading operations and therefore are susceptible to sheet erosion. These areas ought to be identified and revegetated to prevent such activity. Below is an illustration of such areas.



PHOTOGRAPH 4.

3.4 Obstruction to Streams

The Company must take all measures possible to make sure that no river or stream is obstructed by forest produce, logs, timber or other materials, etc... from its operation. When this is not observed the following may occur,

- a Ponding - which may aid breeding of malarial mosquitoes;
- b Pollution - which result from the above (logs, timber, etc..) decomposing into the water;
- c) River or stream changing course - which may cause further problems such as erosion.

This control measure is not adhered to and photographs 5-8 (below) illustrate the case.



PHOTOGRAPH 5.



PHOTOGRAPH 6.



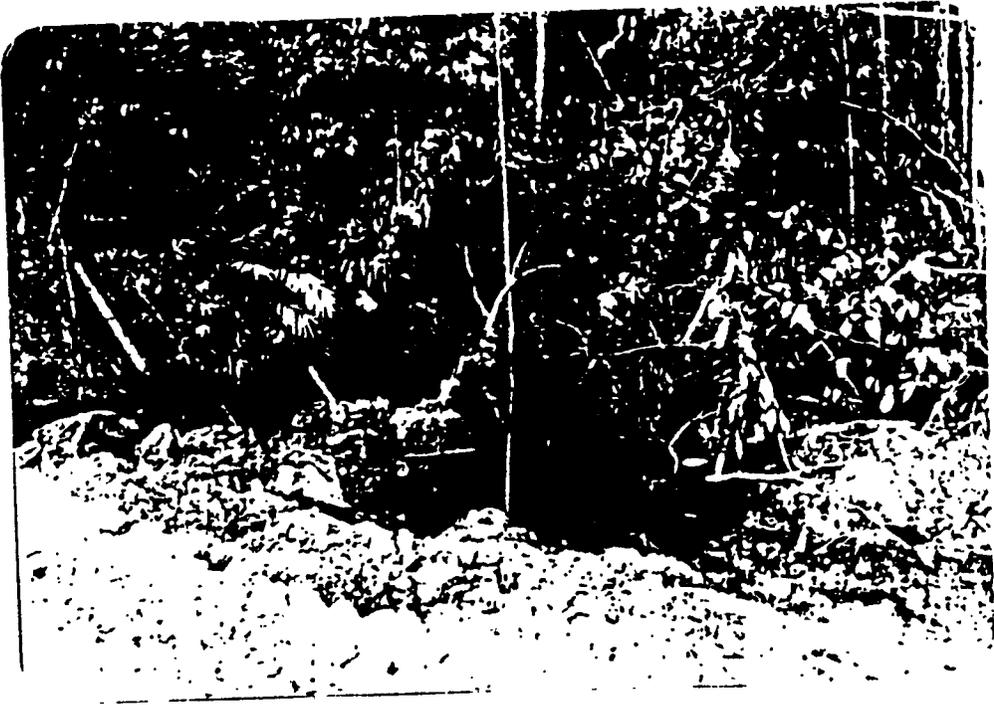
PHOTOGRAPH 7.



PHOTOGRAPH 8.

3.5 Stream Pollution

Pollution of streams or small creeks was evident within certain parts of the timber area as a result of the company's operation. The streams were observed to be very turbid in appearance (maybe due to the extractives from the logs and other debris left in the water-ways) This pollution is detrimental to the lives of both the human-beings and the fauna in the streams. It is known that Pometia pinnata (Taun) (which is one of the main commercial timber within the area) contains saponins in its bark and if allowed to leached into water-ways, death of fish and crustaceans may result. Photographs 9 and 10 below are examples of stream pollution.



PHOTOGRAPH 9.



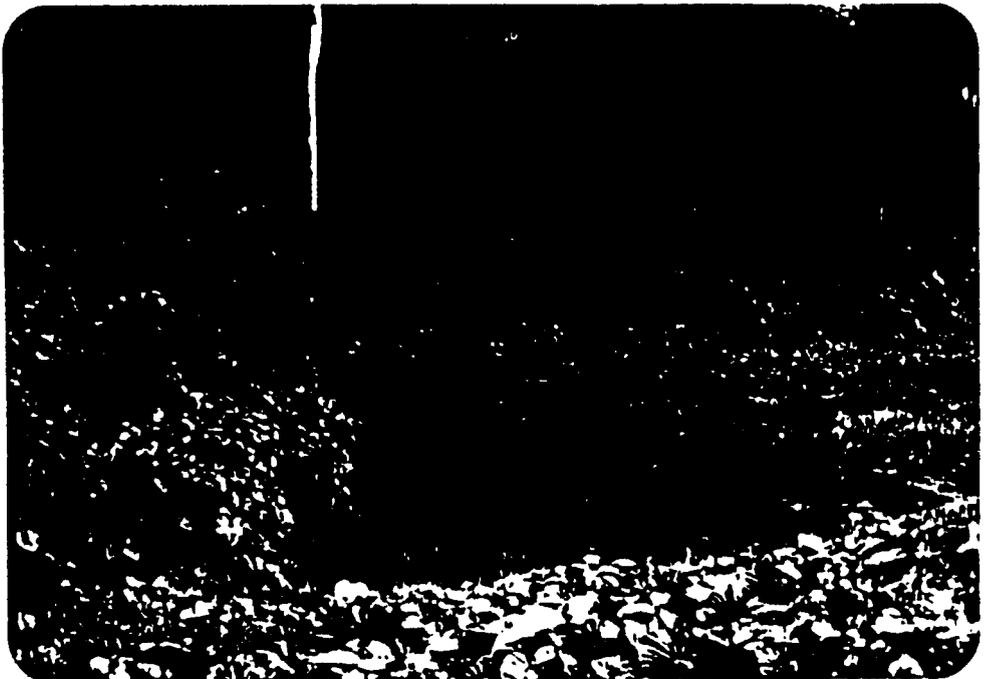
PHOTOGRAPH 10.

3.6 Soil Compaction

Soils which were compacted as a result of the use of snig tracks or ramps were to be ripped up by the company on completion of logging. The purpose here is to aid drainage and natural regeneration and also to prevent ponding. This activity as observed was not enforced and photographs 11 and 12 (below illustrate the case.



PHOTOGRAPH 11.



PHOTOGRAPH 12.

4. NEW SAWMILL

The new sawmill (photograph 13) for the Vanimo Forest Products is located generally towards the eastern end of the Vanimo airstrip, about 1km inland from the existing road that runs parallel and next to the airstrip. This sawmill according to a company official (Mr. Kapaith) is due to begin operation at approximately mid-October this year.

4.1 Wastes

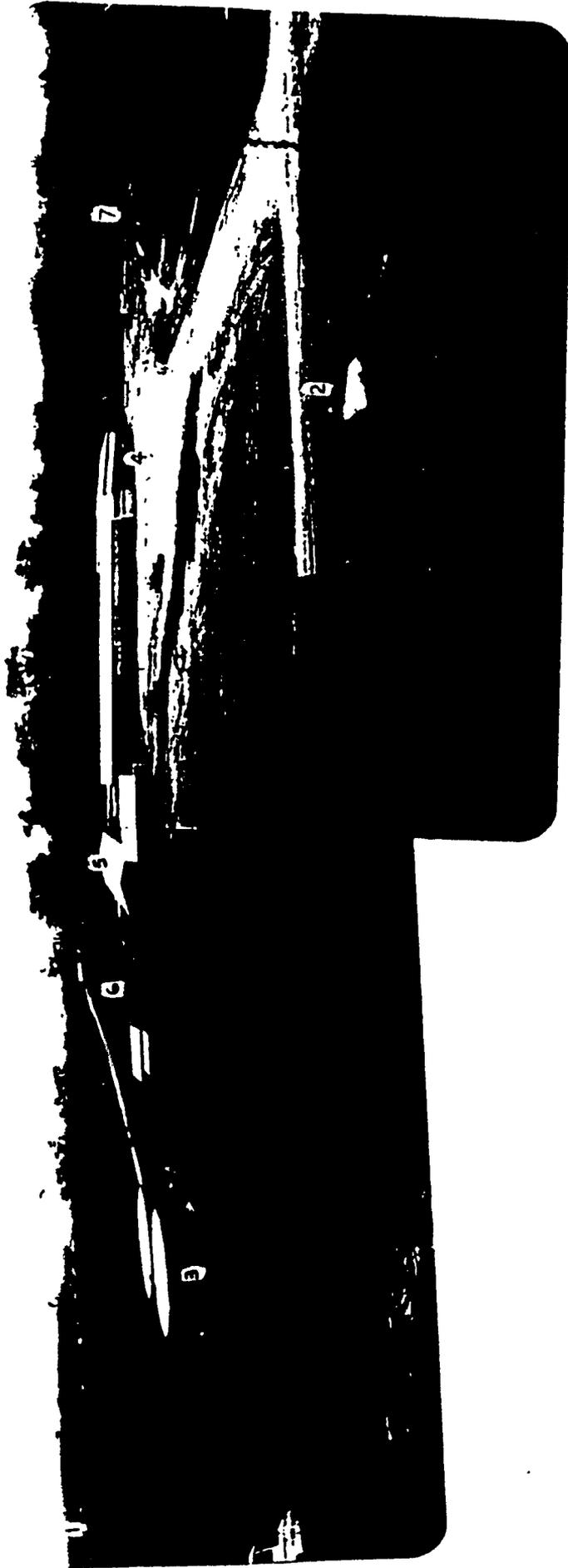
The main wastes will be basically the sawdusts and the off-cuts from the log. The latter is to be channelled direct via a conveyer-belt into a gulley (photograph 14) adjacent to the sawmill whereas the sawdust will be collected into two baskets which will then be further emptied into tipper-trucks and dumped together with the off-cuts. These wastes will be openly burnt in the gulley which is about 50 metres away. The human wastes as understood will be collected through a septic tank system.

4.2 Dip Diffusion Treatment Plant

The dip diffusion treatment plant (photograph 15) according to the company officials will be ready towards the end of this month (September). It is located about 20 metres away and parallel to the building that takes on the final products. Structurally it is all concreted with cement.

4.3 Water Use

The water for the general sawmill use will be obtained from the nearby spring which is ponded and pumped up into the storage tanks (see photograph 13).

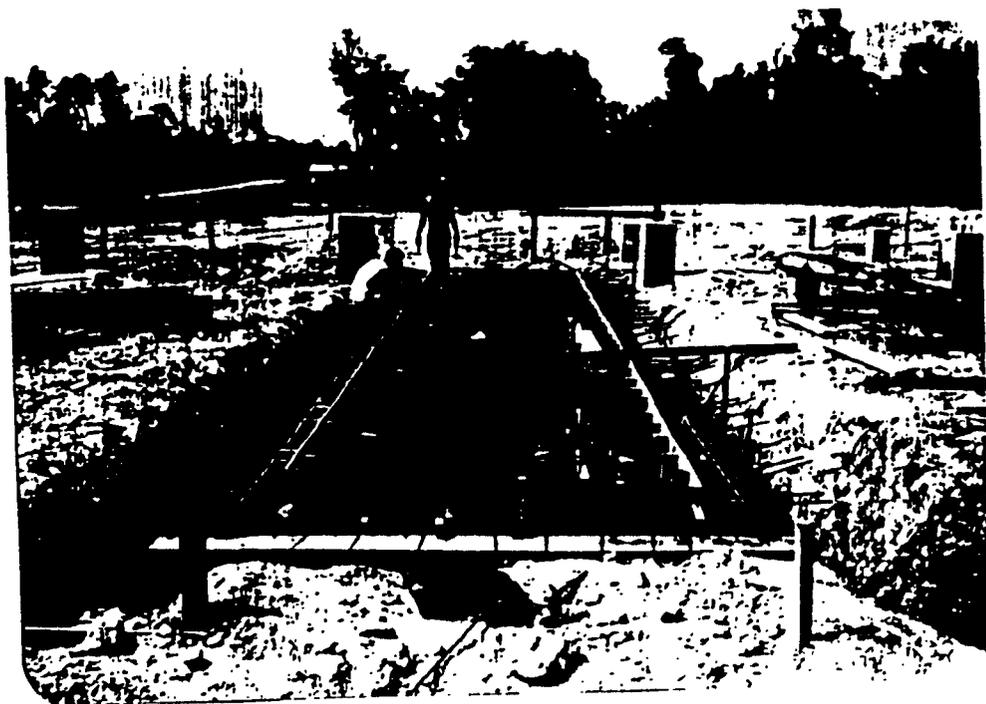


1. Vanimo town.
2. Underground spring being ponded.
3. Storage tanks.

4. Area for logs to enter the mill.
5. Final product (sawn-timber) come out from this building.
6. Dip-diffusion site.
7. Conveyer-belt leading to wastes area.



PHOTOGRAPH 14. - End of the conveyer-belt
where wastes will be burnt.



PHOTOGRAPH 15. - Dip-diffusion Plant.

5. OLD SAWMILL

The old and the present operational sawmill is located on the west coast near the Mopilo village area and is situated about 200 metres approximately inland from the coastline. Next to the sawmill, there is a small creek (Japhle Creek?) that the company uses. This creek is also heavily polluted by the wastes from the sawmill, mainly the sawdusts. (see photographs below).



PHOTOGRAPH 16.



PHOTOGRAPH 17.

5.1 Water Bores

Presently there are about 9 water production bores which according to the Department of Works (National Water Supply & Sewerage Board) are viable for the future Vanimo township water supply. The bore-holes are situated approximately about 1km or less west of the new sawmill. The sawmill's location in relation to a proposed plan for Water Control District area by the Department of Works (Drawing no. A1/104167) is situated within a zone classed as 'area one' which is basically an industrial wastes zone. This proposed plan is at the moment with the Bureau of Water Resources for its consideration and possible action to get the areas marked in the plan declared as a Water Control District.

5.1.1. Views of the Provincial Government

The Sandaun Provincial Government is concerned that if there is any leakage from the sawmill's operation (e.g. from the dip-diffusion plant) the underground water won't be safe for use if the water-bores come into production.

5.2 Others

5.2.1. Protected Areas

At the moment there are no areas within the TRP area identified and reserved as protected areas (wildlife, cultural/historical, etc.). The local authorities have raised concerns for such areas, therefore I think the company must immediately establish dialogue with the landowners to make sure that such areas are identified, established and protected.

6. RECOMMENDATION

- 6.1 It is recommended here that a join inter-departmental team consisting of Forest and the Environment and Conservation Departments visit the timber area as soon as possible to confirm and take possible actions on the issues addressed. Prior to this visit a meeting should be organised between the above departments to discuss my observations.
- 6.2 Bureau of Water Resources to investigate whether the company's got permit to use water and discharge wastes.
- 6.3 The company must establish dialogue with the landowners as soon as possible in identifying areas of significance importance for conservation purposes.
- 6.4 The company to mark out river-bank reserves along rivers mentioned in the Agreement and also other free flowing water courses.

SCHEDULE 3

VANIMO TIMBER PROJECT ENVIRONMENTAL

COMPLIANCE MONITORING VISIT.

33RD-6TH NOVEMBER, 1986.

PREPARED BY:

DEPARTMENT OF ENVIRONMENT & CONSERVATION

P. O. BOX 6601

HOROKO

BARUA NEW GUINEA

VANIMO TIMBER PROJECT ENVIRONMENTAL

COMPLIANCE MONITORING VISIT.

3RD-6TH NOVEMBER, 1986.

PREPARED BY:

TITI NAGARI (ENVIRONMENT DIVISION)
ORIM KIVU (BUREAU OF WATER RESOURCES)
C/- DEPARTMENT OF ENVIRONMENT & CONSERVATION
P.O. BOX 6601
BOROKO
PAPUA NEW GUINEA

VANIMO TIMBER PROJECT

1.0 INTRODUCTION

On the 3rd-6th November, Orim Kivu from the Bureau of Water Resources and myself along with officers from the Department of Forests (Operation Kautim Diwai Tusk Force) were in Vanimo to:

- (a) hold discussion with the Vanimo Timber Company based on a report prepared by myself during my previous visit;
- (b) carry out further inspection on the timber area.

2.0 ITINERARY

Monday, 3rd November, 1986

At about 8.30 am departed Port Moresby for Vanimo on PX 142 and connected to a Talair (GV.334) at Wewak. Arrived Vanimo at about 2.45 pm and checked into Narimo Hotel. Made appointments for Tuesday's meeting with the Provincial Government and the Company.

Tuesday, 4th November, 1986

At 9.00 am briefed the Premier and officials of the Department of Sandaun about the purpose of our visit. After the brief, proceeded for a meeting with the Vanimo Timber Company and later a field inspection of the timber area with the Assistant General Manager - Mr. John Keenan, the Production Manager - Mr. Ken Hart and the Project Co-ordinator - Mr. Mel Kapaith.

Wednesday, 5th November, 1986

Accompanied by a Provincial Forestry Officer Mr. E. Tapir, we took the whole day to further inspect other timber areas already logged.

Thursday, 6th November, 1986

At 8.00 am departed Vanimo for Port Moresby via Talair with an Air Niugini connection in Wewak.

3.0 MEETING WITH COMPANY

A brief meeting was held with the company to discuss issues raised in the report. It seems that the issues were well understood except for the following;

3.1 Slope Logging

As reported, the company was observed to log in areas of slope greater than 30 degrees. This in fact is in breach of the approval conditions of the project from this Department and also the timber permit as it states that "selective logging will only take place on slopes up to 30 degrees".

This condition is rather too general and as reported by Mike Pachett's team from the Bureau of Water Resources requires careful consideration because not all timber areas in Papua New Guinea have the same type of soil conditions, structure, rainfall pattern and vegetation cover, etc...

The Department of Environment and Conservation (DEC) principally supports this condition on the basis of excessive soil erosion caused during operation in such terrain but the condition can be relaxed and closely monitored in terms of assessment on site specific basis. The timber area in Vanimo generally is not highly susceptible to any form of erosion because of its natural stability and thick vegetation cover.

Some parts of the timber area are hilly with slopes greater than 30 degrees but, have good stands of log-able timber that the company wishes to harvest. Because of the above reason the company was told that if they were to operate into such areas prior approval must be sought from this Department and Forests by way of a proposal to request for our clearance and advise.

3.2 Logging within 50 metres of Streams/Rivers

It was confirmed by the company that logging along Pual River was incorrectly reported and the company's operation has not been along this particular river. As for the other streams (e.g. VFP Road 14) they generally accepted the report.

3.3 Soil Compaction

All the landing grounds should be ploughed up as soon as logs are removed from the area to aid revegetation and also to prevent ponding.

The area shown in Photograph 11 of the report (page 10) according to the company is still under operation and as soon as logs are removed it will be ploughed up.

3.4 New Sawmill - Dip Diffusion Plant

The dip-diffusion plant is satisfactorily constructed and according to the company it is safe. The local authorities were worried that if there was any leakage it might contaminate the under-ground water but studies (Geological Survey Report) have indicated the flow pattern to be east-ward therefore if there was any faulty or minor leakage it should not contaminate the underground water.

3.5 Protected Areas

In discussing the issue of protected areas, the company seems to be well aware of the areas initially designated for conservation purposes. The only problem at the moment is to get the areas marked out so that the boundaries can be visually spotted by the timber operators. The Division of Forests in the Province has already started marking out the boundaries to some of the areas but more effort is needed to complete this exercise. The company has expressed some concern that if the boundaries around all the protected areas are not marked out in time, timber operators may by mistake operate beyond their limit and into the areas. It is therefore urgent that some priority must be given to such exercise to get the boundaries marked out before timber operators operate the areas.

3.6 Others

- (a) Eventhough the native population around the timber area is sparse there seems to be a fare number of people (squatters) in the Blackwater refugee camp. The company has expressed some concern that if they are doing selective logging with the Government closely monitoring their activities why allow the refugees clear-fell forests at will for gardening purposes, thus exposing the topsoil to erosion. Such activity will not only expose topsoil to erosion but, will also use up the richness of the soil making future landuse activities a little bit difficult.
- (b) The company has also indicated during the meeting that the feasibility study for Pual River crossing should be ready sometimes next year (1987).

4.0 FIELD INSPECTION

4.1 Drainage

During the field inspection we observed that the main problem area, apart from the ones already mentioned in the previous report is drainage. There was some rain in the area during our visit so the evidence of ponding because of no proper drainage system in the areas already logged (e.g. V.F.P Road 15 & 13) can be seen clearly. Ponding is mainly seen along snig tracks and in certain areas (e.g. V.F.P Road 15) along spur roads that lead to land grounds.

VFP Road 15

Photograph showing a snig track and a temporary crossing. This crossing should have been removed soon after operation in the area to avoid ponding.

VFP Road 15

A creek crossing a spur road with no proper drainage thus resulting in ponding of water which leads to the death of vegetation. Logs are still in the area and once removed, this drainage should be opened up.

4.2 The Timber Operation

It seems that the operation in general, especially out in the field lacks expert supervision. The result of such is unnecessary felling of trees and removal of vegetation cover. In VFP Road 15 area (near Pual) the result is somewhat similar to clear-felling even though the project is supposed to be selective logging.

The company is warned here to advise its operators to take extra precautionary measures when cutting or removing logs because the actions as observed here (see photographs below) is not sound and workmanlike.

VFP Road 15:

VFP Road 15

The above photographs illustrate the effect of un-supervised operation.

4.3 Amelioration Measures

During field inspection we noticed that the company has already taken some amelioration approach towards cleaning up areas that were mentioned in the previous report. These amelioration measures should not only be concentrated around present operational areas but, should include areas already logged. The photograph below shows a road (VFP Road 13) being opened up for proper culverting material to be put in to make free drainage.

VFP Road 13

5.0 RECOMMENDATIONS

- 5.1 Because of manpower problem and secondly because our yearly compliance monitoring trip to the area will be 2/3 times, we recommend that the Provincial Forests Officer should be advised to assist by playing our role in the day-to-day compliance monitoring of the project with reference to the approval conditions imposed. The Forests Officer will then report to this Department on his findings.
- 5.2 The amelioration measures at the moment undertaken by the company to improve on areas reported in the previous report (24-27 August) must be completed within the next two months (December 1986 and January 1987). This includes; removal of logs and other materials in streams, ploughing of landing-grounds and other compacted areas, revegetation of bared areas, and opening up of all temporary crossings especially along spur roads and snig-tracks.
- 5.3 In logging on slope beyond 30 degrees, the company must firstly sought prior clearance from this Department (including Forests) before operating.
- 5.4 The Provincial Division of Forests must give some priority towards the boundary marking of the areas designated as protected areas. To avoid confusions and problems from the timber operators, these areas should be completed before logging.
- 5.5 In terms of precautionary measures the company must tighten up in its field supervision and its operators be reminded not be unnecessarily remove vegetation cover and fell unwanted trees.
- 5.6 The Provincial Government must take some lead to demarcate gardening areas for the refugees at the Blackwater camp to avoid them making gardens into TRP areas.

VANIMO TIMBER PROJECT ENVIRONMENTAL

COMPLIANCE MONITORING VISIT.

3RD-6TH NOVEMBER, 1986.

PREPARED BY:

DEPARTMENT OF ENVIRONMENT & CONSERVATION
P.O. BOX 6601
BOROKO
PAPUA NEW GUINEA

ABSTRACT

During the period July to October 1987 a logging study was established in the forest licenced to Vanimo Forest Products Pty., Ltd., with the objectives of comparing damage to the residual stand and soil conditions under controlled and normal logging conditions and to set standards for securing sufficient residual trees to maintain the productivity of the forest. An area of 31.5 ha was selected, demarcated and divided into two logging set-ups, A and B. A total inventory of all trees from 20 cm d.b.h. and upwards was completed and each tree located on stockmaps of the two set-ups. The alignment of the company's proposed forest road was marked on the map and a distribution of skid roads were planned for set-up B on the basis of 80-100 m/ha and marked on the map also taking into consideration the available volume density, topography and forest road length. These skid roads were pre-laid and demarcated with coloured plastic ribbon to enable the machine operators to identify the routes. Felling direction was also indicated on each tree of 50 cm d.b.h. and over to facilitate extraction and minimize damage to the residual stand and the site.

As a result of circumstances beyond the control of project staff the planned logging controls were not implemented by the company consequently insufficient data was available for collection and analysis. It was determined from ground surveys that the areas cleared for roads and landings was in excess of the planned area. On average the forest roads were 24.9 and 18.4 metres wide in set-ups A and B respectively, whereas, the planned width had been 14 m. Skid roads were on average 5 m wide against a proposed 4 m, which was primarily caused by using bulldozers intended for forest road construction as skidders.

The company limits its felling to trees of 60 d.b.h. and over whereas their license specifies a minimum diameter of 50 cm d.b.h.. Trees were also harvested within 50 m of the water course forming the northern boundary of the study area. Felling damage to crown and stem was found to be more severe in the smaller diameter classes.

From the synthesis of the data an estimate of the situation which might have prevailed if all the logging controls had been undertaken has been made. The area of forest lost on roads and landings would have been reduced proportional to the reduction in area. It is further expected that the frequency and severity of felling damage would also have been reduced although this can not be reasonably ascertained from the data. The remaining residual stand would have increased and the amount of exposed soil could also be expected to have decreased. The estimated situation is based on a reduction of the skid roads and the log landings to the original planned density and limiting their size to 4 m wide and 30 m radius respectively.

ABSTRACT

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6. CONCLUSIONS

The planning of all logging operations in the forest serves a number of purposes. In the first instance roads and skid roads can be routed to serve the best interests of the forest by siting them in such a manner that the number of commercial adolescent trees destroyed along their route is minimized. They can be directed towards the most productive areas of the forest to minimize their length and so reduce the cost of construction. By limiting the extent of the skid roads and log landings the area of exposed and damaged soil can also be minimized.

Stockmapping is the basic operation to provide the planner with this vital information and where this operation is implemented at a sufficiently early date it also provides information for advance marketing of logs and sawn products. Suitable and sufficient equipment can be assigned to the area and a post logging inventory will locate trees which may have been missed by the loggers.

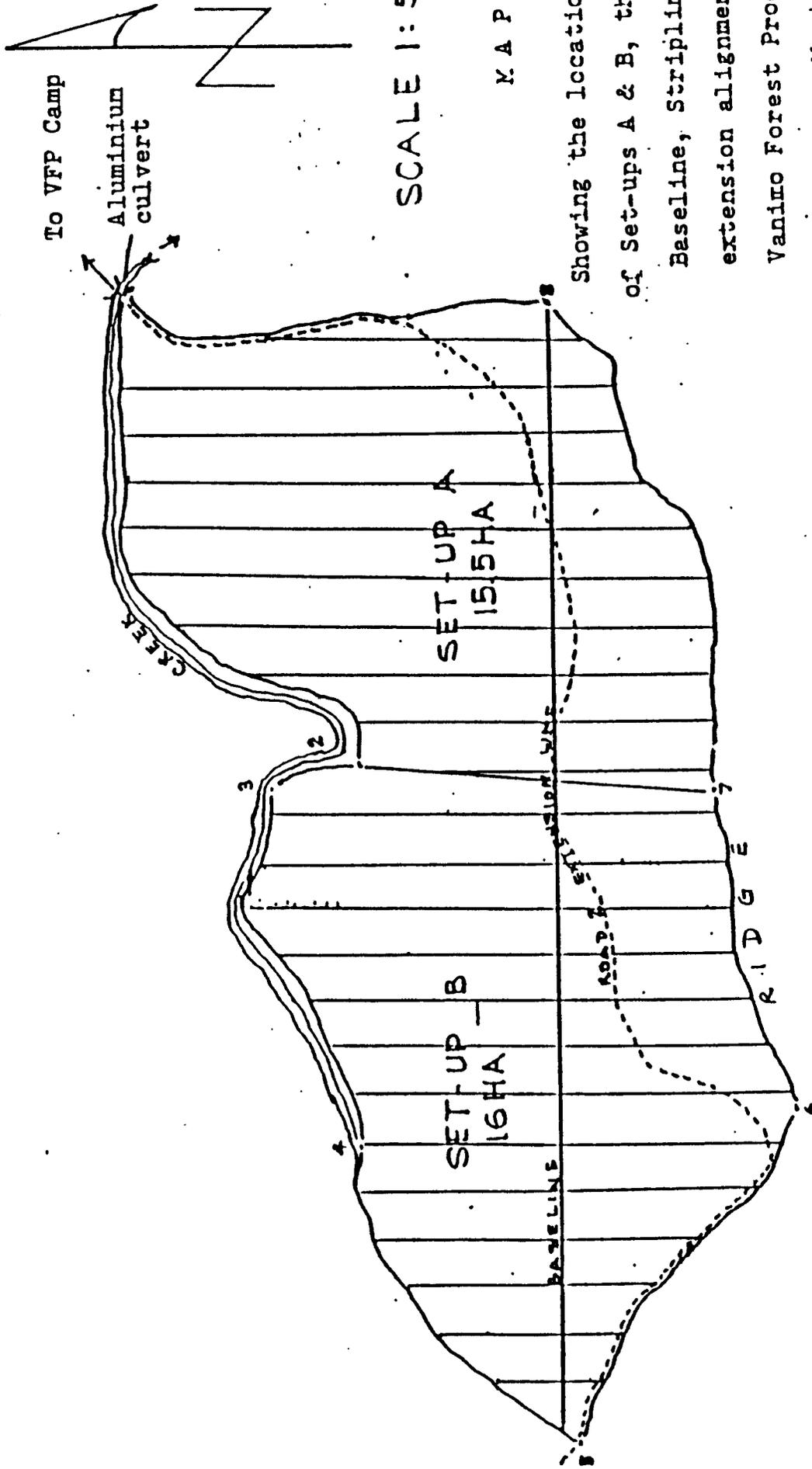
At Vanimo the minimum diameter for commercial trees is 50 cm d.b.h. or d.a.b. however the company restricts its logging to trees of 60 cm and over. If trees in the 50 cm diameter class had also been harvested there would have been further damage caused in the forest and a reduction in the number of undamaged residual trees. In the 20-40 cm diameter classes this would have reduce the residuals per hectare from 41.1 to approximately 33.9 trees per hectare (derived by subtracting the 7.2 residuals in the 50 cm diameter class)

The use of inappropriate equipment for skidding, in this case Komatsu D85E with angle dozer blade, has increased the width of skid roads from a planned 4 m to 5 m. This is an increase of 25 percent on the area of forest destroyed to serve as skid roads.

As the company operates its own sawmill it is able to utilize logs which do not require the quality standards required in the export log market. Approximately 60% of all logs harvested are used in the sawmill which accounts for 48% of the total volume harvested.

Assuming that the trees in each diameter class pass to the next higher class in a period of 10 years there will be as many trees available for harvesting in 20 years time over the minimum felling diameter as were harvested on this occasion. If however trees of the 50 cm diameter class had been harvested then a period of 30 years would have been required to recruit the same number of trees to harvestable size. If however, the logging operations had followed the prescribed logging plan these periods would have been reduced, possibly by as much as 10 years.

Finally, the results and experience gained in this study indicate a number of areas for consideration. The first step in forest management is the initial inventory of the growing stock. Unless this inventory provides information on trees with a diameter of at least 20 cm and upwards a suitable definition of the minimum harvesting diameter to ensure an adequate residual stand may not be possible. Minimum log diameters and lengths for export and local sawmilling are different and these should be indicated as a condition of the license. Where a company requires logs for export and sawmilling it will be in a position to more efficiently utilise reject logs, logs obtained from export log trimming, and undersized logs from trees knocked down in felling and clearing of roads, skid roads and log landings. As a result more trees per hectare will be harvested. Specifications of road density, location and construction as well as the size and frequency of log landings are essential in logging licenses if forest damage is to be minimised and controlled. Directional felling must be specified and appropriate logging equipment identified. The logging plan is essential and intensive stockmapping highly desirable in order to control the logging operations. These not only provide information for logging control and marketing, but also provide guidelines for directing and optimizing skid road and log landing location and density. A post harvesting inventory provides information on which the efficiency and care of the logging operation can be ascertained and, where necessary, penalties identified in the license may be applied.



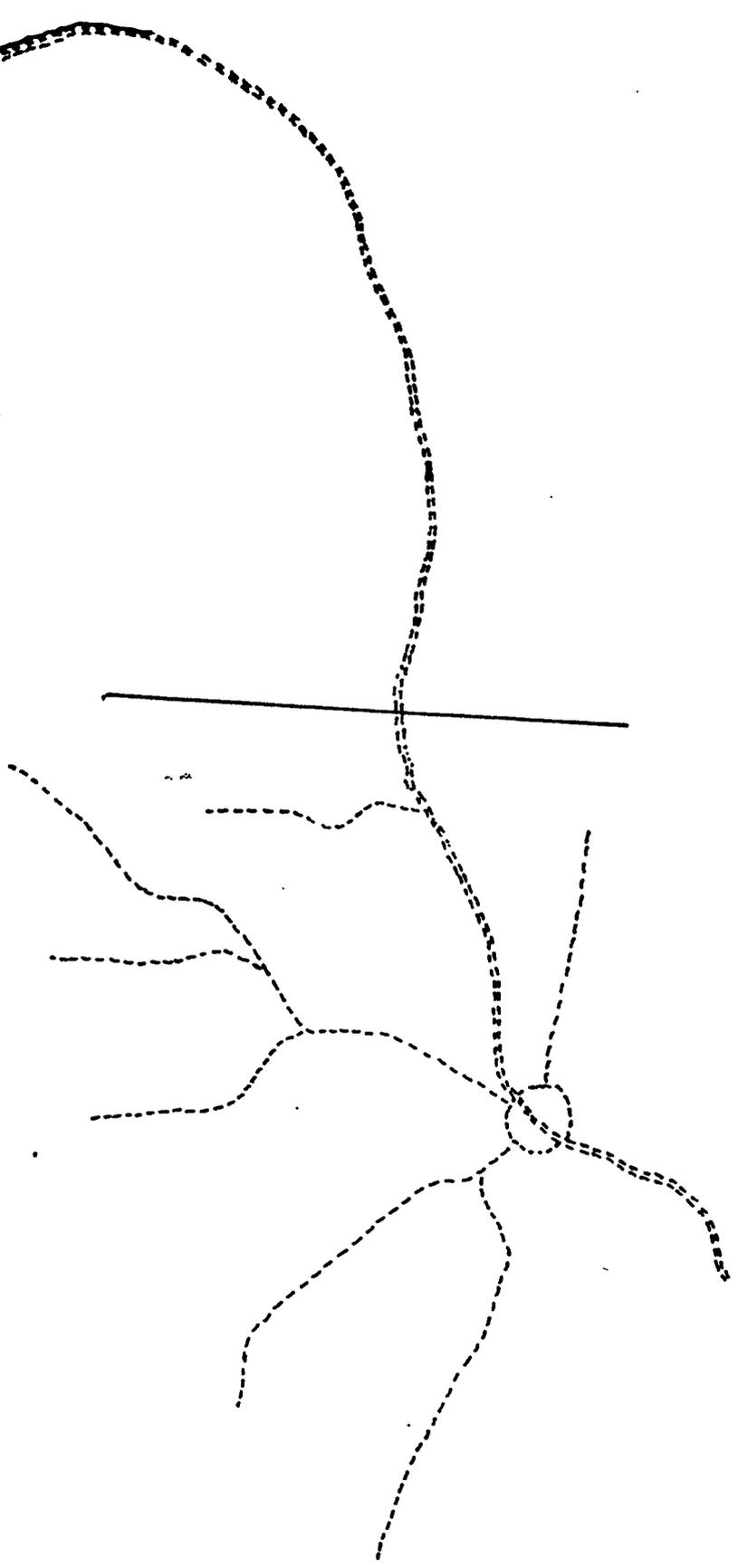
Showing the location boundaries of Set-ups A & B, the established Baseline, Striplines and the extension alignment of Road 2

Vanimo Forest Products Pty Ltd
Vanimo, West Sepik

PLANS

of Log landing, Main road and Main skid road
networks in Set-up B, controlled area, Km 10
Road 2, Vanimo Forest Products Pty Ltd,
Vanimo, West Sepik Province.

Scale 1 : 4 000

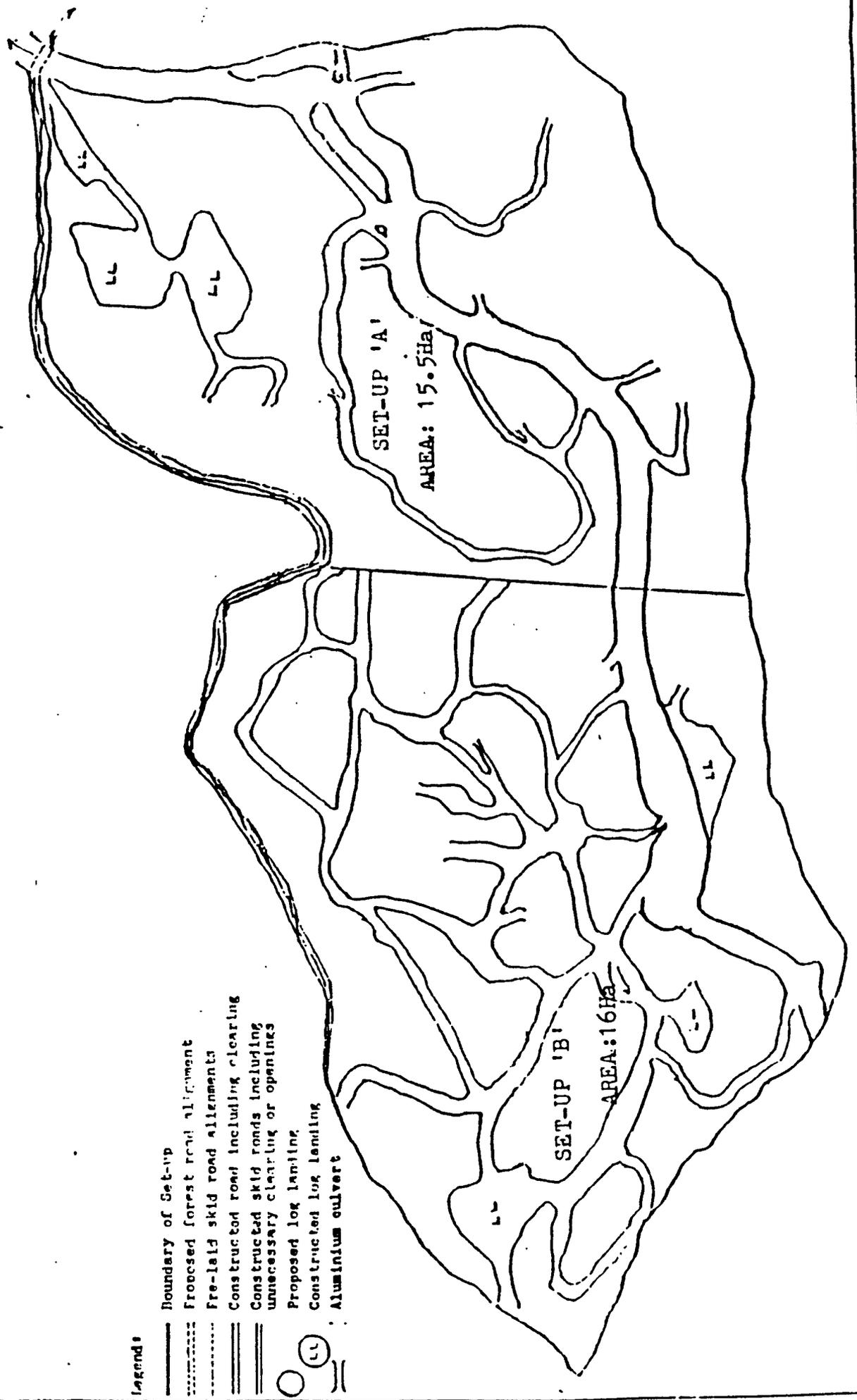


Showing the areas of Set-up A (uncontrolled area) and Set-up B (controlled area) and portion of the area affected by logging operations

Scale 1 : 4 000

Legend:

- Boundary of Set-up
- Frocced forest road alignment
- Pre-laid skid road alignments
- Constructed road including clearing
- Constructed skid roads including unnecessary clearing or openings
- Proposed log landing
- Constructed log landing
- Aluminium culvert



Showing the areas of Set-up A (uncontrolled area) and Set-up B (controlled area) and portion of the area affected by logging operations

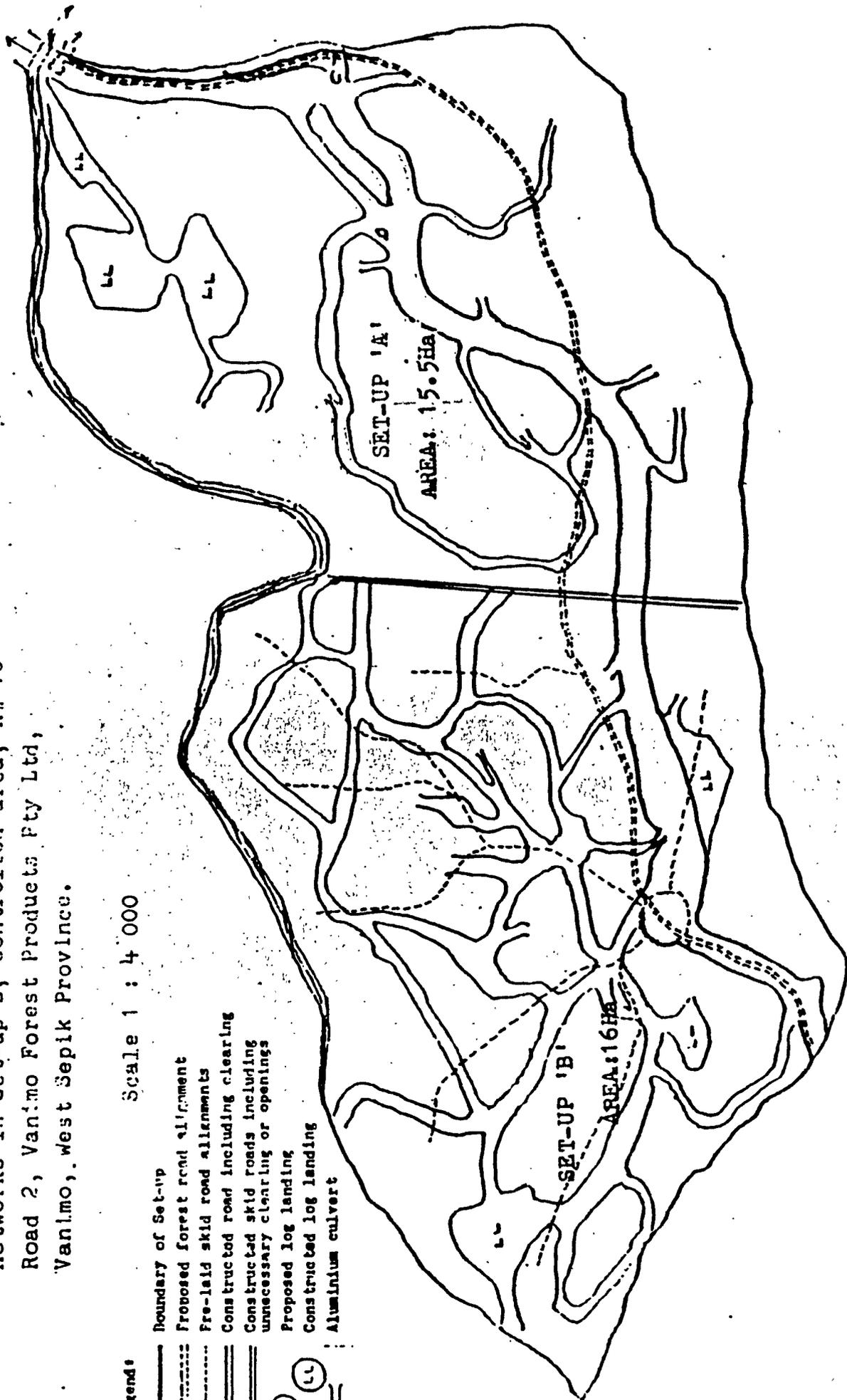
Scale 1 : 4 000

PLANS

of Log landing, Main road and Main skid road networks in Set-up B, controlled area, Km 10 Road 2, Vanimo Forest Products Pty Ltd, Vanimo, west Sepik Province.

Scale 1 : 4 000

- Legend:
- Boundary of Set-up
 - Proposed forest road alignment
 - Pre-laid skid road alignments
 - Constructed road including clearing
 - Constructed skid roads including unnecessary clearing or openings
 - Proposed log landing
 - Constructed log landing
 - Aluminium culvert



SCHEDULE 5

B. Marketing Table

Please prepare and attach Marketing Table covering all your log shipments in 1986 and 1987 in accordance with the attached instructions.

A specimen Marketing Table is supplied for producers.

A handwritten table is accepted if typing would lead to delays. You will be expected to be able to produce documents substantiating the content of this table if summoned by the Commission to do so.

C. Log Sales Procedures

Explain in short simple terms the procedure by which you negotiate sales of your logs:

Vanimo Forest Products Limited has engaged Quarter Enterprises Pty Ltd to market all export log production.

Quarter Enterprises also carries out functions related to marketing, including arranging of vessels, charter parties scheduling, checking of Letter of Credit, promotional and market development activities.

In 1987, the Marketing Director of Quarter Enterprises Pty Ltd was appointed to the Board of Directors of Vanimo Forest Products Limited.

Vanimo Forest Products Limited and Quarter Enterprises Pty Ltd are now establishing a new company in Papua New Guinea to carry out log marketing and related activities. This new company will have 26% equity participation from local citizens. Remaining shares will be held by Vanimo Forest Products Limited and Quarter Enterprises Pty Ltd.

Marketing or sales procedures vary from market to market and are complexed. The methods employed to negotiate log sales from country to country and species to species vary according to marketing strategy for the species and country concerned.

Marketing policies are:

1. Maximisation of income, through high prices, by creating a pool of buyers who will continue to buy regularly especially in times of reduced demand.
2. Maintaining a pool of consistent buyers from as many different markets as possible.
3. Maintaining a steady frequency of shipments.

4. Supplying each market with the shipment composition by species, grade and size that it most wants and minimising the supply of species that customers do not really want and only take reluctantly for want of alternatives or for goodwill.
5. Maintaining close liaison with production staff to ensure that any price softening (2 above) and species mix optimisation (4 above) results in the maximisation of income.
6. Avoiding the occurrence of oversupply in markets where any degree of control can be exerted. This is aimed at maximising achievable prices. It is especially pertinent when marketing and shipping specialist or potentially high value species where it may be possible to build up demand to an extent where it outweighs supply and where we possess, by virtue of our volumes, the power to influence the market/s by controlling supplies to them. For example - the success in building a new price structure for Kwila logs resulting in doubling of log prices in the last twelve months despite a very much lower price for sawn Kwila in the traditional markets for the species.

C. Fair Market Price

By what means or method do you decide whether the price obtained is a fair market price for a shipment or shipment?

Achievement of fair market price could easily be determined when FIC was servicing the industry and providing monthly summaries of log sales and volumes and prices for all Provinces and companies in Papua New Guinea.

Since that service stopped, Vanimo Forest Products Limited has had to depend on imperfect knowledge of its comparative performance.

Quarter Enterprises submits its proposed prices for both logs and freight to Vanimo Forest Products Limited for approval for all sales together with an up to date commentary of the known market conditions for both.

Vanimo Forest Products Limited has some contact with major Papua New Guinea shippers on market trends in both the log and shipping markets. This gives Vanimo Forest Products Limited a comparison with prices submitted by Quarter Enterprises. Quarter Enterprises prices are invariably very competitive.

Both companies keep up a strong liason with respect to strategies and tactics for forays into new market areas.

D. Sales to End Users

Do you direct to end users or consumers? Yes/No. If not, why?

Yes and No.

Vanimo Forest Products Limited sells to end users through its agent, Quarter Enterprises, directly and indirectly. Middle men are often used as matter of necessity as can be seen below. The approach used depends on the established system we have to work with from country to country and our ability to alter it if there is any advantage in doing so.

Specifically-

Japan: Sales as a general rule made to end users via trading corporations. The system of importation and distribution in Japan is well entrenched and for us is impossible to change. Sometimes we sell to end users for their partial use with the part of shipment not used being resold to others. In such case, the L/C sometimes is established directly by the buyer and sometime by a trading company after making the contract with the trading company.

Korea: Shipments and L/C's generally direct to/from end users. Sometimes also sell to stockist who retail to small volume buyers. Quarter Enterprises maintains a full time agent/representative in Korea.

Taiwan: Limited Sales. Sales done direct to end users and stockist but volumes last two years nil.

India: We have developed our own system in India as no established system for log import existed due to fact that log importation only become viable about three years ago. System is based on multi-port loading and mulit-port discharge. We have a centrally based importer who has no background in timber, but who does have a good understanding of international business and banking as well as the financial capacity to be involved at this level. This company has combined with a number of distributors around the country who are timber people and who both use the logs themselves and also retail/wholesale to the multitude of small end users who would otherwise be unable to

buy Papua New Guinea logs direct from Papua New Guinea because shipment volumes are beyond their capacity to use or finance.

Hong Kong/China: Quarter Enterprises has offered over the years to many potential buyers in this market but invariably have sold to the one regular buyer who is now a buyer of some 7 years standing. Sales are mainly of Kwila with very small volumes of other specific species also. This buyer resells into Hong Kong/Macau market and also sells into China. Some sales into are made by him using the barter system-logs for furniture which he exports around the world. There is a need to "protect" our buyer in as much as we do not offer to sell logs to "others" in his market area whilst he still has stock. When his stock is sold Quarter Enterprises offer a new shipment into this market including offers to others as well as to our regular buyers.

E. Relationship with Purchaser

Do you have a relationship with any person or company which was a purchaser of logs from you in 1986 or 1987? Yes/No. If yes, supply full details of such relationship, e.g.:

- Member of the same company or group.
- Purchaser or his company group supplies financial assistance (giving details).
- Long term sales and purchase agreement.

Yes.

The purchaser was our marketing agent, Quarter Enterprises.

The relationship is described into the foregoing responses.

The circumstances of such sales are exceptional and involve market development.

The one and only sale in 1986 and 1987 was 273 m3 per Clydebank in September, 1986. This was sold to Bork Singapore at a price 23% over MEP.

F. Agents

(a) Do you sell through agents? Yes/No. If yes, why?

Yes.

Vanimo Forest Products Limited sells exclusively through its agent Quarter Enterprises Pty Ltd.

This company is used because:

- (1) It has a long track of successful performance.
- (2) It has consistently achieved better overall prices for Vanimo Forest Products Limited than the products have been able to achieve.
- (3) It is able to obtain good shipping arrangements schedules.
- (4) It has expertise that we have been unable to obtain elsewhere, but which now forms part of our corporate structure.

- (b) Supply the names and country of all agents used in 1988 or 1987?

Quarter Enterprises Pty Ltd, Sydney, Australia and
Quarter Enterprises Pty Ltd, Papua New Guinea
(being established)

- (c) Are any of your agents based in preferred tax areas (e.g. Singapore, Hong Kong)? Yes/No. If yes, give details.

No.

Vanimo Forest Products Limited sells exclusively through its agent, Quarter Enterprises Pty Ltd.

- (d) What rate of commission is each of your agent paid and who pays such commission?

Rate of Commission: 3.5% commission on FOB value paid by Vanimo Forest Products Limited for all sales to Korea where we pay 3.5% plus U.S \$1 per cubic metre. Quarter Enterprises provides a number of other services for us which are included in this rate of commission so the commission payment is not only for sales and marketing. Quarter Enterprises are able to provide you with a componentised break-up of percentages paid for each task performed on our behalf which they will supply if requested by the Commission to do so and as long as the information is kept confidential.

- (e) Do you or any person or company with which you have a relationship have any arrangement in the nature of commission sharing with any such agent? Yes/No. If 'yes' give full details.

No.

G. Sale to Middle Man

- (a) Do you sell to any person or company which resells logs supplied by you? Yes/No. Yes.
- (b) If yes, why do you sell to such person or company?

We sell to a number of buyers in Japan, Korea, India, Taiwan, Hong Kong, etc., who resell all or part of our shipments from time to time. We sell to them because they reliably buy and pay the best prices we can obtain for our production within the constraints mentioned previously in Section C.

Vanimo Forest Products Limited has sold small volumes of logs to Quarter Enterprises from time to time. They resell to one of their customers. These lots are small and for purposes of market development.

Over 1986 and 1987, there was one such sale made - refer to the marketing table - a shipment in September, 1986 per Clydebank, of 273.435 cubic meters.

- (c) Does such person or company resell at higher price than you obtain? Yes/No.

In some cases, we assume yes and in others we would suspect no but these are assumptions which are not direct knowledge.

- (d) What is the range of additional or higher prices obtained in 1986 and 1987?

We do not know. No comparative real data available.

- (e) Do you or any person or company with which you have a relationship have any arrangement whereby the higher price obtained is shared or participated in, whether in whole or in part? Yes/No. If yes, supply full details.

No.

H. Shipping

- (a) Who arranges shipping (i.e. becomes party to a Charter Party or Fixture Note) for logs sold by you?

Quarter Enterprises Pty Ltd rearrange all log shipment fixtures after approval by Vanimo Forest Products Limited. Quarter Enterprises are authorised to fix (after Vanimo Forest Products Limited) approval for each vessel) and sign on our behalf.

- (b) Do you independently ascertain the freight rates available for each shipment? Yes/No. If yes what means do you do so? No.
- (c) What is the range or freight rates paid for shipments by you-

- (i) To Japan in 1986.
- (ii) To Japan in 1987.
- (iii) To South Korea in 1986.
- (iv) To South Korea in 1987.
- (v) To Taiwan in 1986.
- (vi) To Taiwan in 1987.
- (vii) To India in 1986.
- (viii) To India in 1987.

No. We have offers of vessel fixtures and freight rates made to us directly from time to time by ship owners/operators. Quarter Enterprises gets offers from a number of ship owners/operators, brokers and agent regularly. Vessels are fixed at best available rates to meet production and sales schedules.

Japan 1986:	US\$18.50 to US\$21.00 per cubic metre
1887:	US\$20.00 to US\$30.00 per cubic metre
Korea 1986:	US\$18.00 to US\$21.86 per cubic metre
1987:	US\$19.76 to US\$29.23 per cubic metere
Taiwan 1986:	Nil; 1987: Nil
India 1986:	US\$35.00 to US\$39.00 per cubic metre
1987:	US\$37.00 to US\$46.00 per cubic metre

- (d) Do you or does any person or company with which you have a relationship:
- (i) Own or operate any vessel used by you to ship logs? No.
 - (ii) Share or participate in freight paid for shipment of logs by you? No.
 - (iii) Charter any vessel used by you to ship logs? Yes.
 - (iv) Share or participate in charterers fees paid for shipment of logs by you? No.
 - (v) Act as broker for any vessel used by you to ship logs? No.
 - (vi) Share or participate in brokerage paid for shipment of logs by you? No.

If 'yes', to any of the above, supply full details on a separate sheet.

(d)(iii) Vessels are fixed regularly by Quarter Enterprises Pty Ltd on our behalf as elaborated in the foregoing responses.

I. MEP

- (a) Explain in short simple terms, the relevance to you of MEP in relation to your log sales.

MEP is significant in that it restricts the capacity of companies to dump logs in the export market but in order to retain its effectiveness it is essential that it be adjusted frequently to bring into line with the prevailing market prices.

MEP does not invariably mean that exports are being sold at correct prices. If MEP is lagging behind the actual market, then of course it can mean two things:

- (i) Shipper unable to sell without dispensation as market has dropped below level of MEP.
- (ii) MEP lower than actual market so buyers jump in and buy quickly before MEP can be adjusted upwards.

The market can rise/fall rapidly within only a few days. MEP can also tend to 'peg' prices at a low level (not a high one as buyers will not buy if the MEP is too high compared to actual market). Free market operating "cleanly" does not have this disadvantage.

It should be noted that the grading method used in Papua New Guinea is of little relevance to buyers. Buyers are interested in their interpretation of quality and pay little heed to SEALPA grading. They remain far more interested in diameter sizes and average log volumes as a measure of log suitability.

Buyers in fact never buy on SEALPA grading although logs are so graded as required under the project agreement.

In practice logs are bought on the basis of shipment species composition, diameter distribution and average log volume.

- (b) Did you, in 1986 or 1987, sell logs below the prevailing MEP?

- (i) Did you obtain dispensation?

No.

(ii) What were the reasons for not obtaining MEP price?

Two different sets of circumstances applied to the sales below MEP:

1. Logs were of a quality below normal average grade - both by buyers grading and SEALPA grades.
2. Two shipments were normal average export grade logs sold marginally below MEP at a time when the market was extremely inactive.

J. Letters of Credit

Are letter of Credit for your sale of logs to overseas buyers routinely established in the name of, and with the bankers of, the PNG producer company? If not, then why? Yes.

K. Offshore Payments

(a) Is any part of the FOB sale proceeds for sales of your logs not remitted to Papua New Guinea? Yes.

(b) If so, specify:

(i) The part payment left offshore and the manner in which it is calculated.

The part payment left offshore is the amount necessary to enable the company to meet its obligations to pay foreign currency during the ensuing three (3) months, in respect of:

- (a) The principal of, interest and service charge on and other fees and expenses related to loans made to the Company in foreign currency for purposes of its operations under this Agreement by persons resident outside Papua New Guinea.
- (b) Commitments in foreign currency to persons not resident in Papua New Guinea for the supply of goods and services to the Company (including capital goods and services of foreign employees and consultants); and
- (c) Commitments in respect of dividends declared and payable to shareholders resident outside Papua New Guinea.

(ii) The country in which the part payment is left:

Australia, in an account in the name of Vanimo Forest Products Limited at the Banque Nationale de Paris, Perth Branch, Western Australia.

(iii) The person or company to which the offshore payment is made.

Payments are made to persons or companies to whom Vanimo Forest Products Limited has obligation with respect to :

- (a) The principal of, interest and services charges on and other fees and expenses related to loans made to the Company in foreign currency for purposes of its operations under this Agreement by persons resident outside Papua New Guinea.
- (b) Commitments in foreign currency to persons not resident in Papua New Guinea for the supply of goods and services to the company (including capital goods and services of foreign employees and consultants); and
- (c) Commitments in respect of dividends declared and payable to shareholders resident outside Papua New Guinea.

(iv) The purpose of leaving the payment offshore.

Offshore funds are held to enable the company to meet its obligations to pay during the ensuing three (3) months in respect of:

- (a) The principal of, interest and services charges on and other fees and expenses related to loans made to the Company in foreign currency for purposes of its operations under this Agreement by persons resident outside Papua New Guinea.
- (b) Commitments in foreign currency to persons not resident in Papua New Guinea for the supply of goods and services to the Company (including capital goods and services of foreign employees and consultants); and
- (c) Commitments in respect of dividends declared and payable to shareholders resident outside Papua New Guinea.

- (c) Is any person or company in which any such money are paid outside Papua New Guinea a person or company with which you have a corporate or similar relationship?

Yes.

Quarter Enterprises is so paid. The Managing Director of that company is a director of Vanimo Forest Products Limited.

- (d) Has the approval of the Bank of Papua New Guinea been obtained in respect of such non-remittances?

Yes.

EXTRACT FROM THE PROJECT AGREEMENT
BETWEEN VANIMO FOREST PRODUCTS AND THE STATE

30.2 Retention of Foreign Exchange Outside of PNG

The Company shall be entitled to retain in foreign currency outside Papua New Guinea the proceeds of sale of the Company's products exported overseas to the extent necessary to enable the Company to meet its obligations to pay foreign currency during the ensuing three (3) months in respect of:-

- (a) the principal of, interest and service charges on and other fees and expenses related to loans made to the Company in foreign currency for purposes of its operations under this Agreement by persons resident outside Papua New Guinea;
- (b) commitments in foreign currency to persons not resident in Papua New Guinea for the supply of goods and services to the Company (including capital goods and services of foreign employees and consultants); and
- (c) commitments in respect of dividends declared and payable to shareholders resident outside Papua New Guinea

Provided that the amounts concerned are established to the reasonable satisfaction of the State on the basis of loans and commitments which have been approved by the Bank of Papua New Guinea.

SCHEDULE 7

VANIMO FOREST PRODUCTS

UNIT SALES PRICES 1986 AND 1987

NO (SCHEDULE 6)	YEAR AND MONTH	UNIT PRICE (USD/M3)	DESTINATION	AVERAGE ABOVE OR BELOW MEP (%)
1986				
1	JANUARY	69.92	JAPAN	22
2	FEBRUARY	76.50	AMSTERDAM	40
3	FEBRUARY	57.00	KOREA	9
4	APRIL	69.40	INDIA	27
5	APRIL	54.00	JAPAN	NIL
6	APRIL	53.00	KOREA	1
7	MAY	57.00	KOREA	5
8	MAY	64.21	JAPAN	15
9	JUNE	55.00	KOREA	10
10	JULY	82.75	INDIA	37
11	AUGUST	59.18	JAPAN	BELOW*
	AUGUST	79.84	HONGKONG	32
	SEPTEMBER	57.00	KOREA	7
12	SEPTEMBER	88.72	INDIA	23
13	SEPTEMBER	58.00	KOREA	BELOW*
14	SEPTEMBER	92.13	SINGAPORE	23
15	OCTOBER	55.00	KOREA	5
16	NOVEMBER	57.77	KOREA	5
17	NOVEMBER	86.66	INDIA	14
18	DECEMBER	63.52	KOREA	13
19	DECEMBER	71.26	HONGKONG/KOREA	BELOW*
20	DECEMBER	76.50	HONGKONG	27
21	DECEMBER	76.50	HONGKONG	27
1987				
22	JANUARY	89.28	INDIA	11
23	FEBRUARY	74.46	JAPAN	18
24	MARCH	69.67	JAPAN	9
25	APRIL	64.24	KOREA	4
26	MAY	100.22	HONGKONG	NIL
27	MAY	65.00	KOREA	5
28	JUNE	81.15	INDIA	1
29	JUNE	66.54	JAPAN/KOREA	3
30	JULY	80.20	JAPAN	4
31	AUGUST	92.85	JAPAN	21
32	SEPTEMBER	99.93	HONGKONG/KOREA	5
33	SEPTEMBER	95.00	KOREA	8
34	SEPTEMBER	98.31	JAPAN	38
35	OCTOBER	155.43	HONGKONG	27
36	OCTOBER	100.00	KOREA	17
37	NOVEMBER	102.16	JAPAN	14
38	NOVEMBER	168.29	HONGKONG	40
39	DECEMBER	96.57	KOREA	9
40	DECEMBER	168.26	HONGKONG	41
41	DECEMBER	88.44	HONGKONG/KOREA	4

VANINO FOREST PRODUCTS LIMITED
 LOG EXPORT SHIPMENTS 1986/1987
 MARKETING TABLE

SCHEDULE 6

SHIPMENT NUMBER	V E S S E L	MONTH OF SHIPMENT	NUMBER OF LOGS	VOL C L
1986		1986		
1	ESTE GLORIA	JANUARY	851	3527
2	CRESTBANK	FEBRUARY	991	3691
3	SDON CHURN	FEBRUARY	1354	5257
4	SOMERS ACE	APRIL	963	4074
5	ORIENTE REIMA	APRIL	1675	6268
6	SUNNY OCEAN	APRIL	1417	5240
7	OCEAN STAR	MAY	840	3001
8	FORTUNE CARRIER	MAY	1277	5007
9	KAKAS	JUNE	1469	5531
10	KAKAS	JULY	1195	474
11	TASHAN CLIPPER	AUGUST	1002	359
	TASHAN CLIPPER	AUGUST	585	349
12	SOMERS BEE	SEPTEMBER	772	295
13	SITI MIDAH	SEPTEMBER	907	380
14	SILVER SHAN	SEPTEMBER	547	199
15	CLYDEBANK	SEPTEMBER	48	27
16	LAE	OCTOBER	1595	599
17	NO. 4 BINEKA	NOVEMBER	1653	600
18	CAPE CONORIN	NOVEMBER	927	350
19	RIDERCUP	DECEMBER	2652	770
20	SUN ISLAND	DECEMBER	1401	510
21	KAKAS	DECEMBER	1745	590
1987		1987		
22	EXCELSIOR NO. 2	JANUARY	910	35
23	SPECO BARON	FEBRUARY	1653	59
24	MARINE STAR	MARCH	1893	63
25	PACIFIC SATU	APRIL	1517	50
26	SEA DRAGON	MAY	1003	49
27	SPECO ACE	MAY	1728	50
28	SITI MIDAH	JUNE	521	10
29	LOGISTIC ACE	JUNE	2783	100
30	KOREAN SAPPHIRE	JULY	1649	6
31	BONA STAR	AUGUST	1693	5
32	LOGISTIC ACE	SEPTEMBER	2817	1
33	SOYDUNG	SEPTEMBER	1791	5
34	NO. 6 BINEKA	SEPTEMBER	1670	
35	SEA DRAGON	OCTOBER	1220	
36	OCTA	OCTOBER	1705	
37	NO. 5 BINEKA	NOVEMBER	1637	
38	SEA DRAGON	NOVEMBER	1312	
39	LOGISTIC ACE	DECEMBER	2974	
40	GOLD STAR	DECEMBER	1171	
41	DON ANTONIO BOTELHO	DECEMBER	1746	

Silvicultural treatment before and after logging.

Inventory of logged-over areas to present evidence of sustained yield management.

Telex 11th July, 1988

Additional main causes for stoppage (in its 16th day as at 12th July, 1988):

a) Non compliance with:

Timber Permit Clause 4 - Forest Working Plan
Timber Permit Clause 6 - Environment
Timber Permit Clause 10 - Damage to Regeneration
Timber Permit Clause 11 - Cessation of operations
in logged out areas.

b) Log stocks of more than 20,000 cubic metres held by Company, sufficient for three shipments.

c) Gross mismanagement of logging operations condoned by company management in Australia.

d) Vanimo management disregards - log utilisation efficiency, management of forests, environmental protection, Government officials.

e) Forests Department opposed to Australian and Vanimo management attitudes as company unco-operative. Departmental support in doubt.

f) The felling activity will remain stopped until log stocks on all landings total less than 6,000 cubic metres.

g) Company will voluntarily cease felling when stock levels reach 6,000 cubic metres.

h) Company to remain stopped until report is received from Mr. T. Warra, Project Co-Ordinator on the completion of haulage.

2. From the above, one can conclude that yours is a comprehensive and long list of alleged misdemeanours committed by our company. We deny these allegations, especially in view of the fact that our methods of extraction have not been varied over the period of our Agreement, which is now in the third year. We are concerned that the reasons for alleged non-compliance were not communicated by written notice to our management, for example your letter of 15th June, 1988 which has not been received at Vanimo, although a copy has been sent to Mr. Donohoe from this office.

Continued/.....

- 3 -

3. According to our audited stocktake as at 30th June, 1988 the company held 8,161 cubic metres of logs, approximately 75% at the wharf area, the balance in bush loading yards, or 40% of the figure you are quoting. We believe that the conditions you are now introducing for the company's operations are matters beyond the scope envisaged by the Agreement. Once Royalties have been paid the logs are the property of the Company to be dealt with in the normal course of business.
4. As you are aware, I shall be in Port Moresby on Monday and Tuesday of next week, 18th and 19th July, and hopefully an appointment with you has been arranged to discuss methods of mutual interest including the current stoppage.

We have calculated that the cost and loss of profit for this Company is approximately K46,000 per day. Consequently it is our intention to seek compensation from the State as we believe that the Company has not been in material default.

A copy of this letter is being sent to the new Minister of Forests for his information.

I believe that the situation has reached a critical point. Due to the shortage of logs we will be forced to suspend operations unless the current ban on felling is lifted. Could you please consult your Mr. T. Warra at Vanimo and advise me immediately of same?

Yours faithfully,

IAN C. KUBA
Executive Chairman

Facsimile
copies to:

The Hon. Karl Stack, Minister for Forests
Mr. R. Gibbs, Marketing Director,
Vanimo Forest Products Limited
Mr. K. Donhoe, General Manager,
Vanimo Forest Products Limited

EX 300B

VANIMO FOREST PRODUCTS LIMITED

INCORPORATED IN PAPUA NEW GUINEA

TIMBER MERCHANT & EXPORTER OF ROUNDOLOGS

SAWMILLER AND SUPPLIER OF MOST
SPECIES OF TROPICAL TIMBER
ROUGH SAWN AND DRISSED

P.O. BOX 41, VANIMO,
WEST SEPIK PROVINCE,
PAPUA NEW GUINEA.
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28th July, 1988

His Honour Mr. Justice Barnett,
Commission of Inquiry Forest Industry,
Parliament House,
Magani Crescent,
Waigani, N.C.D.
PAPUA NEW GUINEA

Facsimile No: 0011 675 214 861

Dear Justice Barnett,

As discussed, we enclose a paper summarising the tangible benefits received by the State of Papua New Guinea, the Province of West Sepik and the local communities as a result of the activities of this company in the Vanimo area over the last three years.

We had hoped to meet you again following our visit to Vanimo but, as you would be aware, were not able to arrange a mutually convenient time. We did call to see Mr. Reeves on Monday and passed onto him some observations about the operation.

One matter which we were particularly interested to pursue in Vanimo concerned the UNDP logging trials which were said to have been disrupted by our employees. We received from the management concerned a very different description of events surrounding the trials and, as you would be aware, have arranged for our Messrs. Kapaith and Jones to appear before you this Friday in order to clarify the matter.

We were also keen to follow up on the comments made by various people in Port Moresby about the company's logging practices. Bunnings Limited has always prided itself on the standard of its logging and environmental practices and it was of great concern to us that the Vanimo operation might be deficient in this regard.

After spending several days examining recently and previously logged areas, our concerns are diminished. Certainly the areas currently being logged look "damaged", with logs lying alongside roads and some damage being done to residual trees. We believe, however, that it is impossible to avoid a large part of this effect owing to the very dense nature of the forest and the very wet and soggy conditions under which we are working.

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We were very impressed, however, by the rate of recovery of the forest after logging. Areas which were logged 12-24 months ago are in very good condition. With the vigorous growth that has taken place it is often not apparent that logging has taken place at all.

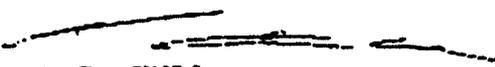
We mentioned to Mr. Reeves that we considered it would be helpful if he or you were able to spare the time to return to Vanimo to examine more closely the recovery of areas logged one or more years ago. If you are able to do this we would be happy to make the necessary arrangements.

We were also encouraged by the attitude of the local representatives of the respective Forests departments. Mr. Terry Warra of the National Department, for example, told us that, in his view, whilst there had been various problems (which could always be expected), none of them had been serious. It is apparent that in fact there is very close communication on a daily basis between our Project Coordinator and the Forests people.

Notwithstanding the view we hold that the overall operation is proceeding in an acceptable manner, it is clear that there are improvements to be made. Obviously the various parties' views differ and we must accept that some of the fault lies with us. We are looking forward to working closely with the Forests Department on a Forest Working Plan which will maximise the ultimate yield from the resource.

Please feel free to contact us if there is any further clarification we can provide.

Yours faithfully,


I.C. KUBA
Executive Chairman

**ECONOMIC AND SOCIAL BENEFITS TO THE PNG GOVERNMENT
AND COMMUNITY CONTRIBUTED BY
VANIMO FOREST PRODUCTS LIMITED FROM 1985 - 1988**

There are many benefits which have been contributed both directly and indirectly by Vanimo Forest Products during the course of its operations in Vanimo.

These are to the:-

1. National Government

A. Royalties:

Paid - year to:

30/06/86	-	K511,171
30/06/87	-	629,324
30/06/88	-	<u>934,652</u>

Total - K2,075,147

B. Export Duty

Paid - year to:

30/06/86	-	433,072
30/06/87	-	611,000
30/06/88	-	<u>1,321,291</u>

K2,365,363

Under the Agreement payments by the State due to VFP equal to 50% of Export Duty paid amount to K1,187,640.

C. Import Duties

Paid on imported equipment & parts	K 800,000	Estimated (3 years)
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D. Company Tax

It is estimated that the Company will pay income tax for the year ended 31st December 1987, of more than K400,000, with the 1988 commitment projected to be in excess of this amount.

E. Group Tax

Each month the VFP group of companies makes payments under the group tax scheme for Income Tax deductions. This represents in excess of K200,000 per annum in group tax payments.

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2. Provincial Government and Community

All royalties paid by the company to the National Government are distributed as follows:

25% Provincial Government
75% Landowners

These payments are made at regular intervals, although considerably in arrears, to the Landowners, through the Provincial Government.

The exact amount received by the Provincial Government is uncertain, due to the time lag in payment and the changes in percentages and distributions to Provincial Governments and Landowners.

The estimated amount due to the Provincial Government to July 1988 is in excess of K500,000.

Development of roads and bridge works throughout the Province is another area in which VFP has contributed to community development. The company has constructed many roads which have opened access to villages and isolated communities, contributing to better communications and growth.

Since commencement of the Project over 50 kilometres of permanent roads have been established. In excess of K3,000,000 has been invested in public and company roads.

The Pual area, Krisa area and other areas on the east coast, are examples of areas opened up by our roading efforts.

Town of Vanimo has developed dramatically since the commencement of the VFP project.

The following businesses have been established:

PAPUA NEW GUINEA BANKING CORPORATION (full branch)
WESTPAC Branch - Vanimo
ELA MOTORS PTY LTD

plus a number of small local businesses, which would not have come about if VFP was not operating in the Province. In addition other local businesses have continued to grow through our involvement in the District.

National Provident Fund

Contributions made to the National Provident Fund are in excess of K150,000 per year).

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Economic Growth in the Province

This is reflected in the growth of the VFP workforce by almost 200 percent since 1985. With over 450 persons employed and an annual wage expense in excess of K2 million, the additional flow of cash funds into local businesses and the community in general has resulted in an increase in the availability of services and jobs.

Economic Growth within Papua New Guinea

In addition to the payment of taxes and duties to Government bodies, and salaries and wages to employees, the company is expending in excess of K6 million annually for the supply of goods and services by Papua New Guinea companies. Currently the total company assets employed within Papua New Guinea is greater than K19 million.

Airline and Shipping services

The Project has resulted in additional air service requirements for both passengers and freight. A twice-weekly jet service to Vanimo has been introduced and services provided by Talair have increased. Similarly, the frequency of shipping from other PNG ports has increased and a greater range of goods is now available to the local population.

Availability of Sawn Timber

The establishment of the sawmill has made available large quantities of sawn timber for local construction at both commercial and village "skin" rates. Locally built National housing, both in new buildings and renovations, has grown considerably with this timber availability. The standard of village and local housing is improving as a result.

Sawn Timber is also shipped to other Provinces as required.

Housing

Although hampered by insufficient land being made available soon enough, VFP has acquired or built over 70 permanent houses, duplexes, units or living quarters for employees and dependents, both foreign and National. Our investment in housing exceeds K750,000.

These facilities are constantly being upgraded and extended to meet the continuing growth in the Company's workforce. Currently three duplexes for National employees are under construction and the company is spending more than K45,000 in upgrading amenities to 24 national housing units.

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The Company is developing a national housing scheme. When the land already applied for becomes available, that scheme can be finalized and implemented. The scheme involves up to 300 building allotments in Vanimo.

Expansion is taking place beyond that envisaged in the Agreement.

Already, a planning mill has been installed. This has provided additional employment.

International Wharf

A wharf designed for international shipping and costing approximately K600,000 was completed in 1985.

Sawmill

In October 1986, a new sawmill with input capacity of 30,000 m³ (single shift) was constructed at a total cost exceeding K3.5 million.

The sawmill, working two production shifts, employs over 180 workers. Many of these workers were unskilled prior to working in the mill and had no other work prospects.

Today they are highly skilled and trained, with good incomes and excellent future prospects.

The employment potential of this sawmill is considerable.

Bridge across the Pual River

A major bridge crossing the Pual River, effectively opening up the eastern part the Timber Lease is due for completion by 1990.

This bridge to which the Company is contributing in excess of K250,000 will serve a vital role in the Province. Completion of the bridge will enable the Company to commence work on a K2.4 million highway standard public road to connect to the Aitape road system. Thus reducing isolation and providing more efficient access to the border for defence purposes.

This highway when built by the company will reduce the isolation of West Sepik.

The road is also of great strategic importance and will enable more efficient deployment of defence forces to the border region.

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Landowners' Royalties

As outlined earlier, the landowners are currently benefiting from 75 percent of all royalties paid by VFP.

In the 12 months to 30th June, 1988 this amounted to K0.7 million, and since 1985, the amount of royalties paid or due to landowners has been approximately. K1.5 million.

Employment

The current level of employment throughout the Province is at its highest ever.

Under the present company policy of giving employment preference to landowners and local residents, the increase in VFP employment during the term of the current timber agreement (over 450 workers) has directly benefited local people.

Persons from outside the immediate landowners' area are only employed where specific skills are not available from local villages.

Business Development

Landowners, in receipt of royalties and wages, have been encouraged to undertake small business endeavours, both in conjunction with, and outside the Company.

Contract work (stevedoring, dump truck and PMV ownership) similarly are allocated to landowners as a preference and almost 100 jobs have been created since 1985.

This has resulted in the ownership of 9 dump trucks and 6 personal carriers by West Sepik people, and the establishment of a customs clearing service and other small businesses through the Province.

Other Services - Sporting

The Company has been active in supporting sporting activities within the Province. It has sponsored soccer, basketball, softball and netball teams and assisted in sports ground maintenance and in representative football tours.

Training

A training and recreation centre is nearing completion in Vanimo for use by VFP personnel and others for training in various skills and activities. The organisation of such training and basic schooling will be provided by VFP.

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The purpose of this centre will be to back up our already extensive "on the job" training of employees with more specialised training, as well as providing education facilities in other skills not currently available in Vanimo.

Over the past three years, the company has sent several National employees to complete courses in Accounting, Management, Log Grading and Forestry in Lae and Port Moresby as well as to the Head Office in Perth, Western Australia for specialised training in various skills.

In addition, Vanimo based staff are actively encouraged to complete, with Company sponsorship, various correspondence courses, as applicable to their various occupations.

Heavy Vehicle By-Pass.

The company is constructing a by-pass for heavy vehicles, around the town centre of Vanimo, which is designed, in the interest of public safety, to direct the heavy log jinkers away from the town intersection. The cost of this by-pass will be in excess of K30,000.

Assistance to Church and Community Groups

The company has assisted in many instances with the clearing and levelling of grounds and construction of roads for various church bodies throughout the Vanimo area and provision of low cost or no cost sawn timber for building construction as required e.g. for aid posts, community halls etc.

Also TV/video and generator sets have been provided to two groups to further their education and provide community entertainment and recreation.

FINANCIAL ASPECTS

Despite a planned programme to pay K900,000 in dividends between 1985-1988 Directors of the Company have refrained from recommending any dividend payment to the parent Company. Instead the funds have been reinvested in the business to finance further expansion.

After the initial funding of the project, later loans and leasing have been sourced from overseas with the approval of the Bank of Papua New Guinea, thus reducing the demand on the local financial funding pool.

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Marketing

Without any market development incentives or subsidies by the State, new markets and end users have been developed by the Company for PNG timber products. These are now marketed in many overseas countries at higher and still improving prices. The international markets demand continuous and reliable supplies and our Company has maintained a high standard of customer service despite some unfortunate and unauthorised stoppages to our operations.

Vanimo Forest Products Limited is proud of the fact that it does not use transfer pricing mechanisms and this alone provides benefits for the PNG economy in increased tax revenue to the State via the export duty and income tax. The size and scope of future community benefits accruing to our employees and the people of the West Sepik Province will depend largely on our ability to operate in a commercially viable atmosphere, and without regulatory bans on the export of specific species for which demand has been established, as is now contemplated.

Our Company has a strong commitment to develop Phase II of the Project. The existing stability is essential in developing further areas and this should increase the benefits to new regions in the Province.

VAN:lat
28.7.88

APPENDIX 3

KUMUSI PERMIT AREA

APPENDIX 3

KUMUSI PERMIT AREA

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INTRODUCTION

The Permit area consists of the Kumusi Timber Area and the Saiho Extension Area, totalling about 61,945 hectares in the Popondetta Sub District of Oro Province.

The surveys of the Kumusi Timber resource were carried out by DOF in the 1960s and by Fletcher Consultancy Services Pty Ltd. They indicated a major timber resource capable of sustaining a large-scale timber operation for 15 years.

A project was planned on the basis of these survey estimates and the National and Provincial governments decided to invest heavily in it. Unfortunately the estimates of the resource were greatly inflated and the feasibility of the project was misjudged. The project failed dramatically but has not been allowed to die.

ALLOCATION OF RESOURCE

Kumusi Timber Co, Pty Ltd (KTC) was set up as a Forest Development Corporation within the terms of the 1979 White Paper on Forestry Policy to exploit this resource. 75% of the shares were to be owned by the Oro Provincial Government and 25% by the foreign timber company Fletcher Consulting Services Pty Ltd. In fact some of the Provincial Government shares were issued to the Investment Corporation as security for a loan so that the initial share issue was:

Oro Investments Pty Ltd (The Provincial Government)	152 999 "A" shares
The Investment Corporation of PNG (in effect the National Government)	71 999 "D" shares
Fletcher Consulting Services Pty Ltd	75 000 "C" shares

The National and Provincial Governments were both represented on the Board of Directors.

AGREEMENTS

Fletcher Consulting Services Pty Ltd entered into Management and Marketing Agreements with KTC on 9 September 1981. The main terms of the Agreements were:

(A) Management Agreement

Fletcher to provide personnel and technical, financial and marketing advice, to implement training and management development programmes and keep the accounts and fulfil terms of project agreement and forest working plan.

The management fee was K35,000 per annum or 6% of pre tax profits whichever is the greater.

(B) Marketing Agreement:

By separate agreement Fletcher undertook to market Kumusi's product for a commission of 4% - 5% of FOB sales price. Costs of marketing were to be borne by Fletcher (including demurrage, specification claims, travelling expenses and costs of agent's commissions).

Fletcher undertook to obtain the best (arms length) prices but in fact sold exclusively to Sumitomo Forestry Company Pty Ltd (Sumitomo) a very large trader in PNG logs. (See page below).

(C) Project Agreement:

A project Agreement was drawn up between the State and KTC and was also signed on 9 September 1981. The terms included:

- (a) construction of residential areas, residential and forestry roads.

- (b) Forestry Working Plan within 150 days of execution (including butterfly protection areas).
- (c) environmental conditions.
- (d) Independent corporate appraisal every 5 years by a management consultant company.
- (e) Training and localisation obligations.
- (f) Marketing: obligation to obtain "arms length" best prices and provisions for State purchase options.
- (g) Local business development conditions (with performance table).

These terms were to be incorporated in a Timber Permit to be issued to KTC. A draft permit was drawn up and discussed but never issued.

OPERATIONS

Despite the lack of a permit K.T.C. Pty Ltd began to log the Kumusi timber area through its manager/contractor Fletcher during 1982.

From the start the Company encountered serious problems:

- (a) It was seriously under capitalised.
- (b) The DOF forest survey and a later one carried out by Fletcher had grossly over-estimated the size and density of the resource.

- (c) The project was ill conceived because of the very long road haulage of over 90 km from forest to the loading point at Oro Bay. This greatly increased the cost of the operation.
- (d) It is claimed that the expatriate workforce was undertrained.

COLLAPSE AND SALVAGE OF KTC

By September 1983 KTC were K3,300,000 in debt.

The major secured creditors were the Marac Merchant Bank (S.E.A.) Ltd for K1,100,000 and the PNGBC. The PNGBC took over the Marac secured debt and appointed Messrs Hall and later Telfer of Price Waterhouse as receivers and managers on behalf of the secured creditors on 28 September 1983.

From that date the Government's policy-in-action has been to support the operation of KTC (in receivership) for the benefit of the creditors. This support has taken the following forms:

National Government Contribution:

The National Government agreed to inject K600,000 of national government funds progressively. This was done by agreeing to waive 50% of the export tax payable until the sum of K600,000 was built up. In exchange the National Government was to be issued an equivalent value in redeemable preference shares in KTC.

Provincial Government Contribution:

The Provincial Government agreed to forgo its (25%) share of royalties progressively up to an amount of K300,000. This agreement was also to be in exchange for redeemable preference shares to be issued for that amount.

Fletcher's Contribution:

The Fletcher also agreed to forgo 3% of its 5% commission up to an amount of K300,000 and to similarly subscribe for 300,000 redeemable preference shares.

By this method a capital injection of K1.200,000 was put into the ailing company with government approval and participation.

Logging and Marketing Agreement with Ambogo

The government approved a Logging and Marketing agreement between Ambogo Sawmill Pty Ltd (Ambogo) and KTC. Under this agreement Ambogo undertook to carry out the whole operation from stump to F.O.B sale. The main relevant terms of the Agreement were:

a) Responsibility for KTC's Obligations:

Ambogo agreed agreement to comply with Kumusi's forest environmental management obligations in the Project Agreement and this was expressly incorporated into this Agreement.

b) Production Requirements:

Ambogo to harvest a minimum of 115,000 m³ export quality (USD 6 per m³ penalty for undercutting).

c) **Use of Equipment:**

Ambogo agreed to use the equipment secured by the creditors (except that secured in favour of Hastings Deering) for a fee of K240,000 p.a. payable at K20,000 monthly.

d) **Fees:** Under Clause 6. Ambogo is obliged to distribute portions of the FOB price to KTC and then retains the Balance. The fees paid by the contractor are calculated upon the following formula:

Weighed Average F.O.B.	Fee paid by Contractor to KTC
USD 52 m3 or less	Nil (no fee price)
52 - less than 60 m3	50% difference, ie: $\frac{FOB - 52}{2}$
USD 60 - 60.99 and above	$\frac{10}{100} \times 60$
USD 60.99 and above	10% of FOB + 0.25% for each whole dollar in excess of USD 60.

In addition to the above the contractor will pay for:

- . ebony logs K10 m3
- . reject logs to Mill K 2 m3

(Protection against unfavourable exchange rate is written in to protect KTC)

e) **Sawmill logs**

Contractor to prepare monthly log statement for logs delivered to Sawmill.

f) **Financial Policies**

Letters of Credit to be established in KTC's name.

Proceeds to be credited to Joint Bank Account.

Signatures are Scheme Administrators jointly with Ambogo representative.

Proceeds from all log shipments are to be paid into joint account.

Payment to KTC:

The payments from the joint bank account to KTC will be:

- . amount for export tax;
- . amount for royalties;
- . amount for FIC levy.

Clause 6(1) + % of FOB formula.

Reimbursement for expenditure:

- for roads completed by KTC if timber felling has not commenced K12,000 per km.
- reasonable expenses incurred in operations on behalf of contractor.

Payment to Contractor:

The contractor will be paid the balance of Proceeds but not to be paid until the KTC entitlements are first paid out in full.

The joint account must always have a minimum balance in credit to pay 2 months of secured creditor repayments.

(g) Marketing

- (a) exclusive right for Contractor to market all KTC products;
- (b) arms length price; and

(c) 4 days notice must be given to KTC. Ambogo must telex KTC it has arranged a sale. If KTC can find a buyer willing to pay at 5% above notified price then Ambogo must sell to higher bidder.

h). Compliance with Statutory Requirements Timber Permit and Project Agreement

- 10.8 (a) Contractor must comply with statutory requirements and Government directions.
- (b) Contractor to comply with project agreement and Timber Permit.
- (c) KTC can give notice to remedy breach of Project Agreement or Timber Permit and, if not remedied within 18 days, KTC may terminate Agreement.

10.13 Contractor will not apply for Girua or Embi permit areas in competition with K.T.C.

10.18 Contractor agrees to comply with all conditions of annexed (draft) Timber Permit which relate to contractor's obligations.

OPERATIONS IN RECEIVERSHIP

The Agreement was drawn up by Gadens and provides good protection for KTC and its creditors. On the face of it the agreement gives Ambogo the opportunity to make substantial profits but, as Mr Telfer pointed out to the Commission, it was then costing KTC K58 per m3 to conduct the operation and its price had fallen to K51. During the log price boom period of 1986-87 the Ambogo operation must have been very profitable as it exported over 40,000 m3 in 1986 and over 80,000 m3 in 1987 at prices which doubled between early 1986 and late 1987.

The government allowed KTC (in receivership) to apply its share of the profits entirely towards paying off the debt owed to its creditors without fulfilling its obligations under the project agreement and (draft) permit.

KTC Pty Ltd and Ambogo made little or no attempt to carry out major obligations which had been imposed upon the operation for the benefit of the public - particularly the landowners.

These included:

- (i) Construction of a highway standard road from a point on the Popondetta-Kokoda Road to Saiho village;
- (ii) Construction of a major permanent bridge over the Kumusi River near Saiho;
- (iii) Help in stimulating a major follow-up agricultural land use project;
- (iv) Establishment of a major reforestation project over 1000 h.a.

Even without diverting funds towards these infrastructural obligations KTC was unable to pay off its creditors at a sufficient rate and the Kumusi resource was being rapidly depleted. Instead of cutting the government's losses the Minister for Forests granted KTC's request for an additional resource and a permit was issued to it over Girua - Ere Permit Area. The Company then switched its operations to the more accessible Girua area and cut it out except for a few inaccessible areas.

The present situation is that KTC has paid off its secured creditors in full and, under a scheme of arrangement managed by Telfer and Ball, it then commenced to pay off the K2.138m owing to its unsecured creditors. The operation was

returned to the Kumusi area where about 60,000 m³ remained to be cut. It was estimated that the Kumusi area would be cut out before the end of 1988 at the approved rate of cut, by which time the unsecured creditors will still not have been paid in full. In fact KTC continued to operate there, at a reduced rate of cut in early 1989 as a salvage operation. AT the time of writing it was considering returning to the "inaccessible" areas left in Girua-Ere.

Creditors benefit at expense of landowners and Government:

Kumusi is now operating under a scheme of arrangement managed by Telfer and Hall for the benefit of the unsecured creditors. It has negotiated with DOF to obtain a permit over the Embi area in the hope of being able to keep trading for the benefit of the unsecured creditors. Only when they are paid out in full however will the National and Provincial government preference shareholders have any chance of getting a return on their shares or a return of their capital contributions to KTC . (In fact the government's position is even worse as no shares have been issued nor does KTC presently have legal power under its Articles nor the necessary shareholder approvals to issue preference shares).

The overall result has been that KTC Ambogo has been propped up by K900,000 of public money and allowed to continue and cut out two permit areas for the benefit of KTC's creditors and of Ambogo. The landowners are receiving royalties at the rate of K3.76 per m³ for non premium to K5.16 m³ for premium species. (A rate of K12.76 m³ is paid for premium Walnut and Rosewood). The landowners and the public have not received the benefits imposed upon KTC by the government under the Permit and no attempt has been made to enforce those obligations.

Meanwhile Ambogo Sawmill has been awarded the Saiho permit area in its own name and has been "sitting on it" waiting for the Kumusi area to be cut out. So whatever the fate of K.T.C. its permit areas, the local landowners and the National and Provincial Governments, Ambogo has prudently provided for its own continuing future. (This time as permit holder in its own right). Ambogo commenced a limited and spasmodic operation in the Saiho area harvesting logs for its sawmill.

MARKETING

Through Ambogo KTC exported over 40,000 m³ of logs in 1986 and over 80,000 m³ of logs in 1987. Details are tabulated in Schedule 1. The export side of this large operation has been completely unsupervised by the Provincial Forestry Office since early 1986 at least.

Ambogo is also putting approximately 1000 m³ a month through its sawmill and this operation is being inadequately supervised by the Forestry Office as no attempt has been made to check log input volume by reference to log numbers or by working out calculations of sawn timber output against a calculated recovery rate.

Ambogo has introduced a unique system of numbering logs at the beach pond for export and because of the Forestry Office's total failure to monitor log loading I am not able to be certain that smuggling of logs is not occurring. No evidence of it was found but there is ample, unmonitored opportunity.

Historically it seems KTC has always had close links with Sumitomo Forestry Company Limited of Japan (SFC) and its subsidiary Sumitomo Forestry Company (Hong Kong) Limited (SFCHK). From the very beginning and although Fletcher was

responsible for marketing for a quite handsome fee (4%-5% of FOB sales prices) it apparently always sold through a related company Fletcher Organisation (Vanuatu) Pty Limited to S.F.C. The interposing of an unnecessary corporate vehicle in Vanuatu (which is a preferred tax area) strongly suggests transfer pricing but this aspect has not been investigated.

In evidence before the Commission the General Manager of SFCHK's Port Moresby Office said that Mr CR Scoble, who was previously involved with Fletcher was SFC's agent based in New Zealand and that he now negotiates the sales agreements with the (Groomes managed) Ulabo Timbers.

Time has not permitted investigation of the details of the relationship between Fletcher and SFC and whether there was a financial association which in some way required sale of Kumusi logs by Fletcher to SFC.

When the contracting for KTC was taken over by Ambogo exclusive marketing rights for KTC were vested in Ambogo. Though there was a mechanism in the logging and marketing agreement (see para (g) above) enabling KTC to sell direct if it could find a buyer at a price 5% above the price offered by Ambogo's buyer it seems this mechanism was not utilised. It seems that Ambogo also simply sold exclusively to KTC.

In his evidence before the Commission Mr Telfer, one of the Receiver/Managers of KTC, said that in the early part 1986 he became concerned about Ambogo continuing to deal exclusively with SFC. It seems clear Mr Telfer's concern arose at about the time it was known in the industry that FIC was seeking active involvement as State Marketing Agent in log export marketing. Mr Telfer said that his researches showed that SFC had been paying in a range of 6% to 8% above

MEP for KTC logs and that he considered a competitive buyer should be sought. Mr Telfer also knew that SFC had provided financial assistance for the KTC operation in the form of financing a number of Nissan trucks. He did not specify whether this assistance was given to KTC or Ambogo but it seems clear having regard to the arrangements and evidence of debt that the assistance was given to Ambogo. (See Interim Report No.6 Volume 2 Appendix 2 Schedule 13)

The prospect of competition for KTC logs was known to and concerned SFC (See Interim Report No 6 Volume 2 Appendix 2 Schedules 11). In this context SFCHK Port Moresby Office advised SFC Tokyo that KTC should be permitted to sell reject logs to another buyer. This in fact occurred and in June 1986 (see Schedule 1) reject logs were sold to Coty International Corporation in Taiwan.

This occurrence tends to fix the discussion about seeking a competitive buyer in about April/May 1986. In January and March 1986 SFC had bought Kumusi logs destined for Japan and Korea at a unit price of about USD 50.80 per m3 . In May 1986 the price negotiated by SFC with Ambogo was clearly fixed by express reference to MEP prices at 14.5% above MEP. The result was a price of USD 49.66 on a part shipment of Japan and USD59.20 on a part shipment to Taiwan suggesting the latter was of superior quality.

Bearing in mind the range of prices above MEP quoted by Mr Telfer and the direct evidence of price fixing on this May shipment it seems plain that until this time SFC was fixing its purchase price of KTC logs at or by reference to MEP prices.

It is significant that in the context, with the known threat of outside competition for KTC logs, SFC raised its price for June and August shipments to Japan to unit prices

of USD 60.63 and USD58.02 per m3 the reject logs sold into Taiwan were shipped in June at a unit price of USD 37.37 per m3. Between September 1986 and December 1986, the threatened competition materialised and sales were made to Nichimen Corporation (through Thatcher International Hong Kong) and in November 1986 to India through the Forest Industries Council. The unit prices from Nichimen Corporation (shipping to Japan) ranged from USD 58.67 through USD 60.84 and USD61.23 to USD 61.76 per m3 - above the increased prices just previously being paid by SFC, and well above SFC's earlier prices. The unit prices achieved by FIC were USD68.78 and USD84.53 per m3 but these are in large part attributable to the specific species mix selected for the Indian market.

In the early part of 1987 KTC continued selling to Nichimen Corporation at unit prices of USD 65.44, USD69.42 and USD67.21 per m3. SFC remained in the picture at this time and purchased shipments in January and April 1987 at unit prices of USD72.97 and USD70.63. In May a part shipment to India was arranged through Quarter Enterprises (Vanimo Forest Products Marketing agent) at an average USD 76.00 per m3.

The impact of competition and of FIC marketing involvement is quite clear as is the desirability from SFC's point of view of being able to obtain KTC logs for its customers.

From May 1986 SFC again became the dominant buyer of SFC logs.

Mr Telfer described this occurrence in his evidence. As Receiver Manager he was quite apparently convinced, as I am, that at earlier times SFC had been paying below market price for KTC logs. With the introduction of Nichimen Corporation and FIC involvement the SFC "stranglehold" had been broken:

SFC was obliged to lift its price levels to buy KTC logs and in that circumstance, as Mr Telfer put it, to "deal at full arms length". To ensure that this basis of dealing peristed Mr Telfer arranged for SFC price offers to be compared with those achievable by DOF Marketing Section (which had then sought informally to fill the void created when FIC ceased its involvement in log marketing).

What then occurred is amply shown in KTC's marketing figures in Schedule 1. Between May and DEcember 1987 KTC log prices skyrocketed from unit prices of USD 67 per m3 to reach a stable unit price range of USD102.00 to USD105.00 per m3. During this period there were slight abberations in price levels including three shipments at below MEP prices:-

- (a) In August to SFC at USD92.96 per m3
- (b) In October to Ho Sing Wood (Taiwan) at USD90.27 per m3
- (c) In November to Samsung (Korea) at USD84.80 per m3.

Time has not permitted these matters to be investigated but it would be reasonably safe to surmise that the latter two below MEP shipments contained logs rejected by SFC.

What occured generally with KTC marketing in 1986 and 1987 is clear and requires no further comment.

Even with this apparently new system in place to ensure KTC received full value for its logs it demonstrably did not do so on a part shipment to India in February 1988 when SFC made a massive markup. This is reported on in full in Interim Report No.6 Volume 2 Schedule 2.

In my inspections of KTC's loading area and my enquiry there I was concerned at the apparent control over log grading and log selection exercised by the SFC inspector. Further enquiry (see Interim Report No Appendix 2) has produced

clear evidence of deliberate undergrading of logs by SFC inspectors.

In addition SFC's vigorous quality control produces a further problem for KTC. Whilst I can understand SFC's concern with quality control and with presenting a quality product to its buyer the selectivity of its inspector creates a supply of logs and large off cuts which KTC then has to dispose of. The offcuts are lost by being dumped on the shore and then soil is bulldozed over them to extend the shoreline.

The whole logs are stockpiled and if there is a large quantity (which at times there is) they are sold at a vastly reduced price to another buyer (because in the meantime they have ceased to be "fresh cut" and have deteriorated). If there is not a large quantity some are returned to the sawmill and the residue are stockpiled in heaps near the log pond and are periodically burned.

The result seems to me to be a tragic waste of what KTC and Ambogo regarded as export quality logs. If they were not so regarded they would have been left at the sawmill in the first place and not trucked to the Oro Bay log pond for export.

A detailed study of Ambogo's shipping and marketing documents and a comparison with Customs and Shipping Agents records disclosed no evidence of Transfer Pricing.

This may be due to the honesty of its Managing Director Mr Lai, (who was very cooperative with the Commission) and/or to the fact that the Receiver/Managers left qualified staff in Ambogo's office to monitor marketing arrangements on behalf of KTC.

Ambogo consistently sold well above MEP throughout the period January 1986 to May 1987. As Customs was (erroneously) basing export tax on MEP rather than FOB price I calculate the government has lost approximately USD55,000.00 in revenue in this period alone.

FORESTRY OPERATIONS

The operation of the Popondetta Forestry Office has been most unsatisfactory.

- (a) Ambogo/Kumusi logging practices are known to be unsatisfactory and yet no effective measures have been taken to correct the situation. The breaches of conditions include poor roading, extreme wastage, blocking of streams and failure to observe proper felling practices and environmental conditions.
- (b) Failure to monitor the wharf operation at all.
- (c) Failure to adequately monitor the sawmill operations.
- (d) There is no reforestation project in the Province.
- (e) The Forestry nursery is devoted to raising a few town ornamentals.
- (f) Forestry Extension Projects have been abandoned.
- (g) Morale and attendance of officers is obviously poor.

The one effective officer appears to be the Royalties Clerk but she is a temporary staff employed against a labourer's position.

- (h) The office has adequate staff (8 trained in forestry) and they seem to be grossly under employed.

- (i) It may be that transport is a problem.
- (j) The office itself was a very dilapidated native material building with files gathering dust on floor and tables. It burned down after my inspection.

Neglect of Provincial Forestry

The whole atmosphere regarding government involvement in forestry in the Oro Province was one of neglect. At the time of my inspection the Provincial Government itself was in extreme financial difficulties and under investigation by the National Government. It was also in the midst of political upheavals.

The Provincial Forestry Office had no funds for transport and no vehicle on permanent allocation. It was barely functioning.

Ambogo Sawmills Gives Financial Support

Mr Lai of Ambogo gave evidence that on many occasions he was asked by the Provincial Minister for Forests to make loans to the Provincial Government to finance forestry office operations. On one occasion he was obliged to pay out royalties to landowners from Company funds as the Forestry Dept./Office had delayed so long the owners were threatening to close his operation. On one occasion he paid K10,000 to ex Provincial Forestry Minister Kipling Gombo which was then (he says) paid into the Provincial Government's account to fund forestry operations. Records disclose no evidence that this amount was ever repaid.

Recently Mr Lai paid K2,000 cash directly into the hands of the Coordinator for Forests (PFO) to fund a survey trip to the Collingwood Bay area. The money was not paid into

Provincial Government account because it was overdrawn to such an extent that the funds would not have been released. This money had not been repaid at the time of my inquiry but it has apparently now been returned. It is noted that Ambogo intends to apply for the Collingwood Bay Permit when it is advertised. Mr Lai said all of his many other loans have been repaid - except this K2,000.

The Commission did not have time to check this aspect which will be referred to the Department of Provincial Affairs for investigation.

13. Help with Vehicles

There was evidence that Ambogo and KTC vehicles are sometimes lent to Forestry Officers for official use and possibly also to the Minister. The extent of this practice was not fully investigated.

On at least one occasion the Forestry Office vehicle was serviced in Ambogo workshop and the Provincial Government has been unable to pay for it.

CONCLUDING COMMENTS

The Commission did not make a full investigation into the Kumusi Timber Area and was unable to inspect the timber operations at all.

From inspections and public hearings at Popondetta however and from inspection of files and marketing records some overwhelming conclusions forced themselves upon me.

Monitoring

The government presence is negligible. Ambogo is itself financing government operations which it considers necessary for its own requirements. Thus Ambogo provides funds to enable government to survey resources that Ambogo wishes to acquire and Ambogo helps out with transport to enable basic inspections to be made (at times and places of its choosing) and to ensure clearance of log shipments.

Marketing

Ambogo and KTC/Fletcher before it have a long standing arrangement with the giant trader Sumitomo which completely dominates all aspects of loading and marketing. Sumitomo sets the price, chooses the logs and fixes grading policies. It down grades at will and pays a price well below international market prices but reasonably good by comparison with other PNG FOB prices. Forestry Officers gave up monitoring the wharf loading operations two years ago.

Benefits of the Operation

It is a very large operation which, since the collapse of the Forest Development Concept, has been carried on in receivership entirely for the benefit of the creditors. It was an ill conceived project which immediately built up massive debts. As 75% owners National and Provincial Governments have continued to prop up the operations financially with no hope of getting a return for the massive amounts of public money being invested.

The accountant firm oversighting Ambogo's operation has concentrated entirely on the profit side to ensure its clients (the creditors) received their fair share from the arrangement with Ambogo.

No attention has been directed to ensuring compliance with the original project conditions which benefitted the landowners and general public. Thus the highways, bridges, agricultural projects and reforestation projects have never even been started. For this reason alone the operation should long ago have been stopped.

At present the people's resource is being sold off to repay creditors created by a long ago failed company, heavily supported by government. The responsibility for this miserable state of affairs must rest with the Provincial and National Foresters who have failed to take effective action to enforce the project conditions which remained fully in force despite the fact that KTC was in receivership.

Postscript

Recent advice has been received that KTC has ceased operating as the resource has now been cut out. It has written eighteen letters to the Secretary DOF seeking to be granted a permit over the Embi Timber Area. If unsuccessful in this application the Company will almost certainly be wound up. If that happens the unsecured creditors will suffer substantial loss as their repayments are far from complete. The National and Provincial governments will suffer total loss of their investments. The infrastructure and social benefit conditions of the Kumusi project are still not completed and so the people too will suffer loss. The loss of the residual forest resource has, as usual, not been estimated.

SCHEDULE 1

KUMUSI TIMBER COMPANY

MARKETING TABLE

	VESSEL	LOGS	VOLUME (M ³)	PRICE (USD)	MEP (USD)	BUYER	MARGIN OF (USD)	(%)	DEST. CENTRY	UNIT PRICE USD/M ³
JAN	CORAL QUEEN	1087	4549.157	231,411.52	199,480.53	SUMITOMO	31,930.99	16.01	JAPAN	50.87
	TASMAN CLIPPER	684	3012.099	153,146.93	138,988.89	SUMITOMO	14,158.04	10.19	KOREA	50.84
	TASMAN CLIPPER	629	2476.770	123,000.27	107,418.08	SUMITOMO	15,582.19	14.51	JAPAN	49.66
	TASMAN CLIPPER	237	867.681	51,370.31	44,864.48	SUMITOMO	6,505.83	14.50	TAIWAN	59.20
	CORAL QUEEN	337	1306.476	79,213.43	NOT AVAILABLE	SUMITOMO	NOT CALCULABLE		JAPAN	60.63
	SARUNTA II	1267	5030.945	187,997.11	NOT AVAILABLE	COTY INTER CORP	*NOT CALCULABLE		TAIWAN	37.37
AUGUST	FORTUNE CARRIER	1218	4988.991	289,484.41	264,308.20	SUMITOMO	25,176.21	9.53	JAPAN	58.02
SEPT	SANTA DIVINA	1432	5792.811	357,770.23	330,477.46	THATCHER INT	27,292.77	8.26	JAPAN	61.76
						(HK) NP NICHIMEN CORP.				
OCT	BASILICA	1617	6506.523	395,903.93	370,576.22	*	25,327.71	6.83	JAPAN	60.84
	CAPE CORMORIN	196	816.906	56,190.18	56,146.83	FOREST IND CL.	43.35	0.07	INDIA	68.78
	MARATIME GARDENIA	81	329.391	27,887.32	26,047.74	FOREST IND CL	1839.58	7.06	INDIA	84.53
NOV	SANSEI WHITE	1279	5225.773	319,980.22	304,716.22	THATCHER INT	15,264.00	5.01	JAPAN	61.23
						(HK) NP NICHIMEN CORP				
NOV	SANTA ROSE	1440	5997.395	351,905.25	328,450.75	*	23,454.50	7.14	JAPAN	58.67
	LAVINIA	1539	6499.358	425,304.68	377,860.10	THATCHER INT				
						(HK) NP NICHIMEN CORP	47,444.58	12.56	JAPAN	65.44
	TROPICAL DAMSEL	1713	7691.852	561,248.31	460,578.55	SUMITOMO	100,669.76	21.86	JAPAN	72.97
	KENZAN MARU	1975	7409.728	514,366.74	433,804.87	NICHIMEN CORP	94,817.61	21.86	JAPAN	69.42
APRIL	HAKKAISAN MARU	1595	6562.452	441,064.22	379,280.04	NICHIMEN CORP	61,784.18	16.29	JAPAN	67.21
APRIL	SOUTHERN ARROW	482	2048.446	144,687.82	133,049.97	SUMITOMO	11,637.85	8.75	JAPAN	70.63
	SITI MIDAH	335	1395.899	106,088.33	89,114.04	QUARTER ENTS	16,974.49	19.05	INDIA	76.00
						NP REDDY				
MAY	SOUTHERN ARROW	464	1999.332	133,955.27	130,118.33	SUMITOMO	3,836.94	2.95	KOREA	67.00
	SOUTHERN ARROW	585	1999.419	133,961.08	120,590.92	SUMITOMO	13,370.16	11.09	JAPAN	67.00
IE	TROPICAL DAMSEL	1554	5830.983	428,340.17	349,901.71	SUMITOMO	78,438.46	22.42	JAPAN	73.46
JUNE	EASTERN GLORY	648	2406.850	148,852.36	130,973.48	SUMITOMO	17,878.88	13.65	JAPAN	61.85
JULY	DINOK	890	3296.148	230,202.39	192,708.97	SUMITOMO	37,493.42	19.46	JAPAN	69.84
	TROPICAL DAMSEL	1364	5597.221	396,753.16	329,376.83	SUMITOMO	67,376.33	20.46	JAPAN/KOREA	70.88
AUGUST	SANTA ROSA	1566	6001.665	557,927.97	563,276.73	SUMITOMO	* 5348.76	0.95	JAPAN/KOREA	92.96
OCT	HANRA SAN	942	3500.265	360,527.29	299,229.16	SUMITOMO	61,298.19	20.48	JAPAN	103.00
	PACIFIC ARROW	147	500.540	45,185.56	47,841.30	HO SHING	* 2655.74	5.55	JAPAN	90.27
	SUN GODDESS	1317	5051.047	520,257.85	451,433.74	SUMITOMO	68,824.11	15.25	JAPAN	103.00
OCT	TROPICAL DAMSEL	789	3118.888	318,126.57	283,994.47	SUMITOMO	34,132.10	12.02	JAPAN/KOREA	102.00
NOV	SPARKLE MOON	2092	7498.553	635,864.75	742,356.77	SAMSUNG	* 106,492.02	14.35	KOREA	84.80
NOV	NEW LEADING	1688	5869.204	616,266.49	505,316.60	SUMITOMO	110,949.89	21.96	JAPAN	105.00

* FOB PRICE AND MARGIN (USD AND %) IS BELOW MEP

APPENDIX 4
WEST COAST MANUS PERMIT AREA
JAHA LFA
MANUS PROVINCE

WEST COAST MANUS PERMIT AREA

JAHA LFA

MANUS PROVINCE

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APPENDIX 4
WEST COAST MANUS TRP
JAHA LFA
MANUS PROVINCE

INTRODUCTION

The Commission held a two day hearing on Manus timber matters at the request of the Manus Premier Stephen Pokawin. The Minister for Forests, the Honourable Karl Stack, was invited, but declined to attend, saying that there was a matter pending before the Supreme Court which involved a related dispute between the Manus and national governments. The hearings proceeded after I consulted the Chief Justice and assured myself that my inquiry into policy aspects regarding the declaration of Jaha LFA would not conflict with the exercise of the Supreme Court's jurisdiction or prejudice any matter between the parties which was still at issue in the Supreme Court.

After hearing the evidence of senior officers of DOF and of the Manus Premier and his officers, and after studying various DOF files and materials tendered by the Manus Provincial Government (MPG), I am able to report as follows.

ALLOCATION OF RESOURCE

(Permit Area)

Manus is the smallest Province and, as the Premier said, it is so small that it cannot even be seen on the average sized map of the world. It has a gross standing forest resource of approximately 6,600, 000 m³. After subtracting unworkable forest on inaccessible land areas and defective trees and trees missed during the operation, it was generally agreed that the net operable forest is about 3,500,000 m³ (This figure was eventually agreed on after considerable discussion. The Secretary DOF later submitted revised figures but I find that the figure of 3,500,000 m³ is the best estimate on available data). Manus has been divided by DOF into seven blocks. (See map included in Manus Provincial Government Submission at schedule 1).

The resource is concentrated on the West Coast in Blocks 1 and 2 and is dominated by the valuable *calophyllum* species which makes up 60 - 80 percent of the resource. Blocks 1 and 2 contain about 2,100,000 m³ and the balance is scattered in parts of other Blocks. Manus has a fragile environment featuring:

- (i) high rainfall of 4.000 mm pa.
- (ii) absence of tap root in most tree species and general shallow rooting (especially on slopes) rendering trees susceptible to wind damage without sufficient canopy cover.
- (iii) fringing swamps and coastal reefs supporting a subsistence population.
[Manus PG submission Schedule 2 p.2
Item 8]

The DOF's original intention was to acquire TRP rights over the Manus forests and then to create a Forest Development Corporation to exploit them. The TRP procedures were put in motion before the MPG was established in 1976 but, from the date of establishment, it became fully involved in the TRP process and, as time went on, in the process of developing a Provincial Forestry Policy.

Being a small island province with a fragile environment and with timber and (possibly) fish as its only natural resource there was a strong incentive for the MPG to develop a policy with strict safeguards to protect its environment and to sustain its forest. The MPG is also acutely aware of the need to provide productive employment for its young people and to maintain a healthy social environment.

Provincial Government Policy:

In February 1987 Manus Provincial Government adopted a Provincial Forest Policy with principle aims and objectives of:

- (i) sustained yield forest resource management and replenishment, providing a self sufficient industry.
- (ii) creation of greatest employment and commercial opportunities through participation by resource owners and Manus people in the industry (onshore processing).

- (iii) preservation and maintenance of a sound Manus life style.
- (iv) maintaining the environmental integrity of the Province

(Schedule 2.1 and 2.2)

The policy was sent to Minister Horik in March 1987 and to Minister Stack on 15 August 1988.

Acquisition of Timber Rights

It had been intended to acquire all the timber rights in Blocks 1 and 2 but negotiating with landowners was difficult as landowners had a genuine fear that their environment might be irreparably damaged. They did not want to see all of the forests being put at risk at the same time.

In Blocks 1 and 2 the landowning groups are very interrelated and different clans and subclans own rights in each others areas. There was evidence that some landowners decided to "hold back" two areas of Block 1 to see what happened in the harvested areas. Many individuals in the two groups who held this land back, however, did have rights in the TRP area and would have rights to receive some of the royalties.

The TRP was completed in 1986 and the agreement was signed in 1988. The Timber Permit area eventually comprised 32,667 ha situated in Block 2 and part of Block 1. This left approximately 20,000 ha of Block 1 excluded. The TRP area was included in the 1988 National Forests Development Programme (NFDP) for allocation in 1989.

In the NFDP resource assessment and TRP work is also scheduled to occur in 1988 and 1989 respectively over an area described as "West Coast Manus Ext" said to have an area of 20,000 ha. The NFDP also shows that this area, is included as a New Project for 1991. It is understood the area referred to is the balance of Block 1.

As the period for allocation approached the idea of FDC's was no longer favoured by DOF. MPG employed consultants A.C.I.L who came up with proposals for a fairly standard export logging enterprise. When guidelines were prepared DOF accepted ACIL's proposals.

Selection of Contractor

When it was put out to tender nine companies applied. Six later submitted outline proposals.

By this time the Kei Beseu Kampani (KBK) had been formed to become the Permit Holder. It represented several business groups which provided 4 directors. The MPG (a substantial shareholder) provided the remaining five directors.

DOF agreed to MPG's initiative (on ACIL advice) to shortlist two of the applicants:

Groome Pty Ltd	(Groomes)
South East Asia Lumber Pty Ltd	(SEAL)

Groomes offered the best deal for a standard log export project. SEAL however was an experienced processor of veneers and offered the prospect of a long term local processing industry managed on a sustained yield basis. This idea attracted KBK and the MPG. The

DOF followed the MPG lead and agreed to negotiate with SEAL. Throughout the negotiations MPG were intimately involved in working out the conditions. Both DOF and MPG saw the desirability of eventually committing the balance of the Manus Timber to the Veneer Project and both agreed that the maximum annual cut which would allow sustained yield management on Manus as a whole was 75,000 m³.

Environmental Plan

Before the project was finally approved SEAL was requested to submit an Environmental Plan by the Minister for Environment and Conservation (then Mr Zeipi) after he had inspected the area with the Secretary of his department. Once the Plan was submitted it was circulated to fourteen relevant bodies for assessment and comment. These included Departments of Lands and Physical Planning, Education, Labour and Employment, Prime Minister, Health, Fisheries and Marine Resources and the University, the National Museum and Art Gallery, the Bureau of Water Resources some private landowners and, most importantly, the MPG. The comments received and a detailed report from his department were considered by the new Minister Jim Yer Waim fore he approved the Environmental Plan. This was before operations were allowed to commence.

The Permit

KBK/SEAL was granted an annual log export quota of 72,000 m³ for the first three years. At the end of that period the Veneer mill has to be completed and processing will run at the rate of 36,000 m³ p.a. SEAL has put up a bank guarantee to assure performance of this obligation

and this new veneer venture will be jointly owned by SEAL and KBK through a joint venture company.

Provincial Government Policy in Action

Manus PG says that a sustained log export/veneer operation is of critical importance to the Province. Its consultants advise that, on current prices, the TRP operation has a potential export value of K6 million pa in log form and K11 million pa in processed form.

The MPG claims that the Province's annual cash economy is some K8 million per year of which K1 million is from agricultural production, K1 million from absentee remittances and K6 million from National Government grants and payments. It says the TRP operation will involve up to 500 sustained jobs - 200 in logging and resource management, 120 in veneer and sawmill processing and 100 in service industries. None of these claims have been challenged by DOF.

The MPG wishes to see the forest managed in such a way that the input required to keep the veneer mill running profitably will be sustained continuously. Using the best available data (based on research in North Queensland rainforests) it estimates that the rate of growth in its resource will be 0.75 cm p.a. At this rate of regrowth the sustainable yield cycle is 40 years. The MPG has calculated that the resource in the TRP area will therefore be cut out by the end of the 15 year permit period and there will be a gap of 20-25 years before it can be logged again.

The resource in the TRP area is therefore insufficient to support sustained yield operations at the permitted cut rate. It is agreed that the extension into the balance of Block 1 was planned to sustain the operation and must have been if sustained yield was considered.

The problem was (and still is) that the State did not have rights to the balance of the timber but SEAL relied on the stated policy of the MPG and DOF that it favoured sustained yield management. It believed therefore that both National and Provincial Governments would be endeavouring to acquire the rest of the timber rights for later allocation to KBK/SEAL. The MPG was confident that if SEAL exercised proper logging practices and demonstrated its intention to maintain the forest and environment, the remaining landowners would eventually agree to allow their timber to be acquired and the project would continue without interruption.

ALLOCATION OF RESOURCE (LFA)

Foreign challengers LFA/Applications

Unfortunately the MPG underestimated the persistence of two of the foreign companies which unsuccessfully sought selection as the developer. These two unsuccessful applicants were Monarch Investments Pty Ltd and United Timbers (PNG) Pty Ltd. When their applications were rejected, neither accepted defeat. Firstly Monarch negotiated with some of the landowners in the balance of Block 1. A "landowner" company known as Jaha Development Corporation Pty Ltd (JAHA) was set up and it applied for the declaration of 19,000 ha in Block 1 known as Jaha L.F.A. The first request on file is dated the 14 May 1988 (Schedule 3) which is a few days after the Permit was signed. Not to be left out United Timbers similarly activated another group of Block 1

landowners and at its request United Timbers' lawyer (Mr Coady) incorporated Kali Bay Development Corporation Pty Ltd which applied for the declaration of another LFA over substantially the same area, but to be known as the Kali Bay LFA.

Jaha Development proposed to log 80,000 m³ p.a. This would cut out that resource in five years.

The Kali Bay proposal is to log the same area at the rate of 100, 000 m³ p.a

By the 8 August Minister Stack was indicating his intention to declare the requested LFA.

National Government Policy in Action

On the 22 August FAS Samol prepared a draft Ministerial letter to Jaha Development which would have obliged it to substantiate that all landowners agreed to the declaration, that the PEC had endorsed the proposal and that a valid Certificate of Authority for the proposed dealing must be sighted first. The draft required that project guide-lines must be drawn up by DOF and that the selection of the contractor must be advertised. (Schedule 4)

The only person who actually briefed the Minister seems to have been the Secretary of the Department. He swore at the hearing that there was no written brief merely a series of discussions in which the Secretary said that he was generally in favour of the proposal. As the Forestry (Private Dealings) Act provided the means for landowners to exploit their own resource as a source of revenue, and as the Minister had power to make the declaration, he felt the area should be declared.

Problems of exceeding the sustained yield level would be handled by insisting on proper logging standards.

The letter that the Minister signed on the 22nd August did not include Mr Samol's safeguards. It was a simple expression of his intention to declare the LFA and a copy was sent to the MPG. (Schedule 5)

Minister Stack chose not to come and explain the way he applied national forestry policy in this instance. He did however submit certain materials with his files and these included a press statement signed by himself. (Schedule 6). It purports to set out his interpretation of policy and again it emphasises that, as the landowners have been given the right to exploit their own forest under the Forestry (Private Dealings) Act they should be allowed to do it. The press statement emphasises that the decision was based on political, social, economic and technical aspects of the projects. It did not mention that he was satisfied the declaration would be in the national interests as required by Section 4 of the Act. It did not mention the question of sustainable yield.

On the 30 August the MPG forwarded the Minister its written reasons for objecting to the proposals. These were fully discussed with the Minister at a meeting in Port Moresby on the 10th October. Throughout the MPG's arguments is the requirement for sustained yield harvesting. The minutes of the meeting show Mr Stack expressing concern that the SEAL/KBK joint venture Company did not have legal access to the balance of the Block 1 land and that it would be wrong to deprive the owners of that land of their immediate profit and to make them wait up to 15 years. In the first and second week of September the Prime Minister and Minister for Forests were flooded with letters from politicians and Jaha

Development supporters, the most notable and most persistent of whom was Arnold Marsipal, Manus MP and National Minister for Defence. Jaha lawyers were also most insistent.

On the 21 October 1988 Minister Stack notified the MPG that he had approved the declaration of the LFA.

No doubt fortified by Minister Stack's letter of intent, Monarch Investments put its equipment on the water bound for Manus Island.

This has led to a series of court actions in which KBK and the MPG have endeavoured to stop the logging and declaration of the LFA and Jaha Development (no doubt funded and advised by Monarch) have endeavoured to commence and (later) to continue logging operations.

Environmental Plan

Monarch Investment decided to ensure that their operation would not be stopped by orders given under the Environmental Planning Act. Monarch voluntarily submitted an Environmental Plan to the Minister for the Environment and then proceeded to take very active measures to ensure it was given rushed approval.

The plan was submitted on the 14th November. The Secretary of the Department of Environment and Conservation circulated it to the various authorities referred to above on the 14 December. This was done without reference to the Minister for

Environment and Conservation, Mr Jim Yer Waim. This was done according to normal routine procedures. Meanwhile however Monarch paid for representatives of Jaha Development to visit Minister Waim in his Waigani Office. After four visits by Jaha and its lawyers Minister Waim gave evidence that he felt sympathetic to them and sorry because of the expensive trips they were making. He said

"I shouldn't have done it and I have done it. The reason was they came to my office so many times I'm just fed up so I just said OK go ahead. I just signed it in the merits of the documentation"

He then approved the Environmental Plan on the 16 December 1988. The date of approval was two days after the draft plan had been posted to the MPG. The approval became effective 2 days before MPG received notice of the proposals. Approval was given before any of the consulted authorities had replied and before the Department had given any advice to the Minister.

It is in stark contrast to the careful consideration which had previously been given before approving the KBK/SEAL operation in the Permit area.

In the fight to repel Monarch from its shores MPG "opened fire" with an order by its Land Court to exclude Monarch's machines from a registered "land dispute area". Jaha retaliated with a National Court Injunction to restrain the Lands Officer from interfering. After the LFA was declared, but before gazettal, the MPG sought an injunction to restrain Gazettal and so it went on until it is finally before the Supreme Court on the question whether the Minister sufficiently consulted the MPG as required under the Organic Law on Provincial Government

before exercising his powers over a concurrent subject matter (forestry).

The MPG is holding its newest weapon in reserve. This is the draft MPG Forest Resource Management Act which it intends to introduce in April 1989 to fill gaps in National legislation and to significantly bind the hands of the National government in this concurrent Forestry subject matter. (schedule 7)

POLICY QUESTIONS

Aside from this question of consultation which at the time of writing is sub judice there are five main points of vital concern for forestry policy:

- (a) resource assessment
- (b) sustained yield management
- (c) the exercise of Ministerial discretion to declare an LFA
- (d) environmental Planning
- (e) the role of Provincial Legislation.

a) Resource Assessment

It is again obvious that the estimates of resource volume on which the DOF bases its decisions is not reliable. The estimates are commonly based on a sample of less than one percent which is scientifically an insufficient basis for estimating total resources in an area. In this case there was a 100% variation between the DOF and the MPG and KBK's consultant. Having finally agreed on a gross total figure for the forest there was confusion and conflict about how it was to be interpreted.

b) Sustained yield Management

There is not only disagreement about what actual harvest figure should be set to ensure a sustainable yield but there is even disagreement about what the term "sustainable yield" means. Some DOF officers explain it as the maximum volume for annual harvest which will ensure the forest will not cut out before the end of the permit period.

The MPG bases its sustained yield cut on the bases that the rate of growth of a given volume of timber is 0.75 cm p.a. If that area is logged cutting 50 cm dbh logs and over it will, at that rate of growth, be 40 years before that area has regained a commercially harvestable resource of about the same size. On this basis the MPG has estimated that its entire operable volume of approximately 3,350,000 m³ can be logged at no greater rate than 84 000 m³ pa. If it is logged with greater intensity there will be periods when no logging can be allowed to occur. During these lay off periods the forest must be allowed to regenerate. During those periods of lay off the proposed Veneer mill would have to close down (for periods of 20 years or so). At the public hearing the Secretary DOF, however, estimated that the sustainable yield level would be as high as 151 000 m³ p.a. Since then he has submitted a revised formula and approach for estimating sustainable yield. By using this approach he asserted that the "net merchantable volume" is 4,290,000 m³ and the sustainable yield cut would range from 151,949 to 303,485 m³ p.a. That these widely fluctuating estimates can still be a matter of controversy within the DOF after the Minister has purported to decide the forest's future by declaring a further LFA is of the greatest concern. On this matter I obtained independent expert advice from a visiting world

bank team which assessed the approaches of the MPG submission and the various submissions of DOF and its Secretary. The result was that experts in the team were unable to understand the latest DOF formula. They also expressed concern at the Manus proposal to harvest trees down to 50 cm.dbh. as the Manus callophyllum forest is a mature forest which has stabilised at an even 80 cm diameter. If all trees in an area down to 50 cm are cut the team fear it will be a clear fall operation and that the callophyllum species may not re establish. If the minimum cut was limited to 70 cm the team believes that there will be residual trees left between 50-70 cm and seedings will ensure the regeneration of the forest.

There is no PNG research data on the rate of growth of the various species and the estimate seems to vary from 0.5 to 1.2 cm pa. The MPG bases its estimate of 0.75 on North Queensland rainforest research.

c) Exercise of Ministerial Discretion

When considering whether to declare a LFA the Minister must first be satisfied that:

- (a) it is proper to do so having regard to -
 - (i) the interests of the owners by custom
 - (ii) the national interest and
 - (iii) the prospects for exploitation

- b) the area is suitable for exploitation under the Forestry (Private Dealings) Act

The Minister has stated that he had regard to the interests of the Jaha landowners and that there were good prospects for exploitation by way of log export.

To what extent he took account of the National interest and whether the Jaha area was suitable for exploitation by way of LFA and private dealing is not clear but it raises interesting issues. The national interest requires planning and orderly exploitation to preserve the forest resources on a national and provincial level (at least). The MPG believes it is in the Provincial interest to preserve its forests and to exploit them on a continuous sustainable yield basis. This will ensure that its mill keeps working and jobs and Provincial revenue continue. This would also be in the national interest. It is also in the National interest that National and Provincial planning are synchronised.

To consider the interests of the local landowners requires ascertaining, at least, that they all agree and that there is no major dispute. In this case it is quite obvious that some landowners are denouncing the Jaha Development directors and supporters as not being true land owners. It is also public knowledge that a rival group the Kali Development Corporation is seeking the declaration of an LFA which overlaps the same areas. To allow three competing foreign timber companies to operate within a radius of 10 kilometres of each other can be in the interests of neither the landowners nor the nation. (A much fuller discussion of the factors to be considered in declaring a Local Forest Area appears in Interim Report No.4 Volume 1 pp. 35 at seq.)

(d) Approval of Environmental Plan

Selective logging as practised in PNG is prone to have disastrous effects on the physical environment. It is also most likely to have unfavourable effects on the social environment. It is vital that these potential problems are considered before the operations commence and this is provided for by the Environmental Planning Protection Act Ch. No. 370.

The scheme of the Act is for an environmental plan to be produced and then to encourage free consultation between all interested parties and to allow the maximum amount of public input.

For the Minister for Environment to have by passed this entire process and to have granted approval before hearing from his department or other interested parties was a grossly improper exercise of his discretion which really makes a mockery of the procedures laid down.

(e) The Role of Provincial Legislation

Under s. 27(n) of the Organic Law on Provincial Government "Forestry" is a concurrent subject on which the provincial government may legislate. Provincial Government legislation will have effect "so far as it is not inconsistent with any Act of Parliament."

The Acts of the National Parliament are the Forestry Act Ch. No. 216 and the Forestry (Private Dealings) Act Ch. No. 217 together with various pieces of subordinate legislation promulgated under those Acts. The National Legislation is known to be very inadequate and fails to enshrine many principles which are claimed to be included

in National Forestry policy. Amongst the gaps in the National Legislation are matters relating to forest management, preservation of the resource and annual harvest rates. These matters have now been regulated by the provincial Forest Resource Management Bill which, once enacted, will put severe restrictions on the previously unlimited powers of the National Minister for Forests to impose conditions relating to such matters in Permits. The Provincial Act will also restrict the powers of the Secretary DOF regarding these same matters.

CONCLUDING COMMENTS

At the conclusion of the hearing on the Manus Resource it is clear to me that the same sort of unplanned allocation which was allowed to occur in New Ireland is occurring on Manus. Once again it is occurring because of pressure from "landowner companies" which have been created and "possessed" by foreign timber companies. Once again the foreign companies are dividing a local community by promising them benefits from timber exploitation at the expense of rival interests. Once again the foreign companies are making payments and offering expensive trips to gain support from local leaders and are gaining strong support from some local politicians. Once again the companies have shifted equipment into the area and commenced operating illegally in defiance of law and government authority. And once again "foreign inspired" groups of landowners and supporters are applying almost irresistible pressure on National Ministers who, once again, are acquiescing.

The difference this time is that the foreign companies are opposed by a Provincial Government which has a clearly defined forestry policy based on protecting the forest resource from over exploitation. It bases its policy on principles of sustainable yield management and considerations of provincial and national interest. By contrast the National Government is proceeding under the pressure of the moment to allow over exploitation of the resource for the "benefit" (if such it will be) of a small group of "landowners" desiring to maximise their immediate profits from the resource. Even their right to call themselves landowners has been challenged and the issue of Manus forests is still being contested in the bush and in the courts.

If the planned allocation is allowed to proceed it is unlikely that the forest resource will survive the approved logging operations.



MANUS PROVINCIAL GOVERNMENT

OFFICE OF THE PREMIER

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Date: 10 April 1989

Reference: PM10-1

STATEMENT TO:

Commission of Inquiry into Forestry Matters
 National Court
 WAIGANI
 National Capital District

SUBJECT: FOREST POLICY FORMULATION AND IMPLEMENTATION - MANUS PROVINCE

This statement seeks to outline the Provincial Forest policy formulation and the implementation of that Policy.

1 Policy Formulation

The Provincial Government commenced formulating a forest policy for the Province as early as 1982 at which time drafts were prepared and forwarded to the Department of Forests for comment. The final Policy was not approved until early 1987.

The National Forest Policy (of 1979) and Forestry Legislation Chapters 216 and 217 are primarily concerned with forest operations rather than forest management. The National policy relies on the Constitutional directives provided by the National Goals and Directive Principles for forest management statements. The national policy naturally has to embrace the country's overall forest development issues and provide general objectives and direction. Provincial policy, then, concentrates on issues and circumstances particular to the Province but remaining consistent with the overall national policy framework. Provinces are not all alike and need local policy and development direction to maximise benefits in line with its resources provincial economic and social objectives, as well as safe-guarding the environment for its present and future population.

The National Government recognises these levels of governmental responsibility by establishing, within the Organic Law on Provincial Government, at Section 27, the fields of concurrent or joint responsibility. Forestry, land and land development, renewable and

non-renewable natural resources, wildlife protection, industrial investment and development, and marketing are some of these concurrent areas.

Forest resource development touches all these subject areas in some form. The State has thus intended, by its commitment to decentralisation through the Organic Law on Provincial Government, to involve and to expect Provinces to take responsibility in managing and guiding development of Forest resources in their Province.

The need for a written Provincial policy was recognized to ensure direction for proper, beneficial and long-term development resulted from the harvesting of the Province's unique forest as well as maintaining the integrity of our island environment for present and future generations.

The Province has been fortunate in being able to formulate policy and forest development objectives based on a sound knowledge of the forest resource, albeit restricted at this time to the main island.

The resource inventory was conducted in 1973/1974 by the Department of Forests. This inventory has been further analysed in subsequent desk top and field studies. The merchantable log volume (ie above 50 cm dbh) in the past has been estimated in the order of 3.0 million m³ and this has now been defined at 3,350,000 m³. Two-thirds and the prime stands of this resource are located on the western end of the main island, Manus, within a net area of 52,000 Ha's which is some 25% of the island's land mass, (refer map 2 attached). The inventory shows that the forest is dominated by a single genus, *Calophyllum*. Its density ranges from 60 to over 80 percent of the standing stock.

Calophyllum, a pink/red hardwood, is a Group 1 specie in the PNG log grading system. Its past absence from the market in sufficient and consistent quality and quantities from a single source has probably prevented its true sale price being realised yet. It possesses good processing qualities for sawn timber and veneering at source.

Environmental impacts of any resource development in Manus needs to be considered with care because of the sensitive island nature. The main island, of only some 200,000 Ha's in total area is smaller than some permit forest areas of individual companies in other Provinces as shown on the attached map 1. The island has a high rainfall, 4000 mm's per year, spread evenly by month, with no distinct wet or dry season. The island topography is generally broken and in areas such as the mid-island karst and the south-west peninsula core-rim, the slopes are dissected by steep-sided gullies and water-courses many in excess of 40 degrees. Soils are of moderate quality and generally shallow, giving rise to the absence of tap-root systems in the forest, an element requiring specific consideration. The coast-line is fringed by extensive mangrove swamps and estuarine areas which provides the population's food basket, for staples such as sago, fish, shells, and shelter materials.

Manus is estimated to be some seventy percent self-sufficient, maintaining the traditional subsistence lifestyle.

The environment which allows this self-sufficiency is the result of the populations' careful use and understanding of the integral components; the soils and vegetation, the drainage systems, the swamps, the sea and the climate. Destruction of any of these components, given the finite bounds of the island environment, beyond tolerable limits, would place in jeopardy the population's immeasurable wealth; self sufficiency.

The forest or the trees themselves are not stand alone components of the Manus environment.

Besides the physical environment, the modern needs and aspirations of the population must be considered. Manusians have acquired a reasonably good level of skills and education, coupled with expectations of participation in the monied economy to improve their lifestyles. However employment and business opportunities have been very much limited in Manus hence 25 percent of the population, mostly of working age, are absent.

The non-government cash economy, estimated at about K2 million per annum, about one quarter of the annual money flows, is predominantly subsistence cash crop production and absentee remittances.

The creation of productive employment and business opportunities, the advancement of skills and technology, and the creation of new and sustainable wealth are a cornerstone of our Provincial development policies, to enable Manusians, particularly the young, to lead productive lives in their own Province with their families. Processing of raw materials and related spin-off industries in Manus creates opportunities that must be pursued to achieve these objectives. The forest resource can substantially provide these opportunities.

An important consideration also is that the limited size of the resource, of only 3.35 million m³, must be developed and regenerated as one productive unit to ensure viable and sustained investment in resource harvesting, resource regeneration and processing is maintained. Asian Development Bank studies for the National and Provincial Government had shown that a forest harvesting and natural stand regeneration operation required a maximum of 50,000 cm³ per year harvest rate to be viable and 70,000 m³ per year rate to be a sound operation.

For our limited island resource it would be irresponsible of our generation to harvest, and our governments to allow, the harvest of the resource and then leave regeneration solely to 'mother-nature', which could well mean a degraded asset in the future. Forest profiles show that the dynamics of the dominant Calophyllum canopy, in its present natural state, does shut-out less valuable species. However with harvesting and opening of the canopy will this status-quo remain? Regenerated forests in other areas of the Province which have been harvested suggest that post-harvest silvicultural attention is required to ensure the quality forest is maintained.

The Province had seen examples of poorly financed, and poorly managed forest operations in the past that brought no lasting benefit.

The above has described the physical elements on which our Provincial forest policy formulation is based, and can be summarised as:-

- limited, finite but quality forest resource,
- resource processing capabilities,

- specific island environmental limitation, and constraints,
- creation of sustainable opportunities to maintain and improve our Manusian lifestyle for present and future generations.

The Policy formulation has been guided by the requirements of our National and Provincial Constitutions, the National Forest Policy and the National Investment Guidelines, (Schedule 1 of National Investment and Development Act Ch. 120).

The National Constitution specifically requires at Sections 25 and 63 for all governmental bodies to apply and give effect to the

- National Goals and Directive Principles particularly in this context, Directive Number Four, relating to the conserving, replenishment and wise-use to be made of our natural resources and the environment in the interests of our development and in trust for future generations, and
- Basic Social Obligations, particularly sub-section (d), to safeguard the national wealth, resources and environment in the interests of the present and future generations.

The National Forest Policy (1979) relies on these same principles.

The Provincial Constitution adopts these Principles as the aims and objectives of the Province. Our Constitution further pledges...."to ensure that the land and other natural resources of our Province are used for the benefit of our people".

The National Investment and Development Act at Section 8 requires that planning and implementation of investment plans shall follow the National Investment Guidelines. The appropriate Guidelines at Schedule 1 of the Act are:-

- 6 The maximum use should be made of PNG raw materials, manufactures and supplies.
- 7 As far as practicable, all processing of PNG materials should be carried out in PNG.
- 8 Investment in rural and less-developed areas should be encouraged.
- 10 Every effort should be made to conserve the environment.
- 11 The essential relation between the spiritual integrity of the people and their physical surroundings should be scrupulously respected.

The Provincial Government has, as well the National Government, by these Constitutions, Policies and Guidelines, been provided with specific objectives and responsibilities to ensure good government prevails and the best development opportunities are taken.

The Provincial Forest Policy sets these responsibilities and objectives on which forest industry development is to be based.

This Policy, appended hereto, can be summarised to four (4) main principles

- 1) Sustained Yield utilisation and management of the resource in perpetuity and placing considerable onus of regeneration management on the harvesting operators,
- 2) Processing of the resource to maximise benefits,
- 3) Participation by Manusians, particularly landowners and other nationals in the ownership of business and employment in the industry,
- 4) Maintaining the environmental integrity to preserve the Manus lifestyle.

The Policy was approved by the Provincial Executive Council and the Provincial Assembly in January and February 1987. The Policy document was provided to the Minister and Department of Forests soon thereafter.

The Minister for Forests, in National Parliament on the 18th November 1988 (Hansard-Question Time) confirmed that the National and Provincial Forest Policies are:-

- (a) in agreement;
- (b) concerned with sustained yield management; and
- (c) that the maximum harvest level for the Manus resource to be sustained is approximately 90,000 cubic metres per annum or could be a little higher.

2 Policy Implementation

For the past thirteen years the Province has been planning a forest industry, based on the maximum utilisation of the resource potentials within the limited environment. The major hurdle to any forest resource development is the acquisition of rights to access and harvest the forests. The Provincial and National Government spent about ten years to finalise by 1986, a Timber Rights Purchase Agreement (TRP). This initial TRP covered an area of 32,600 Hectares with a standing volume of 1.1 million m³. This TRP is situated in the Western area of Manus encompassing Forest Block 2 and part of Block 1, refer Map 2 attached. The remainder of Block 1 area was intended to be included in the TRP but the landowners of that area preferred to "wait and see" and be included at a later date.

The TRP area was advertised in early 1987, by tender. The tender guidelines required certain roads to be constructed and the maximisation of processing and forest management though no specifications were offered. Harvest rates were to be in accordance with sustained yield principles. Six foreign companies tendered, of which five proposed log export operations. The sixth company, a processor, proposed Veneer mill investment, roading as specified, and forest regeneration management. During the tender process only one tenderer the processor, sought a copy of the Province's forest policy to guide its tender preparation.

The designated Permit holder, a national company made up of all the landowners from the TRP area and the Provincial Government, with the National Government negotiated the project with the sixth tenderer, resulting in the State issuing a permit, TP18-2, to the national company. That Permit, at the insistence of the Permit Holder, requires a Veneer Mill, to process a minimum of half the annual harvest, and ancillary infrastructure, be constructed in the TRP area within three years of the permit Date. The Permit specifies an implementation schedule to comply with this target.

The Permit also specifies that the Permit Holder must complete detailed land-use and forest regeneration management investment and implementation plans for the TRP area within 12 months of Permit Date and have the Plan incorporated into the forest working plans.

The Permit Holder passed these conditions to the Contractor by way of Agreement.

The annual harvest rate was established at 72,000 m³ to ensure viability. Whilst this only gave the Permit Area a project life of 15 years, the incorporation of the total Manus resource at a subsequent time would ensure sustained yield in perpetuity. Whilst neither the State, nor the Provincial Government could promise the availability of additional resource, the Permit Holder and it's Contractor (Investor) were encouraged by national and provincial policies of sustained yield management to commit the processing investment within the TRP area as the first phase of a perpetual industry.

The sustained yield parameters of the total merchantable resource was estimated to be in the region of 70-90,000 m³ harvest rate per annum.

The Provincial policy objectives were uppermost in project negotiations to ensure the best opportunities obtainable from the resource asset. The project is now being implemented.

Prior to the tender process being finalised in late 1987, the Provincial Government received reports that two of the foreign tendering companies Monarch Investments Pty Ltd and United Timber (PNG) Pty Ltd, who were not short-listed for final tender selection were attempting to influence landowners from the Block 1 resource area to fragment the resource for separate log export operations.

Soon thereafter the Provincial Government came into possession of documentation that established that some individuals from the resource area had formed two national companies, purported these companies to be landowner companies, and then proceeded to enter into standard Logging and Marketing agreements with these two foreign logging companies. These separate agreements are over substantially the same area of forest resource in Block 1, an area of only some 19,000 Has and a resource volume of only 1 million m³.

The Provincial Government in October 1987 re-emphasised its existent Forestry Policy by providing that:-

- a) the Manus forest is to be consolidated as one resource to effect sustained yield management and that only one major harvesting contractor be permitted to operate and

- b) the resource access and harvest rights be only permitted under the Forestry Act Ch. 216; ie, the Timber Rights Purchase Agreement and Timber Authorities, to ensure a measure of control over harvest operations.

These policy statements were seen as necessary to protect the economic viability of the resource on a sustained yield basis as well as the environmental integrity of the forest area, and importantly to protect the rights of true resource owners.

The Provincial Government was extremely concerned that the National Minister of Forests was apparently supporting this fragmentation of the Manus resource, by receiving the applications from the two abovementioned national companies and in time giving them consideration.

This appeared to the Provincial Government, to be totally incogenuous, when at this very time the State was negotiating for the investment of some K13 million in an integrated logging and Veneer Mill venture and expounding the need for sustained yield resource management in the permit conditions of the adjacent TRP area.

Some resource owners or purported resource owners may claim they can dispose of their resources any way they see fit. However these individuals have a responsibility as a citizen to act consistent with the National Constitution in particular, the National Goals and Directive Principles and the Basic Social Obligations (Section 32(1)). These individuals also have a responsibility to act consistent with the best interests of their fellow clan members, their neighbourhood, their future generations, who of course have no say in the issue, and the Manus society in general.

It is the responsibility of governments as leaders of this Country to ensure the best interests of our citizens are maintained and obtained at all times. Surely that is basic tenet of a democratic society.

The support by the National Minister of Forests to fragment the Manus resource has continued by his further consideration of the two national companies', (referred to above and are Jaha Development Corporation Pty Ltd and Kali Bay Development Corporation Pty Ltd), applications for Local Forest Area dealings under the Forestry (Private Dealings) Act Ch 217 and the subsequent declaration of the Local Forest Area for the area applied for by Jaha Development Corporation Pty Ltd, some 12,000 Has. This would leave some 7,000 Has for the other applicant. The two applicants, as demonstrated by their proposed logging agreements intend harvesting their areas at an aggregate rate of some 186,000 m³ per year. Remembering that this total Block 1 area has only a volume of 1 million m³, the resource will be depleted in five (5) years. The economic social and ecological post - logging consequences will be irrevocable and disastrous.

The two foreign logging companies Monarch Investments Pty Ltd and United Timber (PNG) Pty Ltd have commenced to operate in the Block 1 area without any permits or approvals under any forestry law.

The Provincial Government is particularly concerned that the actions of the Minister for Forests appear to be contrary to fundamental forest resource development principles as set down in the national and provincial forest policies and legislations, the directions of the National and Provincial Constitutions, the National Investment and Development Act, sound and logical economic, environmental and social commonsense for the betterment of Manus and PNG.

The Provincial Government has entered a dispute against the Minister for Forests and the State under the Provincial Governments (Mediation and Arbitration Procedures) Act Ch. 382 as it is opposed to the actions of the Minister for Forests that will result in the fragmentation of the resource and will be in contravention of the provincial and national forest policies. This matter is now before the Supreme Court as well as Arbitration proceedings pending under Ch. 382, hence no further comment.

The dispute between the National Minister and the Provincial Government is having the effect of confusing landowners and allowing the situation to be exploited by individuals, to the detriment of the Province and the nation.

However, because of the seriousness of these matters, not the least the primary importance of the forest resource to Manus's economic, environmental and social future, and the importance of the National and Provincial Constitutional directives and forest policies, the Province has prepared a Forest Resource Management Bill. This Bill has been tabled in the Provincial Assembly for final debate at its next sitting. A copy of the Bill is attached.

The Bill emanates directly from the Provincial Forest Policy and encompasses four main elements;

- delineation of the forest resource into production and protection forests through a consultative planning process and provides for guidelines and regulations to be made for the management of those forests,
- defines sustained yield management by establishing at law a formula to set the maximum annual harvest rate of the resource, and provides the means to ensure operators comply with that harvest rate.
- requires conversion of the resource in Manus,
- requires forest management and land use planning and implementation including harvest operators employing on site professional forester staff to oversee forest regeneration and management.

The Bill provides that to achieve sustained yield that the maximum annual harvest rate for the aggregate of all logging operations shall not exceed 84,000m³. This rate is based on best available data applied to the sustained yield formula in the Bill.

The Bill has been disseminated widely throughout the Province. In February of this year the Government met with fourteen (14) Community Governments to discuss the Bill and to seek their views, prior to tabling of the Bill in the Provincial Assembly. Twelve (12) Community Governments supported the Bill whilst two (2) abstained from making a commitment. The Community Governments from the western area of Manus, the main resource areas, were the most supportive of the Bill. In tabling the Bill in the Lapan Assembly, the Assembly resolved that a Parliamentary Committee tour each Electorate in the Province to gain the views of villagers and landowners also. This Committee's work is still in progress, their report will be tabled at the next Assembly sitting as part of the final debate on the Bill.

CONCLUSION:

The Provincial Government over the years has patiently developed a forest policy, project parameters and finally forest management legislation that consistently have three basic objectives:

- (a) to manage the resource as a single viable productive unit,
- (b) obtain the best returns from the forest resource,
- (c) ensure the present generation provides for the future generations.

One poor decision today in the development and management of our forest resource can have disastrous and irrevocable consequences for our people.

Our limited island environment requires careful management. Manus has no fall back resource.

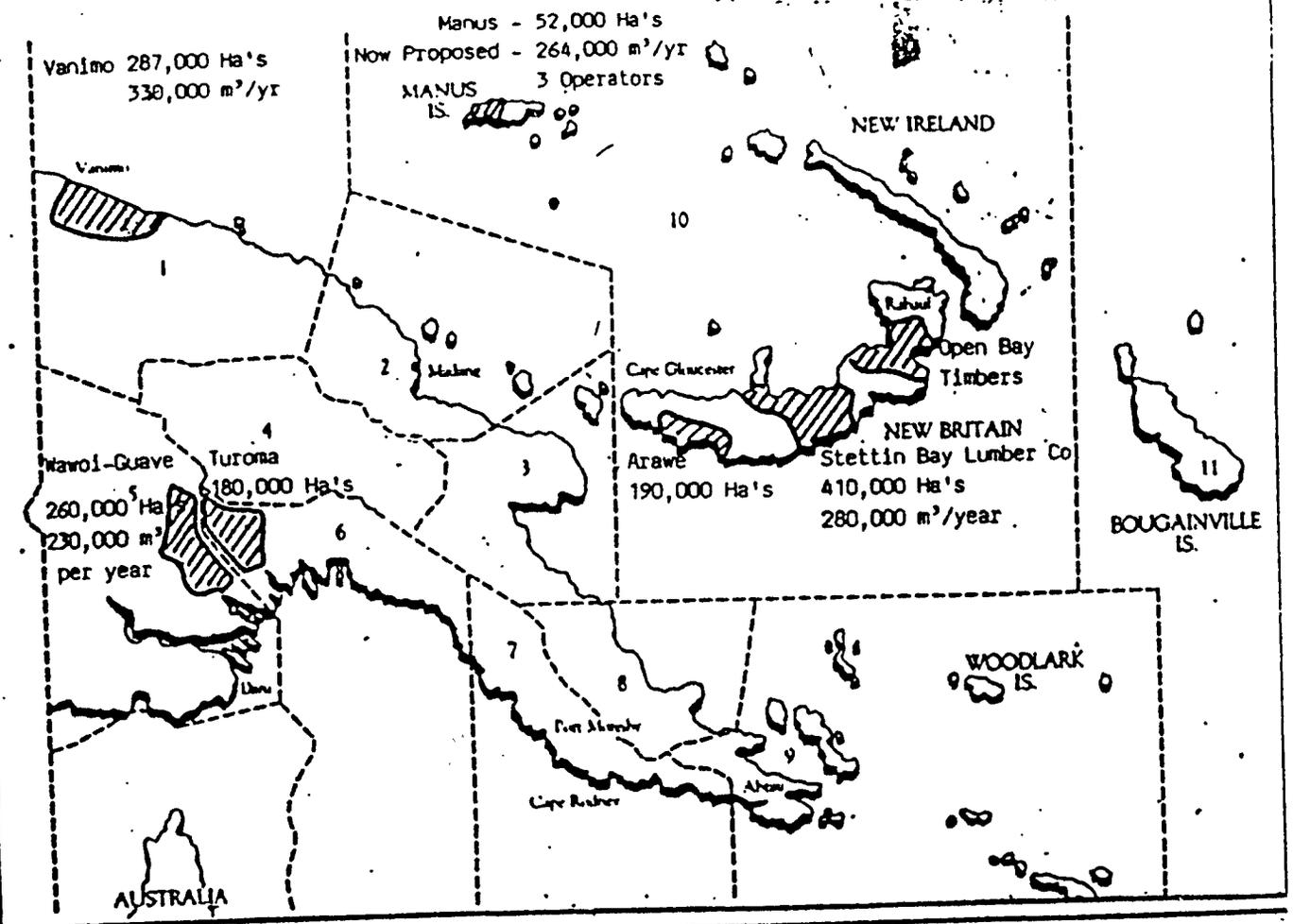
Commonsense development, not greed, must prevail.

The National and Provincial Governments have a joint responsibility that good government and the best development opportunities to improve our lifestyles are taken.

Our Constitutions, laws and policies are not to be treated as mere rhetoric.

S P POKAWIN
Premier

MAP 1 COMPARISON OF SOME SINGLE OPERATOR FOREST CONCESSIONS IN PNG TO THAT NOW BEING CONSIDERED FOR MANUS



MAP 2

FORESTRY RESOURCE - MANUS

RESOURCE DISTRIBUTION

2.1 million m³

0.9 million m³

TP 18-2, 72,000 m³/year

Proposed LFA Areas

Sill'in

Annual Harvest = 192,000 m³

Bundratet

NDRALUKE

Veneer Mill, Port Site

Lorengau

- Roads to be constructed in TP 18-2
- Roads in Manus
- 2 Forestry Blocks

Scale 10 5 0 5 10 kms

- iv) To manage the forest resource in such ways that it maintains its purpose and contribution for recreation and other indirect benefits.

4. POLICY IMPLEMENTATION

The Provincial Forest Policy basically contains broad statements of goals and objectives which the province and its people desire. It will serve as a guide for policy and decision makers, planners and forest owners to decide on the best ways to develop the forest resource. The realisation of specific goals and objectives requires the translation of the policy statement into strategic and tactical plans and programmes to decide on what is to be done, how it is to be done, when it is to be done, and who to do it.

The Manus Provincial Government therefore presents the Provincial Long Range Forest Management Plan and the Medium Term Forest Development Plan 1987-1991 which outlines the major areas of development into which the government wishes to direct its effort and resources to foster the maintenance and improvement of the social and cultural life style and heritage of Manus people, maximum participation by traditional forest owners in the industry, generation of revenue, employment, infrastructure development, other business spin off to boost economic growth and improve rural welfare.



MANUS PROVINCIAL GOVERNMENT

PEC: Provincial Executive Council

P.O. Box 190
Lorengau
Telephone: 40 9088
Telex: NE 40802
Facsimile: 40 9218

Date: 1989-01-24

Reference: PM.2-4

DECISION NO.2-1/87

MEETING NO.ORD.1/87

DATE: 29-30 JANUARY 1987

VENUE: CABINET CONFERENCE ROOM

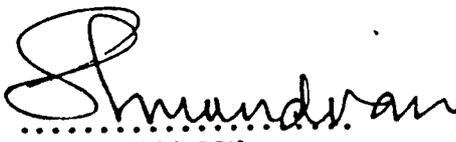
SUBJECT: PROVINCIAL FOREST POLICY, MANAGEMENT AND DEVELOPMENT PLAN

Lapan Cabinet resolved to approve:

- 1 The Provincial Forest Policy
- 2 The Long Range Provincial Forest Management and the Medium Term Forest Development Plan 1987-1991.

This is to certify that the above statements are the current record of the Lapan Cabinet Proceedings of the 30th January 1987.


.....
STEPHEN P. POKAWIN
Premier & Chairman


.....
C MUNDRAU
Acting Secretary



MANUS PROVINCIAL GOVERNMENT

PEC: Provincial Executive Council

P.O. Box 190
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Date: 1989-01-24

Reference: PM.2-4

DECISION NO. 36/10/87

MEETING NO. ORD. 10/87

DATE: 22-23 OCTOBER 1987

VENUE: CABINET CONFERENCE ROOM

SUBJECT: COMMERCIAL FOREST RESOURCE DEVELOPMENT

Lapan Cabinet resolved unanimously to approve:

- 1 That the province adopts a policy of consolidating the province's forest resources for commercial development purposes in so far as not allowing more than one timber company to be contracted to develop the major log export and major processing sector of the provincial timber industry.
- 2 That no timber industry operation be allowed to take place in the province under the forestry private dealings act.
- 3 That timber rights purchase and native timber authority become the only resource acquisition vehicles for commercial development of the province's forest resources.

This is to certify that the above statements are the current record of the Lapan Cabinet Proceedings of the 22 October 1987.

.....
 STEPHEN P. POKAWIN
 Premier and Chairman

.....
 C MUNDRAU
 Acting Secretary

PROVINCIAL FOREST POLICY

INTRODUCTION

The forests of the world play a very important part in the lives of all global inhabitants especially in supplying the three basic needs; food, shelter and clothing. Likewise the Manus Province depends very much on her forest to satisfy the needs of her inhabitants hence contribute to maintenance of a sound communal life. The population does not depend on a single forest product but from a multitude of products such as wood for fuel, housing and canoes, leaves for shelter clothing, food and medicine, bark for clothing, fruits for food, forest for food production, tools and implements, sustaining life forms through supplying oxygen, water, protection and providing recreation. Simply put the population is dependent on the whole forest ecosystem for survival.

In the Manus Province with a current resident population of 25,000 these needs are being provided by a tropical rain forest ecosystem of some 211,000 hectares. The vast majority of the population are subsistence farmers and fishermen and have been using the forest just to meet their subsistence needs. Besides subsistence farming, fishing and more recently cash cropping, small scale sawmilling and log exports the forests in the main remain untapped. The province meanwhile has an annual population growth rate of 2.5 percent. Increase in population will correspondingly mean increased demand on the use of land and forest products thus reducing the volume of land and forest products per capita.

The Province has a unique and valuable but small forest resource of which 61 percent of the overall species composition is that of the genera *calophyllum*. This *calophyllum* resource has reached its climax stage of forest succession. Considering very carefully the quality and quantity of our forest resource and its socio-economic and biological value the policy regulating the use of this resource must revolve around the whole forest ecosystem in relation to the overall development of the rural communities and the province.

The Provincial Forest Policy must reflect the framework, and be in harmony with the National Forest Policy however development of the Forest Resource must be executed in tune with prevailing Provincial aspirations and conditions.

The Province lacks in development and being economically starved considers forest industry development as a key tool for enhancing Provincial and National Development giving rise to collective benefits of revenue generation, employment, infrastructure development, agriculture development and business opportunities. As well as maintaining subsistence, protection and recreation needs, development of the forest resource must be geared to provide and maintain substantial and continual net socio-economic benefits to the traditional resource owners.

1. NEED FOR POLICY

The Manus Provincial Government realises the need for a definite Provincial Forest Policy to regulate the usage of her valuable natural resource, the forest. The Province is geographically isolated and physically small in land mass thus unlike most other provinces has limited but unique and valuable timber resources. The Province furthermore is economically starved and thus considers that long term forward planning for forestry development is essential because of:-

- a) The relatively long periods of time involved in forest activities.
- b) The part that forestry can play in community, provincial and national development, particularly when the forests are continually renewed through reforestation and other forest management practices.
- c) The Many types of services and benefits which forests can provide and;
- d) The necessity for conservation of natural resources.

2. THE PRINCIPLES BEHIND THE POLICY

National Constitution

The National Constitution in its goals and directive principles, realises that the forest is renewable and can be used now and replenished for future generations. It therefore calls for:

- a) Wise use to be made of our natural resources and the environment in the interest of the development of Papua New Guinea and in trust for future generations.
- b) The conservation and replenishment of the environment and its sacred, scenic and historical qualities for the benefit of the people and for posterity.
- c) All necessary steps taken to give adequate protection to our valued Flora and Fauna.

Provincial Constitution

The Provincial Constitution adopts the national goals and directive principles and pledges the following;

- a) To ensure that activities in our province are directed towards the promotion of moral, cultural, economic and social advancement of the health, happiness and improvement in all ways of the quality of life for people.
- b) To ensure that the land and other natural resources of our province are used for the benefit of our people, to recognise the rights of individuals, families, and clans, and by doing so provide equal opportunity for participation by all members of our province in all political, economic and social activities.

3. ON THE BASIS OF THE EIGHT POINT PLAN, THE FOLLOWING IS A STATEMENT OF PROVINCIAL FOREST POLICY AND GUIDELINES.

3.1 Policy Guidelines:

- a) Papua New Guinea has extensive Forest areas, which with proper management can help considerably the immediate and long term economic and social development of the individual provinces and therefore Papua New Guinea as a whole.

- b) The development of these forests offers opportunities for employment, revenue, the decentralisation of industry and maintenance and improvement of the quality of life and the environment.
- c) That land tenure presents problems and successful development requires the co-operation of owners.
- d) Many forest owners are dissatisfied with the returns they have received from development of their forest resource in the past and are pressing for returns to be improved and made continuous.
- e) It is in the best interest of the traditional resource owners, the industry and the nation that the government or its agency should act between the owners and the timber industry.
- f) The traditional resource owners should be given maximum opportunity to participate in all phases of forest development.
- g) It is essential to maintain and manage the forest resource of the province in the Provincial and National interest so that they are not depleted nor wasted.
- h) The development policy of provinces should not compete but compliment each other and be in harmony with the national forest policy and;
- i) Forest owners are largely ignorant and have taken for granted the socio-economic value and importance of forests. Forests and their environs have for time immemorial been the source and foundation for the province's rich historical, cultural and artistic values and life style.

3.2 The Policy;

The Manus Provincial Government desires to formulate a forest policy whose main aims are geared towards;

- a) Preservation and Maintenance of a sound Manus Life Style;

- i) To manage, develop, conserve and replenish the forest resources of the province in such ways that the forest continues to contribute towards the maintenance and improvement of the Manus Social and Cultural Life Style.
- b) National Ownership and Participation
- i) To have the forest resource of the province managed as a Provincial and National asset in the interest of the present and future generations.
 - ii) To allow for a greater and meaningful participation by Manusians and other Nationals in all phases of forestry development.
 - iii) To direct greater earnings towards forest owners through a greater share in timber royalty, business equity, other business and employment opportunities.
 - iv) To create opportunities for contract workers and enterprenurs to participate in transportation, logging, steverdoring, carpentry shops, road construction, other small forest industries and spin off businesses.
 - v) To develop extension services in the areas of minor forest products and utilisation.

c) Revenue Generation:

- i) To provide for an increase in provincial revenue base to support the government in providing necessary goods and services to the people.
- ii) To provide for the generation of revenue to support and promote follow up landuse development through reforestation and agriculture development.
- iii) To provide for the generation of revenue to support the management and administration of forestry functions in the province.

d) Forest Industry;

- i) To provide for the establishment of such forest industries to make the province self reliant and self-sufficient in timber products and at the sametime make use of export opportunities.
- ii) To promote, encourage and ensure that resource owner companies become the prime vehicle for developing the provincial forest industry.
- iii) Realising the attractiveness and value of the calophyllum dominated forest resource timber industries are encouraged to place priority on maximum utilisation and processing of the resource in the province.
- iv) To promote and encourage the establishment and development of downstream processing industries.

e) Resource Replacement and Management

- i) The province shall endeavour to ensure that the forest are developed and managed so that provincial and national goals are attained and forest owners receive a fair deal.
- ii) To encourage the forest owners and forest industry to accept maximum responsibility for forestry activities particularly in the areas of reforestation and utilisation.
- iii) To manage the forest resource on a sustained yield basis so as to ensure future wood supply to sustain the timber industry in the province as well as to allow for the forest resource to be perpetuated.
- iv) Due to the very small but unique and valuable forest resource, to preserve, develop and maintain through such forest management practices and carry out reforestation in such areas as will enable community and provincial needs to be met as far as is possible and at the same time enable full advantage to be taken of export opportunities.
- v) Reforestation shall be part of any industrial forest development.
- vi) Emphasis to be placed on agriculture development on land areas that have a high agricultural potential.
- vii) To establish demonstration areas and project based Agro-Forestry techniques aimed at intergrating subsistence and commercial agriculture with the growing of trees to restore and improve soil fertility, control soil erosion, provide wood products, and effectively improve land usage and increase productivity.

f) Creation of Employment Opportunities

- i) Through the development of the forest resource provide for employment opportunities for Manusians in the timber industry and the forest service.
- ii) To create employment opportunities for contract workers, and enterprenurs in transportation, logging, carpentry shops, stevedoring, roading and other spin off businesses.
- iii) To create employment in follow up landuse development such as reforestation and agriculture.

g) Infrastructure Development;

- i) Through the utilisation of the forest resources assist in the development of basic and essential infrastructure such as roads, bridges, schools, aid posts etc needed for the carriage of goods and services to the people so as to improve rural welfare.

h) Forest Research;

It is without question that forest research is an intergral part of forestry and forest industry development. Whilst mindful of the fact that forest research is a national function the following is a statement of provincial forest research strategy.

- i) Emphasis be placed on the initiation and development of applied forest research, projects and activities relevant to the province..
- ii) To identify appropriate socio-economic research projects and activities relevant to the province and in consultation with the Department of Forest formulate appropriate research programmes for their implementation.

iii) To support and assist the Department of Forest in the establishment and monitoring of forest research activities relevant to the province.

i) Forestry Education Programme;

i) To develop extension services to foster by education and propaganda a real understanding among the people of the province of the socio-economic value and importance of the forest to them and the future generations.

ii) To support the development of locally owned forest industries and enterprise by assisting in identifying and co'ordinating appropriate training programmes.

iii) To ensure that provincial forestry staff are adequately and appropriately developed to render professional service to the government, the forest industry and the people.

j) Environmental Protection and Recreation;

i) To accept the need for the protection and management of the headwater conservation, forest areas of intrinsic and aesthetic value, catchment areas, control of soil erosion, to minimise environmental degradation and pollution.

ii) To identify animal and plant communities that inherit social and biological values to the province and protect these to provide for proper gene pool conservation and management.

iii) To conserve minor forest products for the village cottage industries.

- iv) To manage the forest resource in such ways that it maintains its purpose and contribution for recreation and other indirect benefits.

4. POLICY IMPLEMENTATION

The Provincial Forest Policy basically contains broad statements of goals and objectives which the province and its people desire. It will serve as a guide for policy and decision makers, planners and forest owners to decide on the best ways to develop the forest resource. The realisation of specific goals and objectives requires the translation of the policy statement into strategic and tactical plans and programmes to decide on what is to be done, how it is to be done, when it is to be done, and who to do it.

The Manus Provincial Government therefore presents the Provincial Long Range Forest Management Plan and the Medium Term Forest Development Plan 1987-1991 which outlines the major areas of development into which the government wishes to direct its effort and resources to foster the maintenance and improvement of the social and cultural life style and heritage of Manus people, maximum participation by traditional forest owners in the industry, generation of revenue, employment, infrastructure development, other business spin off to boost economic growth and improve rural welfare.

pdr
Jaha Development Corporation Pty Ltd.
PO Box 237
Lorengau
Manus Province.

14th May, 1988

The Hon. Tom Horik,
Minister for Forest.
PO Box 5055
BOROKO

*Secretary,
please advise status,
_____*

My dia Minister,

RE: APPLICATION TO DECLARE A LOCAL FOREST AREA AT MANUS WEST COAST.

Mipela landowners na directors bilong Jaha Development Corporation ilaik tok tenkyu tru long Minister long givium yumi wanpela gutpela opportunity long tokaut tingting blong yumi long miting yumi iwokim pinis long office bilong Minister long Friday 13th May, 1988.

Mipela ilaik autim gen sampela toktok yumi itokaut pinis wantaim long Minister:

1. Mipela sanap long naim bilong olgeta pipal long LFA AREA.
2. Jaha Development em i kompani bilong yumi stret na yumi inogat interest insait long TRP area nau igo pinis long SEAL. TRP em i seperate long LFA.
3. Pipal insait long LFA area ilaik lukim development bai imas kam long area bilong yumi nau tasol.
4. Pipal ilaik kisim wok insait long LFA area long taim contractor ikatim daun ol diwai. Yuni laik wok insait long graun blong yumi yet na bosim area bilong yumi long han bilong yumi stret. Directors bilong yumi i capable long ronim wok bilong kompani bilong yumi.
5. Angco Development, em wanpela bikpela plantation developer i soim bikpela interest long sapatim yumi long despela wok bikos contractor bai yumi engaged long despela wok bilong katim daun diwai bilong yumi bai givim yumi K2 long wanpela wanpela cubic meter long log exported na K1 long wanpela cubic meter igo long township.

Wanpela director bilong yumi em Silas Bomai ibin go long Rabaul long lukim Angco na stretim tok pinis wantaim management bilong Angco.

Pipal long LFA area ikisim gutpela save long yumi pinis na ol tu iwaitim disisen bilong Minister long lukim wok igo ahet.

Kompani wokim appointment pinis long Monarch Investments long kam insait long wokim logging operation. Mipela askim Monarch bikos monarch igat gutpela save long logging, igat gutpela reputation, igat finance na marketing skill bilong haravim kompani bilong makim profit.

Mipela nolaik bung wantaim long TRP bikos yumi inosave wok bilong veneer bai iorait o nogat? Yumi save tasol long kakao, kokonas o kain kain kaikai bilong planim long graun.

Sir, yumi ol grassroots pipal iwait 10 pela yia pinis long girapim despela timber project. 10 pela yia igo pinis provincial avaman ilaik putim yumi long TRP tasol ol lida long despela taim nolaikim despela idea bilong gavaman na ol pasim timber project. Na dede mipela tu inolaikim TRP na yumi ino hamamas long tingting bilong TRP.

Area o graun bilong yumi ino bikpela tumas bai igo long TRP. Despela liklik area bilong yumi igutpela tru blong LFA. Mipela olgeta sanap strong long stopim gavaman long putim graun bilong yumi igo long TRP.

Sir, yumi olgeta man na meri bilong ples igat bikpela believe long yu bai yu na yu tasol inap long haravim yumi long givim yumi long samting yumi ilaikim tumas. Despela samting em i permit bilong wokim timber long LFA. Yumi inogat bikpela save long bisnis na inogat wanpela bikman bilong gavaman ikam long toksave gut long wonem samting yumi man bilong ples ilaikim. Nogat tru. Yu, Minister, first wan blong National Gavaman i sindaun long harim heve bilong yumi man bilong liklik ples.

Sir, Premier bilong Yumi long Manus imakim wanpela toksave igo long national radio long NBC olsem yumi long Manus inogat development olsem long arapela hap long Papua New Guinea. Mipela long village inosave tru long meaning bilong development bikos yumi ino lukim development ikam insait long area bilong yumi. Orait nau yumi igat gutpela rot bilong kisim development ikam long yumi. Mipela inoken wautim long 2 yia o 10 yia gen long despela development, yumi ilaik lukim wok igoahet nau.

Sir, mipela inogat bikpela askim long papa bilong forest? Mipela sakim yu, the hon. Minister for Forest, long givim mipela sampela confidence ikam long yumi yet. Confidence long gavaman long treatim mipela fairly na harim heve long yumi man bilong ples.

ist tru nau sir, mipela olgeta wantaim sanap strong na united
long wanpela samting tasol; long developim west coast bilong
manus bai yumi olgeta wantaim bikirini bilong yumi inap long benefit lon
sir, plis tingting gut long request bilong yumi na haravim yumi
long disisen bilong yu.

mipela laik tenkyu gen Sir, long givim taim bilong yu long harim
have bilong yumi.

ours faithfully,
JAJA DEVELOPMENT CORPORATION PTY LTD.

Silasi

SILAS BOMAI - DIRECTOR

M. Sendren

M. SENDREN - DIRECTOR

*The original has been signed by
Both Directors).*

TELEPHONE 257433
TELEGRAM FOREST BOARD
FAX 257433

P.O. BOX 5086
BORNEO
PORT KAITUMA
PAPUA NEW GUINEA

OUR REF 153-0-0

22 August 1988

The Chairman
Jaha Development Corporation P/L
C/o Dawapia Haus
Park Street
P O Box 497
RABAUL
East New Britain Province

Dear Sir

RE: APPLICATION FOR LFA DECLARATION

I am informed that the then Forest Minister was unable to respond to your application for the declaration of LFA over some 23,300 hectares of forests within the West Coast of Manus. A number of applications similar to yours is pending for consideration.

In respect to your application, I have noticed that the area proposed for LFA contains an area of forests which was the subject of an other LFA application by Kali Bay Development Corporation P/L. This type of arrangements in my opinion is likely to create ownership problem, and I would prefer that this is resolved before I am given the opportunity to decide on your application.

In addition to sorting out landownership pattern, and the actual boundary of the proposed LFA, I wish to seek your Company's concurrence to following conditions:-

- (a) the LFA application bears signatures of all owners by customs of the timber area being the subject of the LFA application;
- (b) LFA application is submitted together with a Certificate of Authority actually signed by an appointed Prescribed Authority, and a decision of the concerned Provincial Executive Council stating that the PEC has endorsed the Application;

- (c) timber area concerned be advertised in the gazette for a month, incase any appeal may be made against the timber area to be declared, prior to it being formally declared as a LFA. This is important to ensure that there are no subsequent conflicts eventuate in the area upon Declaration;
- (d) No Dealings to take place directly between landowners and any foreign company for the development of the declared area upon Declaration. The declared area be advertised; invite development proposals from interested companies upon issuance of Project guidelines. Such Project guidelines will have been drawn up by the National Government in conjunction with the relevant Provincial Government and landowners, upon Declaration of the area.
- (e) the developers bidding for the development of the declared area will have not been implicated by the current Commission of Enquiry into the timber industry or any other investigation, say for instance the Ombudsmen Commission. Such company will have had perfect credibility.
- (f) company being formed to represent the landowner - must be a truly landowners company all with regard to being an L.F.A application and holder of Dealings.
- (g) Any LFA application is restricted to a maximum of 10,000 hectares with the term of the project as subject to negotiation between the state and applicant, when drawing up Dealings agreement.

Should you concur in writing to the above conditions, I will give further consideration to the declaration of the area as a local Forest area.

I look forward to receiving your respond.

Yours faithfully

K.W. STACK, MP
Minister for Forests.

cc: The Premier
Manus Provincial Government

SCHEDULE 5

153-0-0

22nd August 1988

The Chairman
Jaba Development Corporation P/L
C/- Dawapia Haus
Park Street
P O Box 497
RAFAUJ.
East New Britain Province

Dear Sir

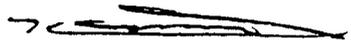
RE: APPLICATION FOR LEA DECLARATION

I am informed that the then Forest Minister was unable to respond to your application for the declaration of LEA over some 23,300 hectares of forests within the West Coast of Manus. A number of applications similar to yours are pending consideration.

In respect to your application, I have noticed that the area proposed for LEA contains an area of forests which was the subject of an other LEA application by Kali Bay Development Corporation P/L. This type of arrangements may create ownership problems and I would prefer that this is resolved as soon as possible.

I have consulted the Manus Provincial Government and other interested groups and am now in a position to make a decision. I have therefore decided to make a declaration under Section 4(1) of the Forests (Private Dealings) Act Chapter 217 subject to your completion and submission of the required dealings and agreements between the parties. Could you therefore submit these for my consideration.

Yours sincerely


HON. K W STACK MP
Minister for Forests

c.c. The Premier
Manus Provincial Government
P O Box 100
Lorengau
Manus Province

RESPONSE TO THE FEATURED ARTICLE OF PREMIER POKAWIN

BEFORE I MADE DECISIONS ON THE LFA APPLICATIONS IN THE MANUS PROVINCE I CRITICALLY CONSIDERED THE POLITICAL, SOCIAL ECONOMIC AND TECHNICAL ASPECTS OF THE PROJECTS.

THE MINISTERIAL VIEWS ON THE ABOVE ASPECTS ARE AS FOLLOWS:-

1. POLITICAL

I AM FULLY AWARE THAT PREMIER POKAWIN IS AGAINST THE DECLARATION OF AREA ON MANUS UNDER LFA BUT AT THE SAME TIME I AM AWARE THAT THE MAJORITY OF OTHER POLITICAL LEADERS, BOTH NATIONAL AND PROVINCIAL, AND AT VILLAGE LEVEL ARE SUPPORTING THE DECLARATION MADE THE DECISION TO DECLARE THE AREA UNDER LFA AFTER THOROUGHLY CONSIDERING THE VIEWS OF THE POLITICAL LEADERS OF THE PROVINCE.

2. SOCIAL

THE "WAIT AND SEE" ATTITUDE OF THE VILLAGERS, WHO DID NOT JOINED THE TRP AGREEMENTS, CHANGED THIS EARLY WHEN THEY REALIZED THEY HAVE TO WAIT FOR A LONG, LONG TIME, MAYBE AT LEAST 15 YEARS, BEFORE ANY DEVELOPMENT COULD REACH THEIR AREA. DO WE BLAME VILLAGERS WHO WISH TO IMPROVE THEIR LIVING STANDARD WITHOUT HAVING TO WAIT FOR 15 YEARS?

3. ECONOMIC

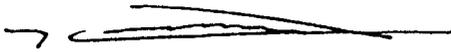
THE PEOPLE IN THE WESTERN MOST PART OF MANUS ISLAND ARE THE MOST DISADVANTAGED IN THE PROVINCE. FORESTRY DEVELOPMENT IS THEIR LAST CHANCE FOR UPLIFTING THE ECONOMIC SITUATION THEY ARE IN. THIS IS THE STRONGEST CONSIDERATION WHY I DECIDED TO DECLARE THE AREA UNDER LFA.

4. TECHNICAL

I FULLY AGREE WITH THE VIEWS OF THE PREMIER POKAWIN ON SUSTAINED YIELD FOREST MANAGEMENT. FOR THIS VERY REASON I HAVE REQUIRED THE LFA APPLICANTS TO SUBMIT, FOR THE DEPARTMENT'S CONSIDERATION, FOREST WORKING PLANS PRIOR TO ME DECIDING ON THE "DEALINGS". THE DECLARATION IS ONLY THE FIRST STEP IN THE PROCESS OF HAVING AN AREA OPERATED UNDER THE PRIVATE DEALINGS ACT. THE PROJECT WILL ONLY COMMENCE AFTER I AM SATISFIED THAT THE REQUIREMENTS I HAVE IMPOSED TO THE APPLICANTS ARE COMPLIED WITH AND THE "DEALINGS" ARE FAVOURABLE TO THE LANDOWNERS ESPECIALLY IN THE ECONOMIC RETURNS AND MONITORING ASPECTS, INCLUDING REFORESTATION HARVEST RATES ON SUSTAINED YIELD BASIS.

WHILST IT IS TRUE THAT MY GOVERNMENT IS PUSHING FOR THE NEW LEGISLATION, TO PLUG THE LOOPHOLES IN THE EXISTING LEGISLATION, AND EMPHASISE ON FOREST MANAGEMENT, REFORESTATION, PROCESSING AND OTHER ASPECTS, THE CURRENT FORESTRY ACTS ARE STILL IN OPERATION AND I CAN LEGALLY USE THEM. I DON'T HAVE TO WAIT FOR THE NEW LEGISLATION TO ENACTED AS NOBODY CAN EXACTLY PREDICT WHEN IT IS GOING TO GET THE NOTE OF THE PARLIAMENT. FURTHERMORE I HAVE AGREEMENT WITH LANDOWNERS THAT THEY WILL SUBMIT PLANS IN THE "SPIRIT" OF THE NEW LEGISLATION VOLUNTARILY EVEN THOUGH IT IS TECHNICALLY NOT IN FORCE YET. THE CONCERN OF PREMIER POKAWIN ON THE RAW MATERIAL SUPPLY FOR THE PROPOSED VENEER MILL IS INVALID AS THE VENEER MILL WAS TO BE ESTABLISHED FOR THE TRP PROJECT AREA ONLY. ANY PRE-COMMITMENT ON ANY RESOURCE PRIOR TO THAT RESOURCE BEING ACQUIRED BY THE GOVERNMENT IS INVALID. THE ATTEMPT IN THE JOINT VENTURE AGREEMENT BETWEEN SEAL (PNG) AND KEI BESSEU KAMPANI, A LANDOWNER COMPANY TO PRE-COMMIT OTHER RESOURCE ON THE ISLAND HAD BEEN QUESTIONED BY ME EARLIER ON.

IN CONCLUSION, I WOULD LIKE TO EMPHASIZE THAT MY DECISION TO DECLARE THE AREAS UNDER LFA WAS BASED ON THE SOCIO, ECONOMIC AND POLITICAL NEEDS OF THE LANDOWNERS OF THE WEST COAST AREA AND THAT IF AND WHEN DECISIONS ARE MADE ON NEXT STEP THE PROVINCIAL GOVERNMENT INPUT WILL BE SOUGHT ON THE CONTENT OF THE WORKING PLAN.

A handwritten signature in black ink, consisting of a series of connected loops and a long horizontal stroke extending to the right.

HON KARL W STACK, MP.

MINISTER FOR FORESTS.

SCHEDULE 7
MANUS PROVINCIAL GOVERNMENT

FOREST RESOURCE MANAGEMENT ACT

NO: OF 1989

ARRANGEMENT OF SECTIONS

1 Interpretation

"annual harvest rate"
"Calophyllum"
"clear-felling"
"conversion"
"conversion facility"
"conversion operator"
"Forest Development Plan"
"Forest Officer"
"forest operations"
"forest operator"
"forest produce"
"Forest Working Plan"
"harvest"
"Implementation Schedule"
"Interim Plan"
"land"
"log"
"m³"
"Manus Forest Resource"
"Manus Island"
"maximum annual harvest rate"
"Merchantable Log Resource"
"Minister"
"permit"
"permit month"
"Plan"
"production forest"
"protection forest"
"Provincial Forest Inspector"
"Provincial Forest Officer"
"reserve forest"
"Resource"
"salvage forest"
"Secretary"
"selective logging"
"small-scale forest operator"
"sustained yield"
"timber product"
"tree"
"vine"

- 2 Objects of forest resource management and utilisation
3 Manus Forest Resource
4 Forest Development Plan
5 Forest Resource Management
6 Harvest methods
7 Merchantable log resource
8 Maximum annual harvest rate

9	Review of maximum annual harvest rate
10	Approval of reviews
11	Management of the maximum annual harvest rate
12	Small-scale forest operations
13	Interim Forest Development Plan
14	Registration of forest operators
15	Submission of returns etc....
16	Conversion of the resource
17	Dispensation from conversion
18	Sale of logs to conversion operators
19	Resource management and land-use plan
20	Approval of the plan
21	Implementation of the plan
22	Recognition of other plans
23	Forest management staffing
24	Forest Officers
25	Provincial Forest Inspectors
26	Powers of the Secretary
27	Entry and inspection of land, forest operations etc.
28	Protection of officers
29	Conduct of proceedings
30	Powers and duties of Forest Officers, Inspectors
31	Offence to operate without a permit
32	Forfeiture and sale of forest produce for offence
33	Application of this Act
34	Delegation
35	Regulations

A BILL

NO OF 1989

TO ENACT

AN ACT

ENTITLED THE

FOREST RESOURCE MANAGEMENT ACT

Being an Act to provide for:

- (a) the preservation of the environment of the Manus Province,
- (b) the preservation of the natural resources of the Manus Province,

and the establishing of the principles of environmental, social and economic management and utilisation of the forests of Manus Province as a renewable resource.

Made by the Lapan Assembly to come into operation subject to Section 36 of the Organic Law on Provincial Government.

1 INTERPRETATION

"annual harvest rate" means the maximum volume of logs that can be harvested by a forest operator in a calendar year in a specified area.

"Calophyllum" means any tree of the genera Calophyllum.

"clear-felling" means the harvest, removal and disposal of all forest produce from a specified area.

"conversion" includes the sawing, hewing, splitting, veneering or otherwise fashioning of merchantable forest produce.

"conversion facility" includes any mill, factory, or like premises situated in the Province in which forest produce is converted to timber products.

"conversion operator" means any person or body corporate established in accordance with the Companies Act Chapter 146 engaged or intending to be engaged in the conversion of forest produce at a conversion facility in the Province.

"Forest Development Plan" means the forest Development Plan referred to in Section 4.

"Forest Officer" means a person appointed pursuant to Section 24.

"forest operations" includes the harvesting of forest produce and the building of roads, bridges, wharves, staging areas and infrastructure including site clearance and the construction of residences, workshops and stores to support a harvesting operation in the Province and the marketing and selling of forest produce by a forest operator.

"forest operator" includes any person, including a body corporate established in accordance with the Companies Act Chapter 146, who is a holder or intends to be a holder of a permit or permits and or to be engaged in forest operations and conversion operations, and includes any contractor or sub-contractor employed by any such person or body corporate.

"forest produce" includes;

- (a) growing or dead trees whether standing or fallen;
- (b) any part of and product of such trees; and
- (c) any other vegetable growth, including vines, whether alive or dead,

situated anywhere in the Manus Province.

"Forest Working Plans" means the forest working plans approved by the Secretary for Department of Forests of the State in accordance with Forestry Act Chapter 216 and Forestry (Private) Dealings) Act Chapter 217 or any other law of the State relating to the management of forest resources.

"harvest" and "harvesting" Means the cutting, felling and removing of forest produce.

"Implementation Schedule" means the Implementation Schedule referred to in Section 16.

"Interim Plan" means the Interim Forest Development Plan referred to in Section 13.

"land" includes land and any interest in land and customary land.

"log" means the part of a felled tree of a merchantable length after topping and dressing in accordance with sound felling practice with a diameter of 10 centimetres or as prescribed, measured in accordance with the British Standard metric system.

"m³" means cubic metres.

"Manus Forest Resource" means the Manus Forest Resource referred to in Section 3.

"Manus Island" means the largest island of the Manus Province and no other island.

"maximum annual harvest rate" means the volume of logs specified in Section 8, that can be harvested in any calendar year by the aggregate of all forest operations in the Province, to comply with sustained yield.

"Merchantable Log Resource" means the Merchantable Log Resource referred to in Section 7.

"Minister" means the Provincial Minister responsible for forestry matters acting on advice of the Lapan Cabinet.

"permit" includes any permit, licence, authority, dealing, agreement or any other form of approval to undertake or be engaged in forest operations granted to a person or forest operator by the Minister for Forests of the State in accordance with the Forestry Act Chapter 216, Forestry (Private Dealings) Act Chapter 217 or any other law of the State relating to the management of forest resources.

"permit month" means the specified calendar month from the date of the grant of a permit.

"Plan" means the Forest Development Plan

"production forest" means a forest area within the Manus Forest Resource that is to be harvested by selective logging for commercial purposes and is to be subject to regeneration management to effect sustained yield.

"protection forest" means a forest area within the Manus Forest Resource that shall remain in its natural state and shall not be disturbed by harvesting except for subsistence, recreation, and customary purposes.

"Provincial Forest Inspector" means a person appointed pursuant to Section 25.

"Provincial Forest Officer" means the officer of that name appointed by the Secretary, Department of Manus who is responsible for the management of forestry functions and duties of the Department of Manus.

"reserve forest" means a forest area within the Manus Forest Resource that has yet to be classified into a production forest, protection forest or salvage forest.

"Resource" means the Manus Forest Resource.

"salvage forest" means a forest area within the Manus Forest Resource that has been designated for an alternative land-use purpose including agricultural, infrastructure or silvicultural purposes and such forest may be subject to clear-felling for that purpose.

"Secretary" means the person from time to time occupying the position of Secretary, Department of Manus Province pursuant to Section 50 of the Organic Law on Provincial Government or any person or body performing the functions, duties and responsibilities of that office.

"selective logging" means the taking and removal of only selected merchantable trees of a size at breast height diameter overbark as prescribed or greater.

"small-scale forest operator" means a citizen or a corporation the shareholders of which are all citizens, who is a holder or intends to be a holder of a permit to be engaged in forest operations that will not harvest forest produce in excess of 400 m³ per annum.

"sustained yield" means the continuous commercial harvesting of the Manus Forest Resource at a rate per annum whereby such commercial harvesting and the Manus Forest Resource are maintained in perpetuity.

"timber product" includes any item of wood or forest produce that is fashioned in any manner or form in a conversion facility.

"tree" includes tree, shrub, bush, seedling, sapling, and re-shoot, of any kind and of any age.

"vine" includes any plant with a slender stem that trails or climbs.

2 OBJECTS OF FOREST RESOURCE MANAGEMENT AND UTILISATION

(1) Bearing in mind the National Goals and Directive Principles of the National Constitution and subject to, the National Constitution, the Organic Law on Provincial Government, the Forestry Act Chapter 216, the Forest (Private Dealings) Act Chapter 217, the Environmental Planning Act Chapter 370, the Lands Act Chapter 185, the Constitution of the Manus Province and this section, and bearing in mind;

- (a) the Pledge of the People of Manus in the Constitution to ensure that the land and other natural resources of our Province are used for the benefit of our people;
- (b) the inherent and unique ecological, commercial and industrial quality of the Calophyllum dominated forest resource; and
- (c) the limitations of the island environment of Manus Province;

the objects and purposes of the system of forest resource management and utilisation in the Province are:

- (d) to harvest and replenish the Manus Forest Resource wisely on a sustained yield basis;
- (e) to preserve in perpetuity the commercial viability and integrity of the Manus Forest Resource so as to contribute to the Province's economic, infrastructural and social development through maximising conversion of the Resource to timber products;
- (f) to encourage meaningful participation in forest development by the people of Manus through ownership, training, employment and creation of business opportunities;
- (g) for the development and implementation of sound forest resource and land utilisation plans providing for appropriate environmental protection, subsistence, commercial, social and recreational use.

as far as this can be done by legislative and administrative measures, and in such a way as to preserve and maintain the traditional Manus life-style for present and future generations.

(2) In achieving the objects and purposes referred to in Subsection (1) -

- (a) the rights and traditions of customary land-owners in their access to and utilisation of their land and natural resources thereon; and
- (b) the need to integrate resource harvest and replenishment together into viable forest operations so as to encourage and ensure responsible renewable resource management by forest operators in the long term,

are and shall be specifically recognised to such extent as is reasonably practicable, and not inconsistent with the aims of the National Constitution and any National forest legislation.

3 MANUS FOREST RESOURCE

The Manus Forest Resource shall be all the forest produce including the Merchantable Log Resource standing or growing in the Province.

4 FOREST DEVELOPMENT PLAN

(1) The Minister shall, within 2 years of this Act coming into force, prepare a Forest Development Plan that -

- (a) complies with Sections 2 and 8;
- (b) following consideration of scientific, silvicultural, soil, land-use, environmental, cultural and forest inventory fact, data and prediction, and incorporating in part or in whole, the Interim Forest Development Plan referred to in Section 13 -
 - (i) classifies, with reasons attached thereto, the Manus Forest Resource into areas of the following categories;
 - (A) production forest,
 - (B) salvage forest,
 - (C) reserve forest,
 - (D) protection forest; and
 - (ii) provides
 - (E) a description of the external boundaries of each area so classified;
 - (F) a map, at an appropriate scale, depicting such boundaries; and
 - (G) an estimation of the type and volume of forest produce within such boundaries; and

(c) may recommend, with reasons attached thereto, for a forest category referred to in Paragraph (b) such policies, strategies and programmes consistent with this Act that will maintain or improve the management and development of such category of forest; and

table the Plan in the Lapan Assembly for approval.

- (2) The Forest Development Plan referred to in Subsection (1) may be reviewed by the Minister from time to time and any amendment to the Plan arising from such a review shall be tabled in the Lapan Assembly for approval.
- (3) Any amendment tabled in accordance with Subsection (2) shall meet the requirements for the original Plan as provided in Subsection (1).
- (4) The Minister shall, on the approval of the Forest Development Plan by the Lapan Assembly in accordance with Subsections (1) and (2), publish and distribute the Plan or any amendment thereto in the manner as prescribed.
- (5) The date of the Plan coming into effect shall be the date of approval of the Plan by the Lapan Assembly in accordance with Subsections (1) or (2).
- (6) For the purposes of this Act, there shall be an Interim Forest Development Plan established as in Section 13, and such Interim Forest Development Plan shall cease to have effect on the approval of the Forest Development Plan in accordance with Subsection (1).
- (7) Subject to Section 12, the harvesting by a person of any forest produce for commercial or any other purpose other than for subsistence, recreation or customary use in any protection or reserve forest approved in accordance with Subsections (1) or (2) shall constitute an offence.

Penalty: A fine not exceeding K20,000.00 and/or imprisonment for a term not exceeding twelve months.

Default penalty K2,000.00

5 FOREST RESOURCE MANAGEMENT

- (1) The Minister shall be responsible for
 - (a) the good management of the Resource; and
 - (b) the implementation and administration of the Plan and the Interim Plan,
 consistent with Section 2 and this Act.
- (2) Procedures for the effective management of the Resource and implementation of the Plan or the Interim Plan may be prescribed from time to time.

- (3) The procedures referred to in Subsection (2) may include procedures in relation to:-
- (a) environmental management,
 - (b) harvesting methods, forest operations, forest husbandry and silvicultural practices and management;
 - (c) the reserving of merchantable forest produce or members of any species or class of forest produce within all or a specified area of a production or salvage forest, that shall only be harvested for sale or provision to a conversion operator, and any such procedure may make reference to the size of such forest produce and the duration of the reservation; and
 - (d) specifications and standards for the construction and maintenance of infrastructure specified in the Forest Development Plan or the Interim Plan.

6 HARVEST METHODS

- (1) Subject to Subsection (2) the method of harvesting the Manus Forest Resource shall be by selective logging.

- (2) Clear-felling of:-

- (i) any land that is of greater area than 10 hectares; or
- (ii) any portions of land contiguous or in adjacent proximity of no greater than one hundred metres distant to one another and that together are of an area greater than ten (10) hectares,

situated within the Manus Forest Resource may be carried out only:-

- either (a) in an area classified as a salvage forest in the Forest Development Plan;
- or (b) for agricultural, silvicultural, or infrastructural purposes that will be commenced within 12 months of harvest;
- and be, (c) with the approval of the Minister in the manner as prescribed;
- (d) incorporated into annual Forest Working Plans; and
 - (e) within the maximum annual harvest rate.

- (3) A person who fails to comply with the provisions of this Section shall be guilty of an offence.

Penalty: A fine not exceeding K10,000.00 and/or imprisonment for a term not exceeding six months.

Default penalty, K1 000.00.

7 MERCHANTABLE LOG RESOURCE

(1) The Merchantable Log Resource shall be the aggregate volume, estimated from technical forest inventories and assessments of the potential logs that could be recovered from the trees of the Manus Forest Resource standing in:

- (a) new r before harvested; and
- (b) regenerate¹, including silviculturally treated, forest areas of the -
- (c) production forests;
- (d) salvage forests; and
- (e) reserve forests

that are declared from time to time in the Forest Development Plan or the Interim Plan and where such trees, when harvested, may produce those logs.

(2) For the purposes of this Act the Merchantable Log Resource of the Interim Forest Development Plan is first estimated at an aggregate volume of 3,350,000 m³, and such estimation includes the forest resource of Manus Island only.

(3) The log volume of any area within the Province other than Manus Island may, when calculated from technical forest inventories and assessments, be added to the Merchantable Log Resource referred to in Subsection (2) by notice in the Manus Gazette.

8 MAXIMUM ANNUAL HARVEST RATE

(1) Notwithstanding Section 12 the maximum annual harvest rate of logs shall be determined at law by the application of the following formula:

$$A = \frac{B}{C}$$

Where A = the maximum annual harvest rate of logs expressed in cubic meters per annum rounded to the nearest 1 000 m³

B = the Merchantable Log Resource referred to in Section 7, and is expressed in m³.

C = the estimated diameter growth rate, being the number of years for an average of the dominant residual merchantable trees within the 20-49 centimetre diameter at breast height overbark class to grow an additional 30 centimetres in diameter at breast height overbark.

- (2) For the purposes of this Act, and notwithstanding Section 12 the first maximum annual harvest rate of logs shall be 84,000 m³ calculated by applying the following criteria to the formula in Sub-section (1):-

B = 3,350,000 cubic metres, and

C = 40 years, with the first estimated diameter growth rate of 0.75 centimetres per annum.

- (3) Where in accordance with Section 7 the log volume of any further area of the Province is declared to be part of the Merchantable Log Resource a new maximum annual harvest rate shall be calculated in accordance with this Section and notified in the Manus Gazette.

9 REVIEW OF MAXIMUM ANNUAL HARVEST RATE

- (1) Subject to Section 8 (3) the maximum annual harvest rate referred to in Section 8 (2) shall be first reviewed after but within 3 months of the fifth anniversary of the date of this Act coming in force.
- (2) The Minister shall be responsible to conduct the first review referred to in Subsection (1) and in so doing shall prepare a report for tabling in the Lapan Assembly in accordance with Section 10
- (3) The report referred to in Subsection (2) shall recommend, after consideration of -
- (a) all available scientific and silvicultural data, fact and prediction relevant to the Manus Forest Resource; and
 - (b) the Forest Development Plan referred to in Section 4,
- changes to the components of the formula referred to in Section 8 and any consequential adjustment to the maximum annual harvest rate.
- (4) A review of the maximum annual harvest rate subsequent to the first review may be made at any time upon a resolution of the Lapan Assembly supported by an absolute majority of Members of the Lapan Assembly, provided that any such review shall -
- (a) be at intervals of not less than 12 months, and
 - (b) be in the form of a report prepared by the Minister in accordance with Subsection (3).

10 APPROVAL OF REVIEWS

- (1) The report referred to in Section 9 (2) shall be tabled in the Lapan Assembly within 6 months of the fifth anniversary of this Act coming into force.

- (2) Any report referred to in Section 9 (4) (b) shall be tabled within 6 months of the resolution of the Lapan Assembly referred to in Section 9 (4).

11 MANAGEMENT OF THE MAXIMUM ANNUAL HARVEST RATE

- (1) The Minister may, from time to time, by instrument published in the Manus Gazette, declare the annual harvest rates for any period of years, for any area of any production or salvage forest, whenever in his opinion it is necessary to do so to ensure the maximum annual harvest rate referred to in Section 8 is not exceeded.
- (2) A person who harvests forest produce in any area of a production or salvage forest in excess of the annual harvest rate specified in any instrument issued by the Minister pursuant to Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K10 000.00, and twenty Kina K20.00 per m³ of the volume of logs harvested in excess of the specified annual harvest rate and forfeiture of any unsold logs to the Manus Provincial Government; and/or imprisonment for a term not exceeding twelve months.

Default Penalty: K1 000.00

12 SMALL - SCALE FOREST OPERATORS

- (1) In order to facilitate the operation of a Timber Authority issued in accordance with Section 16 of the Forestry Regulations Chapter 216 and subject to Subsection (2) the harvesting of forest produce by a small-scale forest operator is permitted within a reserve forest approved in accordance with Sections 4 or 13,
- (2) The Minister, acting on advice of the Provincial Forest Officer, may approve the harvesting of logs by small-scale forest operators to a maximum aggregate of 2,000 m³ in excess of the maximum annual harvest rate referred to in Section 8.

13 INTERIM FOREST DEVELOPMENT PLAN

- (1) For the purposes of this Act there shall be an Interim Forest Development Plan established in accordance with this Section.
- (1) For the purposes of this Act, and until the Forest Development Plan referred to in Section 4 is approved by the Lapan Assembly, the Interim Forest Development Plan, the plan referred to in Sub-section (1), shall categorise the Resource into:-
- (a) subject to Subparagraph (b), production forests and salvage forests;

- (b) protection forests which may be situated within the boundaries of a production or salvage forest area or any other area within the Manus Forest Resource which in the opinion of the Minister are of environmental, recreational or cultural significance that warrant protection or conservation; and
 - (c) reserve forests which shall be all those areas of the Manus Forest Resource which are not production, protection or salvage forests.
- (3) The areas, together with
- (a) a description of; and
 - (b) a map depicting,
- the boundaries of such areas, of each of the categories of forest referred to in Subparagraphs 1 (a) and 1 (b) shall be declared by notice in the Manus Gazette.
- (4) The Minister shall, within 60 days of this Act coming into force, publish and distribute in the manner as prescribed, the Interim Forest Development Plan.
 - (5) The Lapan Cabinet may approve any amendment to the Interim Forest Development Plan in accordance with the procedures as prescribed;
 - (6) The Minister may establish procedures as prescribed, consistent with this Act, for the effective management of any of the categories of forests of the Interim Forest Development Plan.
 - (7) Subject to Section 12, any person who harvests any forest produce for commercial or any other purposes other than for subsistence, recreational or customary use in any protection or reserve forest shall be guilty of an offence.

Penalty: A fine not exceeding K20 000.00 and/or imprisonment for a term not exceeding twelve months.

Default penalty: K2,000.00.

14 REGISTRATION OF FOREST OPERATORS

- (1) A person intending to commence a forest operation shall, at the same time as he makes an application to the State for a permit, send a true copy of that application to the Minister.
- (2) Subject to this Act, a person referred to in Subsection (1) shall, together with the application referred to in Subsection (1) send to the Minister a true copy of his proposal, including any revisions thereof, for -

- (a) the harvesting; and
- (b) to the extent applicable,
 - (i) the conversion of the harvest; and
 - (ii) the management of the forest resource in compliance with this Act,

of and in the forest area the subject of the application.

- (3) Failure of a forest operator or person to comply with the provisions of Subsections (1) or (2) constitutes an offence.

Penalty: A fine of not exceeding K1 000.00

Default penalty: K100.00

15 SUBMISSION OF RETURNS ETC.

- (1) A forest operator shall, at the same time he is required to submit any report, plan, review, or return in relation to his forest operation to the State in accordance with his permit or any law of the State relating to the management of forest resources, send to the Secretary a true copy of that report, plan, review or return.

- (2) Failure to comply with Subsection (1) shall constitute an offence.

Penalty: A fine not exceeding K1 000.00.

Default penalty: K100.00 .

16 CONVERSION OF THE RESOURCE

- (1) A forest operator who holds a permit or permits authorising an aggregate annual harvest rate of logs in excess of 10 000 m³ from the Province shall, within a period as determined by the Minister after consultation with the forest operator but in any event before permit month 36, install and commission into operation at a site in Manus, a factory, mill or like premises in which a minimum of 50 percent of the annual harvest rate of logs approved in his permit or aggregate of permits, shall be converted into sawn or hem timber, veneer or any like timber product.

- (2) The Minister, by notice in writing, may approve an agreement in writing between a forest operator and a conversion operator, whereby a factory, mill or like premises of the kind referred to in Subsection (1) is established by the conversion operator and such approval will relieve the forest operator of his obligation under this Section.

- (3) Within 3 months of

- (a) being granted a permit; or

- (b) of this Act coming into force; or

- (c) in the case of the conversion operation referred to in Subsection (2), within 3 months of the approval of the Minister in accordance with that Subsection,

or within any extension of that period which the Minister may by notice in writing approve, a forest operator or a conversion operator to which Subsections (1) or (2) apply shall provide to the Minister, in the prescribed manner an Implementation Schedule for the construction and commissioning into operation of the conversion facility, and such Implementation Schedule will specify a time-frame within the permit period referred in Subsection (1) for the completion of -

- (c) preparatory and final, including technical design, site, financial, corporate, employment and environmental, feasibility plans and studies necessary to gain State approval to proceed to the construction of the conversion facility; and
- (d) construction and commissioning into production of the conversion facility.
- (4) The Minister may approve in writing any variation to the Implementation Schedule referred to in Subsection (3) and any such variation shall become part of that Implementation Schedule for the purpose of this Section.
- (5) Failure by a forest operator or conversion operator to:-
- (a) submit an Implementation Schedule as required under Subsection (3); and or
- (b) comply with an Implementation Schedule,
- is an offence.

Penalty: A fine of K10 000.00

Default penalty: F1,000.00.

17 DISPENSATION FROM CONVERSION

- (1) Should the Minister, on application by a forest operator, consider the conversion capacity of factories, mills or like premises in the Province that are operating or are planned as part of a permit condition, to be sufficient, so that any additional capacity would threaten the commercial viability of the then existing or planned conversion facilities in the Province, then and in that event the Minister may dispense with the requirements of Section 16 in relation to a forest operation.

- (2) Dispensation for the purposes of Subsection (1) shall be given by notice in writing in the form prescribed.

18 SALE OF LOGS TO CONVERSION OPERATORS

- (1) Subject to Section 5, a forest operator who has:-
- (a) been relieved, in accordance with Section 16(2), of his obligations to comply with the provisions of Section 16; or
 - (b) received a certificate of dispensation from conversion of his annual harvest rate of logs in accordance with Section 17,

shall offer to a conversion operator on the basis of first right of refusal, the sale of a minimum of 50 percent of the highest grades, as classified under the log grading rules of the State, of the logs that he is authorised to harvest.

- (2) The sale price of logs -
- (a) referred to in Subsection (1); or
 - (b) harvested from a specie of tree that has been reserved for sale to a conversion operator in accordance with Section 5 (3)

shall be -

- (c) at least the Minimum Export Price as published from time to time by the Department of Trade and Industry of the State; and
 - (d) minus any Export Duty, for that grade of logs, which would otherwise have been payable had the logs been exported.
- (3) Failure by a forest operator to comply with the provisions of this Section constitutes an offence.

Penalty: A fine not exceeding K10,000.00 and K20.00 per m³ of the volume of logs harvested and forfeiture of any unsold logs to the Manus Provincial Government.

Default Penalty: K2,000.00

19 RESOURCE MANAGEMENT AND LAND-USE PLAN

- (1) Subject to Section 22 a forest operator who holds a permit or permits authorising an aggregate annual harvest rate in excess of 10 000 m³ shall by permit month 12 or any extension of that period as approved in writing by the Minister, complete a long term forest Resource Management and Land-Use Plan consistent with the permit area and permit period or any extensions thereto, in accordance with the guidelines as prescribed.

- (2) The plan referred to in Subsection (1) shall be
- (a) consistent with sound production forest regeneration and replacement practice to effect sustained yield;
 - (b) compatible and consistent with the Forest Development Plan referred to in Section 4 and the Interim Plan;
 - (c) consistent with customary land-owners and the Provincial Government's land development plans and aspirations,

and shall be submitted to the Minister for approval.

- (3) Failure by a forest operator to submit the plan referred to in Subsection (1) constitutes an offence.

Penalty: A fine not exceeding K10,000.00.

Default penalty: K500.00

20 APPROVAL OF THE PLAN

- (1) The Minister shall consider the plan referred to in Section 19 and within 60 days of submission to him, approve or reject the plan and shall notify the forest operator of his decision.

- (2) If the Minister rejects the plan he shall forward the rejected plan, together with his proposed amendments, to the forest operator for review and revision.

- (3) A plan rejected under Subsections (1) and (2) shall be revised and resubmitted by the forest operator to the Minister within 90 days of the date of the notice of rejection.

- (4) Failure by the forest operator to comply with the provisions of Subsection (3) constitutes an offence.

Penalty: A fine not exceeding K10 000.00

Default penalty: K500.00

- (5) On receipt of a revised plan referred to in Subsection (3) the Minister shall -

- (a) approve the revised plan in full; or

- (b) approve the revised plan and impose such conditions as the Minister considers will enable the plan to comply with the sustained yield forest management principles of this Act, and any such conditions shall be deemed to be part of the revised plan.

21 IMPLEMENTATION OF THE PLAN

- (1) The forest operator shall, during the period of his permit, or any extensions thereto diligently implement the plan or the revised plan as approved in accordance with Section 20.

- (2) Failure by the forest operator to implement the plan or the approved revised plan referred to in Section 20 during the term of his permit or any extension thereto constitutes an offence.

Penalty: A fine not exceeding K10 000.00

Default penalty: K500.00

and after a second offence, cessation of forest operations within the province.

22 RECOGNITION OF OTHER PLANS

- (1) Subject to Section 15 and Subsection (3) a forest operator who, as a specific covenant, term or condition of his permit is required to submit and implement a plan for

- (a) the management of the forest resource; and
- (b) land-use development of the area,

to which the permit relates, which in the opinion of the Minister meets the same or similar guidelines and objectives as specified in Section 19 (2), may be exempted by notice in writing in the prescribed form, from compliance with the provisions of Sections 19 and 20.

- (2) Subject to Section 15, a forest operator to whom Subsection (1) refers shall, at each and every review of any plan, of the kind referred as a condition of his permit, in completing such a review for approval, take cognisance of the Forest Development Plan and the Interim Plan referred to in Section 4 and 13 and any procedures of forest resource management referred to in Section 5 that may be prescribed from time to time.
- (3) If a forest operator is at any time during the period of his permit or any extension thereof relieved or exempted from any obligation to comply with any covenant, term or condition of his permit relating to a plan, referred to in Subsection (1), the forest operator shall comply with the provisions of Sections 19 and 20.
- (4) A forest operator referred to in Subsection (3) shall complete and submit the plan required by Section 19 within 6 months of the date of the event referred to in Subsection (3).
- (5) Failure by a forest operator to comply with the provisions of Subsections (3) or (4) shall constitute an offence.

Penalty: A fine not exceeding K10 000.00.

Default Penalty: K500.00

and after a second offence, cessation of forest operations in the Province.

23 FOREST MANAGEMENT STAFFING

- (1) A forest operator who has been granted a permit or permits to harvest an aggregate in excess of 20 000 m³ of logs per annum shall employ and keep employed a professionally qualified silviculturalist or forester on staff and on site to effect and implement forest resource management in his permit area or areas in accordance with a plan referred to in Section 20 or Section 22.
- (2) A forest operator referred to in Subsection (1) shall provide sufficient manpower and support services for the professional silviculturalist or forester referred to in Subsection (1) to adequately perform his duties relating to the implementation of the forest resources management component of the plan referred to in Section 20 or Section 22.
- (3) Failure of a forest operator to comply with the provisions of this Section constitutes an offence.

Penalty: A fine not exceeding K2000.00

Default Penalty: K200.00

24 FOREST OFFICERS

- (1) Any:-

(a) officer of the National Public Service assigned to the Manus Provincial Government; or

(b) person employed by the Manus Provincial Government under a contract of employment who has obtained a degree or diploma of a forest school recognised by the State,

may be appointed by the Secretary as a Forest Officer in Manus Province.

- (2) A Forest Officer so appointed in Subsection (1) may be appointed by the Secretary as the Provincial Forest Officer who shall be responsible to the Secretary through the approved structure of superiors, to manage

(a) the forestry function of the Department of Manus; and

(b) any other forestry function or duty delegated to the Manus Provincial Government or required to be done under any law of the State.

25 PROVINCIAL FOREST INSPECTORS

The Minister acting on advice of the Secretary may appoint a Forest Officer to be a Provincial Forest Inspector in Manus Province.

26 POWERS OF THE SECRETARY

In addition to any powers conferred on him by this Act, the Secretary has the powers conferred by this Act on a Forest Officer, Provincial Forest Officer and Provincial Forest Inspector.

27 ENTRY AND INSPECTION OF LAND, FOREST OPERATIONS ETC

- (1) A Forest Officer or Provincial Forest Inspector may enter -
- (a) on any land on which the Manus Forest Resource is standing or growing; or
 - (b) on any land held or occupied by virtue of a permit; or
 - (c) on any premises of a forest operator;
- for the purpose of-
- (d) making inspections consistent with this Act; or
 - (e) carrying out silvicultural operations including surveys; or
 - (f) other forest work
- (2) Any person, who obstructs or hinders a Forest Officer or Provincial Forest Inspector in the exercise of his powers under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding six months.

28 PROTECTION OF OFFICERS

No matter or thing done bona fide by the Minister, Secretary, a Forest Officer or a Provincial Forest Inspector in the exercise of his power or in the performance of his duties under this Act makes him personally liable.

29 CONDUCT OF PROCEEDINGS

- (1) The Secretary, the Provincial Forest Officer, a Forest Officer or a Provincial Forest Inspector may lay informations and conduct prosecutions for offences under this Act.
- (2) In any prosecution or proceeding under this Act, proof is not required of -
- (a) the appointment of the Secretary, Provincial Forest Officer, Forest Officer or a Provincial Forest Inspector;
 - (b) any authority, general or special, of any such officer to prosecute or to take any proceedings.

30 POWERS AND DUTIES OF FOREST OFFICER, INSPECTORS

The Minister, acting on advice of the Secretary may from time to time, by instrument in writing, prescribe, such powers and duties of the Provincial Forest Officer, a Forest Officer and a Provincial Forest Inspector as may further the objects of this Act.

31 OFFENCE TO OPERATE WITHOUT A PERMIT

A person who commences or attempts to commence any forest operations in the Province without a permit, is guilty of an offence.

Penalty: A fine not exceeding K20 000.00 and K20 for each m3 of logs harvested without a permit, and forfeiture of any unsold logs to the Manus Provincial Government, and/or imprisonment for a term not exceeding twelve months.

Default Penalty: K2 000.00

32 FORFEITURE AND SALE OF FOREST PRODUCE FOR OFFENCE

- (1) Where any log or forest produce has been forfeited or seized in accordance with any provision of this Act, a Forest Officer or Provincial Forest Inspector shall mark or stamp such log or forest produce with a distinctive mark and such log or forest produce shall be deemed to be the property of the Manus Provincial Government unless the title of some other lawful owner is established.
- (2) Forest produce including logs forfeited under this Section may be sold or otherwise disposed of as the Minister directs and subject to the claim to the proceeds of any such lawful sale, the proceeds of the sale shall be paid into the Manus Provincial Government Revenue Fund.
- (3) Where the proceeds of a sale of logs or forest produce made in accordance with this Section, are claimed by some other lawful owner, the Minister may, prior to the proceeds being paid by the Manus Provincial Government to that lawful owner, authorise the deduction of the actual cost to the Manus Provincial Government to complete that sale, and such deduction shall be paid into the Manus Provincial Government Revenue Fund.

33 APPLICATION OF THIS ACT

It is hereby declared that this Act applies to all forest operators or conversion operators including those whose permit or permits were granted prior to the commencement of this Act.

34 DELEGATION

The Minister may delegate all or any of his powers and functions under this Act except the provisions of this Section.

35 REGULATIONS

The Provincial Cabinet may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing matters for and in relation to -

- (a) the manner and form of publishing the Forest Development Plan and the Interim Forest Development Plan.

- (b) establishing procedures for the management of categories of forests of the Forest Development Plan and the Interim Forest Development Plan.
- (c) approval of clear-felling of certain land;
- (d) establishing procedures for making amendments to the Interim Forest Development Plan;
- (e) the providing of an Implementation Schedule by a forest operator or a conversion operator
- (f) the issuing of a certificate in relation to the dispensation from conversion of logs to timber products;
- (g) establishing the guidelines for a forest operator to prepare a long-term forest Resource Management and Land-Use Plan referred to in Section 19;
- (h) the form for the exemption of a forest operator to submit and implement a Resource Management and Land-Use Plan if a like plan is included as a condition of his permit.
- (i) the powers and duties of Forest Officers and Provincial Forest Inspectors consistent with this Act.
- (j) penalties of fines not exceeding K2 0000.00 and default penalties not exceeding K200.00 for offences against the regulations;