

PAPUA NEW GUINEA REVIEW OF CURRENT LOGGING PROJECTS

CARRIED OUT UNDER THE AUSPICES OF THE DEPARTMENT OF NATIONAL
PLANNING AND MONITORING

Office: At National Forest Service, Frangipani Street, Hohola Ph 327 7980 Fax 327 7973

FINALISED INDIVIDUAL PROJECT REVIEW REPORT No 7.

TIMBER PERMIT (TP) : TP 2-14 VAILALA BLOCK 1

TP HOLDER : CHINA LONG KONG (PNG)
INDUSTRY LTD

LOGGER AND MARKETER (L&M) : NIUGINI INTERNATIONAL
CORPORATION LTD

L&M PARENT COMPANY (If Different) : RIMBUNAN HIJAU (PNG) LTD

DATE OF FIELD REVIEW : OCT 2003

DATE OF FINAL REPORT : APRIL 2004

This Final Individual Project Review Report (IPRR) has been prepared by the Review Team after undertaking a review of documents, a field assessment, and receiving feedback to a draft IPRR distributed to stakeholders for corrections and comment. Responses were received from the following:

STAKEHOLDER	COPY DRAFT IPRR PROVIDED	RESPONSES RECEIVED
Logging Company	Yes	Yes
Timber Permit Holder	Yes	No
Landowner Companies	Yes	No
PNG Forest Authority	Yes	Yes
Dept Environment & Conservation	Yes	Yes
Provincial Administration	Yes	No

Disclaimer: It should be noted that this documents sets out the findings and views of the Review Team, and does not represent an official Government position.

FOREWORD

The Terms of Reference for this Review of Existing Logging Projects provide a broad mandate to examine the operation of logging companies within their legal and contractual obligations, and the framework within which forestry activities are planned, monitored and controlled by the relevant Government Departments/Authorities. The Review is focused on future improvements in the actions of stakeholders, and not on the pursuit of instances of poor or non-performance. Of key concern are the future achievement of sustainable timber production within a stable regulatory framework; effective environmental guidelines for logging and associated roading; adequate attention to and mechanisms for forest conservation; and sound long term benefits for the forest resource owners.

Given this broad mandate, and the extensive requirements set out in the legal and contractual documents governing each logging project, the Review Team has by necessity focussed on identifying and exploring meaningful issues. This Final IPRR focuses on project specific areas of concern, and will be used as input for the Review Team's draft Observations and Recommendations Report.

The Review Team acknowledges the support and cooperation given by PNG Forest Authority (PNGFA) Port Moresby, PNGFA field officers, the Department of Environment and Conservation (DEC), Niugini International Corporation Ltd, the Gulf Provincial Government and Administration and the landowners of the Vailala Block 1 Timber Permit area.

CONTENTS

1. Legal Basis, Parties and Contractual Relationships
2. Sustainability of Log Production
3. Field Work
4. Review Team Observations
5. Landowner Voiced Concerns
6. Provincial Administration District Office
7. Observations Regarding Silviculture
8. Broad Recommendations for TP 2 -14
9. Broader Forestry Sector Issues for PNG

Appendix 1 : Selection of Pertinent Photographs

1. LEGAL BASIS, PARTIES AND CONTRACTUAL RELATIONSHIPS

The key legislation governing logging projects are the Forestry Act 1991 (as amended), the Environmental Planning Act 1978, and the Environmental Contaminants Act 1978 (as amended) and the Water Resources Act chapter No. 205. The relevant documents enabling and prescribing TP 2-14 Vailala Block 1 are set out in Tables 1 and 2.

The logging project is governed by the Timber Permit issued to Shisei Enterprises (PNG) Ltd, which has since been transferred to China Long Kong (PNG) Industries Ltd. China Long Kong engaged Green Mountain Ltd in 1996 and Premier Investments Ltd in 1997 to undertake logging and marketing.

Logging was taken over by Niugini International Corporation Ltd in April 2002. The company reports that before commencing operations, it had to perform extensive repair work on roads and bridges. It also put effort into assisting landowners set up appropriate corporate structures.

Under the Timber Permit 2-14 the permit holder is responsible:

- To construct a sawmill in the project area (cl. 4.3);
- To construct Bluff to Mamuru road in the north east outside the project area (cl. 4.7);
- To construct Kevea to Muro road in the west coast outside of the project area (cl. 4.7);
- To construct Bluff to Lahiki road (all roads to be approved by Dept of Works) (cl. 4.7);
- To construct bridges over Sori River, Karahure River and Mamuro River with permanent materials (cl. 4.7.3);
- To maintain roads and bridges constructed and used by it (cl. 4.7.6);
- To contribute minimum of K20,000 towards the transport system across the main Vailala river for the people of the permit area (cl. 4.7.7);
- To contribute K1.1 million to the State in project years 7 and 8 (being 1998 and 1999) towards the construction of a permanent bridge over the Vailala river (cl. 4.7.8);
- To develop and maintain residential, community and recreational facilities for its employees, any contractors and their families (cl. 4.8.1);
- To provide two wave SSB communication at Ihu Government station, Ahia and Upper Vailala; permanent water supply for each village in the project area; 1 health centre at Ahia; 2 H55 houses at project area; 1 community school at

Keakea, and 1 at Evori; 1 produce shed at project area; 1 office block at Ihu; maintain aid posts at Vailala, Keakea, Ovaie, Belepa, Meii Melakela, Lapare, Kapiri and Sori; 1 office block at Kerema; and to maintain the existing educational facilities (classrooms and teachers houses) within the project area (cl.4.8.1(h));

- To construct approved permanent wharf, barge, ramps facilities and to improve the jetty at Ihu (cl. 4.8.2);
- To pay reforestation levy of K1.00 per m3 (cl. 5.1);
- To pay community development levy of K1.00 per m3 (cl. 5.2);
- To pay agriculture development levy of K1.00 per m3 (cl. 5.3);
- To pay follow-up land use levy of K1.00 per m3 (cl. 5.4);
- To pay premium at 3% of the gross fob value per cubic metre of all logs exported to a trust account opened and operated by the recognised landowners company (cl. 5.5);
- To pay all royalties as prescribed (cl. 16.1); and
- To put in place a performance bond of K500,000 (cl. 17).

The PNGFA advised the permit holder in May 1998 that it was excused from delivering:

- Contributions to the construction of the Vailala bridge;
- Two way SSB communication for Ihu;
- The Kevea – Muro road;
- The Ihu jetty;
- The office complex at Ihu; and
- Any obligations outside the bounds of the Vailala Block 1 Timber Permit area.

The permit holder passed responsibility for its obligations under the Timber Permit to Niugini International Corporation Ltd under a Logging and Marketing Agreement in September 2000.

The logging contractor parent company, Rimbunan Hijau (PNG) Ltd, has announced plans to develop an “Integrated Central processing Facility” in the area which would draw logs from a number of logging operations. To this end the company has applied for the processing obligations set out in the Timber Permit to be transferred to the planned new facility.

It is Nuigini International Corporation's view that "all other contractual obligations have been either fulfilled, the construction is in progress or construction is planned as soon as workable and practicable and in accordance with annual forest working plans".

TABLE 1 : KEY DOCUMENTS

DOCUMENT	PARTIES	DATE OF ISSUANCE/ SIGNING/ APPROVAL	DATE OF EXPIRY	DOCUMENT LOCATION
TRP Agreement	Landowners and the State	11 April 1989	10 April 2029	Held by PNGFA
Timber Permit	Issued to Shisei Enterprises (PNG) Ltd by the Minister for Forests. Transferred to China Long Kong (PNG) Industries Ltd.	28 Feb 1991	27 Feb 2003. Permit was extended on 25 April 2003 for 6 years. Expiry date now 28 February 2009.	Permit held by PNGFA. No evidence of formal transfer to China Long Kong (PNG) Industries Ltd able to be found.
Project Agreement	Shisei Enterprises (PNG) Ltd and the State.	11 April 1989	11 April 2029	Held by PNGFA
Logging and Marketing Agreement	China Long Kong (PNG) Industry Ltd and Premier Investments Ltd	25 August 1997	Terminated	Held by PNGFA
	China Long Kong (PNG) Industries Ltd and Green Mountain Ltd	8 September 1996	Terminated	Held by PNGFA
	China Long Kong (PNG) Industries Ltd and Niugini International Corporation Ltd	28 October 2002	Not sighted	Not sighted. Logging company claims to have forwarded a copy to PNGFA for approval.
5 Year Logging Plan	Approved by PNGFA Managing Director	20 April 2003	20 April 2005	Held by PNGFA
Annual Logging Plan	Approved by PNGFA Managing Director	20 June 2003	19 June 2004	Held by PNGFA

Environmental Plan (EP)	Submitted by Shisei Enterprises (PNG) Ltd. Approved by Minister for Environment & Conservation (E&C).	2 November 1990	EP approval was for 16 years and will expire on 02 November 2005	DEC's archives
EP Approval Conditions	Set by Minister for E&C	2 November 1990	02 November 2005	DEC's project file
Environmental Management & Monitoring Programme ¹	Set by Secretary for Department of Environment & Conservation (DEC)			Not able to locate to confirm that an EMMP was prepared, submitted and the subsequent decision from DEC
Water Use Permits	Set by Minister for E&C	No record of application with DEC		No record of compliance
PNGFA's Planning, Monitoring and Control Procedures	Issued by Managing Director.	November 1995	No expiry date	Standard document available from PNGFA
PNG Logging Code of Practice (Including 24 Key Standards)	Endorsed by NEC. Observance required by Regulation	April 1996	No expiry date	Standard document available from PNGFA

¹ The EMMP is a requirement of the EP Approval Condition number 4.

TABLE 2 : ADDITIONAL (OR SUPPLEMENTARY) AGREEMENTS

DOCUMENT	PARTIES	DATE OF ISSUANCE/ SIGNING	DATE OF EXPIRY	DOCUMENT LOCATION
Agreement for use of land for log pond	Niugini International Corporation Ltd and relevant landowners		Not Known	Not sighted

2. SUSTAINABILITY OF LOG PRODUCTION

This logging project was set up under the old Forestry Act when the sustainability of log production and the forest industry was not yet a policy objective. The first project in the Vailala area was established in 1986 when an agreement was reached between Santa Investments Pty Ltd and a landowner company which held the Timber Permit at the time, Ahia Development Pty Ltd. This permit was cancelled in 1987.

The current permit was issued to Shisei Enterprises (PNG) Ltd in 1991. This allowed the resource to be cut over a period of 12 years (February 1991 to February 2003). Minister Baing granted an extension of the term on 25 April 1997 for 6 years, thereby extending the permit period to 28 February 2009.

The current logging company is Niugini International Corporation Ltd, and the current log seller is Rimbunan Hijau (PNG) Ltd. The Review Team was unable to obtain copies of the relevant documents relating to the transfer of the Timber Permit from Shisei Enterprises (PNG) Ltd to China Long Kong (PNG) Ltd.

Variations to the Timber Permit allow for a maximum annual harvest of 150,000 m³ through to the year ending February 2004, declining to 120,000 m³ for the year ended February 2005, and reducing further to 100,000 m³ per annum thereafter until February 2009. For the same periods the allowable log export is 112,500, 112,500 and 64,000 m³ per annum respectively. The balance is to be processed domestically.

The Timber Permit states that the permit holder shall (a) establish or cause to be established at its own cost natural regeneration areas using timber stand improvement techniques 300 hectares per annum from Permit Year 3 onwards. This is in addition to paying the K1.00/m³ reforestation levy. There is no evidence of this obligation being met to date. The current logging company states that “we are currently negotiating with the relevant stakeholders in order to develop a comprehensive land use plan and to achieve stakeholder participation”.

3. FIELD WORK

The field inspection for TP 2-14 Vailala Block 1 was undertaken during the period 22nd to 26th October 2003. As well as meetings with the logging company managers and staff, and with landowners, the field inspection involved the following:

- An inspection of set-ups prepared for logging but not yet approved (set-ups SO3-04/C, 15 and 16);
- An inspection of a set-up cleared after logging (Set-up Nos: SO3-04/C04, 21,22);
- An inspection of roads and bridges currently being used, and no longer being used;

- An inspection of an area logged in 2001 where operations were stopped due to a land dispute and where large quantities of felled logs were abandoned along the roadside, on log landings and in the set-ups (see photo 10);
- An inspection of the log pond and barge loading facilities;
- An inspection of the logging camp;
- A visit to various villages to meet with landowners (see chapter 5); and
- A meeting with Gulf Provincial Administration officials.

4. REVIEW TEAM OBSERVATIONS

4.1 LEGAL DOCUMENTS AND DUE PROCESS

The Review Team examined the legal documents underpinning the logging project as listed in Tables 1 and 2. Particular attention was paid to the observance of due process with regard to the application for, processing of and issuance of the various legal instruments.

With regard to TP 2-14 Vailala Block 1, the Review Team's observations were that:

- A legal opinion exists that the extension of permits originally issued under the old Forestry Act is not permitted. The PNG Government is currently examining this opinion. If the opinion is upheld then the grant of an extension of the term of TP 2-14 by the Minister in April 1997 may need to be revisited.
- The extension of a Timber Permit by the Minister after the date of expiry is legally questionable.

4.2 LOGGING COMPANY

Niugini International Corporation Ltd, under the terms and conditions of the Logging and Marketing Agreement, is generally responsible for observing the requirements of the Timber Permit.

The observations of the Review Team are that:

(a) Planning and Control of Logging

That the company has employed several expatriate surveyors who along with PNG nationals prepare set-ups for logging prior to approval by the PNGFA Project Supervisor. The set-up plans that were inspected by the Review Team were inadequate as skid tracks were not clearly marked on the maps. There were also no skid tracks marked in the set-ups that had been approved and that were inspected by the Review Team², as

² The PNGFA Regional Inspector issued many instructions directly to the operator and the Project Supervisor during the field visit, including instructing the Project Supervisor to withdraw approval of set – up

required under the Planning Monitoring and Control Procedures for Natural Forest Logging Operations Under Timber Permit (PMCP).

Other Key Standards requirements observed that were not being complied with were:

- Lack of vine cutting (photo1);
- Some commercial size trees not marked for felling;
- Buffer zones not marked to the required width (e.g. Hihoho River);
- Logging operation within buffer zones of Class 1 & 2 rivers/streams (photo 7);
- Skidders causing excessive damage to young residuals and opening up large gaps in the canopy because of not following defined skid tracks;
- Excessive soil pushed into watercourses by bulldozers;
- Debris not removed from streams or watercourses;
- In some areas where crossings/ bridges were required, log clusters were observed (photo2);
- Lack of decommissioning within set-ups (Log landings/skid tracks/roads including temporary crossings);
- Lack of chains for the loaded jinkers/ trucks (photo 4); and
- Construction of river dumps or sub-log ponds along the Vailala River bank without proper approval process (photo 5).

A request for approval to construct river dumps³ is required to be lodged with the PNGFA Divisional Manager - Resource Development for his decision. It appears that instead they were authorised by the Project Supervisor (27 August 2003). Log dumps are also considered to require a variation to the approved Environmental Plan given that they are not described in the EP approved by the Minister. EP approval condition (2) states that *“Any proposed variation from the approved Environmental Plan will require the prior written approval of the Secretary, Department of Environment and Conservation who shall determine the required assessment and approval procedures and advise the Company accordingly”*.

Logging company field managers noted that “the cutting of trees inside the buffer zones are at the request of the landowners themselves telling us that their villages were neglected by the Government so long, and that they are in dire need of money to uplift their standard of living”.

Niugini International Corporation Ltd also notes that “minor deficiencies on the compliance issues are being improved through ongoing training”, and that “some of the issues observed have been identified by the operator in previous self-assessments” resulting in recommendations to improve compliance.

SO3 – 04/C – 14 for incomplete field preparation. He also instructed the company to pre – lay skid tracks on the set – up plan map and in the field.

³ A total of eight river dumps were observed.

(b) The Log Pond

The project currently has one main log pond at Hepea and eight river dump landings down the Vailala River from Hepea. Key requirements not being met were:

- Lack of proper approval for the river dumps;
- Excessive clearances for the river dump landings or log ponds with no consideration for buffer zone;
- Lack of decommissioning of the abandoned landings at the river dumps; and
- Lack of bund for the fuel storage tanks. (The location of the fuel tanks was too close to the Vailala River and considered a threat to the river system).

(c) The Logging Camp

The logging camp at Hepea Base Camp accommodates employees and their families and management staff from the logging contractor Niugini International Corporation Ltd, PNGFA's Project Supervisor, the office and staff of the landowner company Kohl Forest Resources Ltd. It also serves as the main log pond.

Although the Kohl Forest Resources Ltd office is established adjacent to that of the logging contractor, it is leasing land directly from the landowners.

Most skilled employees are from outside the local area, home provinces being mainly East and West Sepik, East and West New Britain, New Ireland and Morobe Provinces.

Concerns raised by the current logging company employees include the following:

- Employees from other provinces were concerned about the lack of transparency in their employment conditions. Their main concern is that they cannot afford to go home to see their families because the fortnightly wage package they get is not sufficient for them to save sufficient money to go home.
- Employees from other provinces who have married local women were concerned that they are not able to take their wives with them because any assistance provided by the employer only covers the employee.
- Employees and their wives were concerned that the employer has failed to provide proper toilets and shower facilities for all in the camp. There is only one shower facility and a water tap for laundry for over 200 people. It should be noted that while most people can do their washing in the river during the day, it is dangerous to wash in the river at night because of crocodiles.
- Employees were concerned that the employer is not transparent about how their wages are calculated. They claimed that despite working very long hours and at times 7 days a week, most employees end up getting less than K100.00 fortnight. After deductions for canteen food that is advanced to them by the employer, there is little or no money left in their pay packets.
- Employees that are contracted on cubic metre rates claimed that their figures are often reduced resulting in less pay. They would like to see a transparent system established that would benefit and protect all employees in the logging industry.

- Because of the isolation of the project, employees claimed that the employer is failing to meet the basic employment conditions under the relevant PNG legislation. For example, the conditions that apply to the calculation of overtime, annual leave pays and Nasfund deductions. They would like the Labour Department to investigate this situation.

Key Standards requirements observed as not being met were:

- Lack of appropriate toilet facilities for the national employees;
- Absence of proper toilet facilities at sub-log ponds for employees;
- Lack of safe drinking and cooking water facilities at the camp. Employees are currently storing drinking water using 200 litre drums. In the absence of that they have to boil water taken from the Vailala River;
- Very poor and unhealthy housing condition for the national employees;
- Lack of proper waste disposal method observed around the workshop and the national employees housing areas;
- Lack of bund containment for the power generator shed; and
- Lack of appropriate employment practices (health and safety) in the workshops and in the logging operation.

Niugini International Corporation Ltd notes that all permanent employees are covered by a standard employment contract which is in compliance with the Department of labour and Industrial Relation's rules and regulations. Further, all permanent employees are covered by workers compensation insurance.

The company also notes that it is not in a position to provide annual leave airfares for family members of any of its employees including expatriates.

The company further notes that it provides appropriate housing for all permanent employees, and that the gradual improvement of all facilities is continuing.

(d) Landowner Financial Benefits

Financial benefits received by landowners of Vailala Block 1 are primarily from Timber Royalties paid directly to the landowners, and Export Premiums paid through the various landowner companies from each timber area. Financial benefits that are entitled to landowners under the Project Agreement and Timber Permit are as follows:

- Timber Royalty of K10.00 per cubic metre of log harvest volume.
- Community Development Levy of K1.00 per cubic metre (after year 5) of log harvest volume to be paid to the Gulf Provincial Government's Community Development Fund.
- Land Use Planning Levy of K1.00 per cubic meter of log harvest volume to meet the cost of implementation and follow-up land use plans.
- An Agriculture Development Levy of K1.00 per cubic meter of log harvest volume to be paid to the landowner company for the development of agriculture projects in the project area.

- Log Export Premium payment of 3% of FOB (if the gross FOB value is K61/m³ or less) or 7% of FOB (if the gross FOB value is K61.01/m³ or more). This is paid to the landowner company representing the relevant area of the Timber Permit area.

(e) Landowner Infrastructural Benefits

The Timber Permit (as amended) requires the permit holder to provide the following:

- Main Roads
 - Bluff to Mamuro 10 kilometre-year 2
 - Bluff to Mamuro 10 kilometre-year 3
 - Bluff to Hepea to Lohiki 16 kilometre-year 4
 - Bluff to Lohiki 16 kilometre-year 5
 - Kevea to Lohiki 6 kilometre-year 3
- Village Roads or feeder roads
 - Belepat to Koialahu 6 kilometre
 - Koialahu to Vailala East 4 kilometre
 - Koialahu to Kekea 3 kilometre

While these roads have been established, only the ones that are currently being used by the logging company for logging are being maintained. This is in accordance with the terms and conditions of the Timber Permit which provides that when the road is no longer used for logging, the company's obligation to maintain the road ceases. The rest of the roads have not been maintained and in some cases the main roads have totally collapsed. One of the primary roads that links Pitoi - Bluff - Hepea and linking the area district centre at lhu is closed due to lack of maintenance⁴.

Nuigini International Corporation Ltd notes that the company took over from a previous logging contractor and has had to spend considerable resources on repairing roads and bridges. Whilst some of this work is ongoing, a reasonable timeframe needs to be applied.

- Bridges and Crossings

The Project Agreement states that the following bridges will be constructed out of permanent materials using NAASRA Bridges Design Specification; PNG Bridge Design Standards with Live Loading of 33 ton and lifespan of 25 years.

- Sori River
- Karahure River
- Mamuro River

⁴ During the field inspection the PNGFA Regional Inspector advised the company to rebuild the bridge over the Eia River which links Kerema and Hepea. The company was also advised to maintain this Provincial road as part of its Timber Permit requirements.

The Review Team found no evidence of compliance with the Project Agreement with respect to the bridges mentioned above.

Other non compliance with the Project Agreement observed by the Review Team were:

- Lack of permanent culverts;
- Lack of sawmill;
- Lack of maintenance of roads and bridges in areas that have been logged out;
- Lack of establishment of an urban development (section 4.4).

The Review Team observed that the only classroom built at Keuru village is falling apart; the iron roof has rusted through and the ground posts have rotted away. Landowners claimed the materials used to build this classroom were second grade. The Review Team found no evidence that sections 4.5 to 4.8 of the Project Agreement had been complied with.

(f) Royalty Payments

Neither the Southern Regional Office nor the Headquarters of the PNGFA could furnish the Review Team with any statistics regarding royalty payments for TP 2-14.

It is estimated from log export data provided by SGS that some K2.5 million has been paid to landowners of TP 2–14 from January 1997 to November 2003.

(g) Environmental Monitoring and Management Plan

The Review Team was unable to obtain any evidence that an Environmental Monitoring and Management Plan had been prepared. Niugini International Corporation Ltd states that an Environmental Monitoring and Management Plan has been prepared and has been lodged with DEC for its consideration.

(h) Other Compliance Issues Observations

The Forestry Regulations require the lodgement of a Performance Bond, and delivery of an original copy to the PNGFA Managing Director. There is no evidence within the PNGFA files sighted by the Team that China Long Kong Ltd has complied with this requirement.

Niugini International Corporation Ltd states that a performance bond in the form of a bank guarantee for K500,000 has been lodged in favour of the PNGFA.

i) Company Searches

Company searches show that:

- China Long Kong (PNG) Industry Ltd has current IPA registration. It has issued share capital of K10,000,000. The shareholders are Shisei Enterprises Co (PNG) Ltd (900,000), Silvery Chain Corporation of British Virgin Islands (9,100,000). The Directors are Chung Yan Hong, Chen Su Ma, Hing Chiu, Jian She Wang, Gou Yi

Li, Hai Tao Dou, Chang Zheng Cheng, Lay Puay Ho, and Andrew Ek Kiong Ung. The last annual return was on 5 September 2002.

The company is currently registered as a Forest Industry Participant under the Forestry Act 1991 (first listed in March 1994 – Registration Number FI 127).

- Niugini International Corporation Ltd has current IPA registration. Its registered address is Lot 1, Section 479, Kennedy Road, Gordons, NCD. Its shareholders are Su Chiu Lu of Lot 1, Section 479, Kennedy Road, Gordons (1); and Fan Yin Yong of Section 60, Lot 5, Koani Street, Gordons (1). Its Directors are Ik King Tiong; James Sze Yuan Lau; Kiew Chiong Tiong; Ivan Su Chu Lu; all of PO Box 102, Port Moresby. The company's last annual return was on 30 June 2002.

The company is currently registered as a forest industry participant (FI 246) since November 1994. It was not clear from the relevant PNGFA records whether the Timber Licence issued pursuant to section 91 of the Forestry Act 1991 is current.

4.3 PNG FOREST AUTHORITY (PNGFA)

The PNGFA is responsible for ensuring that the requirements of the project Planning, Monitoring and Control Procedures are followed. This includes the 5 Year Logging Plan, the Annual Logging Plan, and the approval and clearance of individual logging set-ups. The approval and clearance of set-ups requires the completion of a set-up logbook by the PNGFA Project Supervisor.

The observations of the Review Team are that:

- There is one PNGFA officer on site who is the Project Supervisor for Vailala Block 1. The Project Supervisor resides in a house provided by the logging company, has no office, and the project vehicle was un-serviceable at the time of the Review Team's visit.
- The Project Supervisor has approved set-ups despite all the breaches noted in section 4.2 (a) of this Report.

4.4 DEPARTMENT OF ENVIRONMENT AND CONSERVATION (DEC)

DEC is responsible for monitoring logging company compliance with the Environmental Plan and the Environmental Plan Approval Conditions.

The observations of the Review Team are that:

- Whilst the project is active, the Environmental Plan has been archived.
- Lack of regular EP Approval Condition compliance monitoring by DEC (a field visit was made in August 1999 – see below).
- The EP Approval conditions not observed were:

- Any variation from the approved EP must have prior written approval of the Secretary, DEC as stated in Approval Condition number 2; this has not been observed (Hepea base camp and River dumps);
- Although TP 2-14 had expired, there was no detailed proposal for environmental rehabilitation submitted to DEC. This is a breach of EP Condition number 9. (The term of the permit was subsequently extended);
- Lack of compliance with the Water Resources Act, chapter 205. There was no record with DEC of either the TP Holder (China Long Kong Ltd) or the contractor (Niugini International Corporation Ltd) obtaining Water Use Permits;
- EP Condition number 14 states that all solid and liquid wastes must have the Secretary, DEC's approval in relation to their disposal sites. Wastes have been observed indiscriminately disposed: and
- EP Condition number 18 requires the Company to submit detailed progress report on its Environmental Management and Monitoring Programme activities to the Secretary, DEC on a quarterly basis. DEC's file does not show any evidence of this having been observed.

With regard to Water Use Permits Niugini International Corporation Ltd notes that its own records show that an application for Water Use Permits were lodged with DEC in September 2003, and that receipt was acknowledged. With regard to the Environmental Management and Monitoring Program, the company states that the program "will commence as soon as there is any response on the EMMP submission from DEC".

DEC undertook a field visit in August 1999, prior to Niugini International Corporation Ltd becoming the logging contractor, in response to landowner claims of environmental damage resulting from logging. The opportunity was used to also carry out EP compliance monitoring. The environmental component of the landowner complaints related to waterway (drinking water) pollution, dust, and the disturbance of sacred sites and other environmentally sensitive areas. The field team confirmed the landowner complaints and made recommendations. It is unclear whether the recommendations were implemented or whether compliance was followed up in any way.

In August 2003 DEC, accompanied by staff of Rimbunan Hijau (PNG) Ltd, undertook a field compliance monitoring inspection. With respect to logging operations the inspectors mostly reported "no adverse impacts noted". The main identified concerns were:

- The lack of company annual reporting to DEC;
- The lack of bunding for fuel storage; and
- The failure of the company to compact log pond areas.

Again recommendations were made, and again it is unclear whether these were implemented or whether compliance was followed up in any way.

4.5 LANDOWNER COMPANY

Kanaroma Resources Ltd was the original landowner umbrella company for Block 1. It was forced to stop operating by landowners because it failed to deliver services and account for the export premiums. Each “concession” area then formed its own landowner companies as follows:

- Hepea and Upper Ahia - Kohl Forest Resources Ltd. No record of registration at IPA.
- Opau - Oka Resources Ltd. Has current registration with IPA. Has eight shareholders with 500 Preferential Shares.
- Keuru - Havemeave Resources Ltd. No record of registration at IPA.
- Kavarope - Hagoye Resources Development Ltd. Has current registration with IPA. Simon Kendolo of Mamuru Village is the only Shareholder.

Niugini International Corporation Ltd notes that it is aware of the weak performances of the landowner companies. In an attempt to strengthen their performance the company has provided assistance to:

- Establish proper corporate structures;
- Hold meetings and elect directors;
- Appointment of financial managers; and
- Ensure IPA registration and compliance with the tax laws.

Each landowner company provides a map indicating the area it is responsible for, and this is used for dispute resolution and prevention. The company notes that whilst “some of the landowner companies have achieved a degree of standards, some of the companies are still struggling”.

5. LANDOWNER VOICED CONCERNS

Landowners were consulted mostly in groups but also as individuals. Groups consulted included:

- Landowners at Opau concession area representing Havoraiipi clan, Lavare clan and Lauaiipi clan;
- Landowners at Keuru;
- Landowners at Hepea;
- Landowners at Upper Ahia; and
- Landowner representatives from the Kabarope ethnic group.

The observations of the Review Team with respect to the relationship between the landowners, their forests, the logging company, and concerns expressed by the landowners are:

- Landowners at Opau expressed concern that their landowner company missed out on export premium as a result of logs abandoned in the bush and not

exported (photo11). Landowners were not sure if timber royalty was paid for all these logs. This logging took place before the current logging contractor began operations.

Niugini International Corporation Ltd notes that the estimate of the number of logs is highly exaggerated, and that consultations with the director of the then landowner company (Kanomara Resources Ltd) who represented the Opau people, confirmed that all Royalties and levies for the abandoned logs were paid directly to the relevant ILGs and the former chairman of the landowner company.

- Landowners were concerned that the PNGFA failed to take any action to recover any payment from the permit holder for these abandoned logs⁵.
- Landowners were concerned that the extension of the term of the Timber Permit was granted with no input and consultation with them.

It is one of the roles of the Provincial Forest Management Committee to verify that the landowners support any extension in its report to the PNGFA Board. It appears that the PFMC did provide assurances that the extension of the term was in accordance with the wishes of the landowners.

- Landowners were concerned that the logging company has logged within the village buffer zone, next to rivers and within the cultural sites.

There is provision for altering the size of the village buffer zone under Key Standard 2. There is a requirement for the logging company to consult with the landowners regarding cultural sites as part of the procedures set out in the PNGFA Planning, Monitoring and Control Procedures.

- Landowners expressed concern about the failure of the PNGFA to implement Reforestation activities in the project area, despite numerous requests by them for a reforestation programme, using the Reforestation Levies.
- Landowners were concerned that despite the commitments made in the Project Agreement the permit holder, the previous logging contractors and the PNGFA have failed to implement most of the social and infrastructure benefits.
- Landowners were concerned that the heavy dependence by PNGFA Project Supervisors on the logging company for transport and other services compromises the role and responsibility of forestry officers in the field.
- Landowners expressed concern that the logging company is only committed to constructing and maintaining roads and bridges that it is using for log extraction and neglecting those that it no longer uses (this is however in accordance with the terms and conditions of the Timber Permit).

⁵ According to unverified but written records provided to the Review Team by a licensed log scaler who was engaged by landowners, the estimated number logs abandoned was 11,181 with an estimated volume of 47,000 cubic metres. Some had been tagged but others were untagged and left within set-ups.

- Landowners claimed that the permit holder and certain individuals in the landowner companies are not releasing the export premiums to the appropriate landowners.
- Concerns were raised that the Royalty and the Log Export Premium are being advanced to fund expenses of certain ILG Chairmen and landowner company representatives who live permanently in urban centres; supposedly representing the interest of landowners.
- Landowners were concerned that certain individuals of landowner companies have been making commitments against the export premiums without the authority of landowners from where the trees had been harvested. It was alleged that this has occurred with the cooperation of the Permit Holder and at times PNGFA.
- Landowners were concerned that the value of the Royalty and Log Export Premium are too low and suggested that Royalty should be raised to K20.00 per cubic metre and the premium payments to 20% of FOB.

The PNGFA notes that the Log Export Premiums are paid directly to the various landowner companies. How and what they do do with the money is up to them. Most of the landowner companies are headed by the so-called educated people from the project area.

Spin-off opportunities.

Except for Kohl Resources Ltd, there was much concern that landowner companies have failed resource owners in investing the export premiums in businesses that are able to realise profitable returns for landowners. Landowners were not happy at all with the performance of landowner companies and they wanted to have nothing to do with them if that could be avoided. They preferred that premiums be paid directly to the resource owners where the resources are being harvested.

Kohl Resources Ltd is the only landowner company that is making a serious attempt to invest landowner funds in business development activities. It has just purchased a mobile sawmill that is being used to mill reject logs from the log pond at Hepea Base Camp. The objective here is to produce sawn timber that it can sell to its resource owners and other clients in the project area. Kohl Resources Ltd does not have IPA registration.

The landowner company has also built a market for the people at Hepea and for other communities in the area to use. It has also constructed an office complex and a small trade store that is slowly being expanded. In the mean time it has placed orders for trade store goods for its store at the camp. It is also currently proposing to invest K500,000.00 in property investment in Port Moresby from its export premium income.

6. PROVINCIAL GOVERNMENT DISTRICT OFFICE

The Review Team met with several Gulf Provincial Government and administration personnel including the Governor and Deputy Governor and Local Level Government members.

Relevant comments offered by the Provincial Government and Administration representatives were as follows:

- The Provincial Works Officer claimed to be unaware that it had a role to play in implementing the Project Agreement in terms of infrastructural designs and quality assurance. The Provincial Works Office has registered engineers and qualified building supervisors who could be used to monitor the quality of the infrastructure requirements.
- Failure to institute trust instruments for the management of all levies in the province has worked against the interest of landowners.

Niugini International Corporation Ltd notes that in April 2002 it facilitated negotiations between the landowners, the Provincial Government, the PNGFA and itself, for the establishment of a development trust. A Board of Trustees has been proposed, and a draft trust deed has been prepared. However to date ongoing land and leadership disputes have prevented the proper nomination of landowner company representatives. Resolution of the issue is seen as a precursor to the achievement of any meaningful development.

- The Gulf Provincial Administration expressed the view that the Gulf Provincial Government should play a more pro-active role to utilise the levies collected from the logging project to carry out social and economic development in the project areas to sustain the cash economy in the village after logging has ceased.
- Except for its role in the Provincial Forest Management Committee, the Gulf Provincial Administration claimed that it has never been encouraged to play an active role in the implementation of the clauses in the agreement that calls for relevant divisions in the Provincial Administration to act.
- The Gulf Provincial Government repetitive expressed lack of knowledge concerning how much money from the different levies has been paid into the provincial accounts since logging in Vailala Block 1 started and how much still remains with the permit holder.
- The Gulf Provincial Governor expressed the view that a considerable percentage of the export levy collected from logs exported from the province should be returned directly to the province for development purposes.

Niugini International Corporation Ltd agrees with this sentiment.

7. OBSERVATIONS REGARDING SILVICULTURE

The quality of the logging operation (in particular observation of the 24 Key Standards) has a significant impact on the ability of the forest to produce a second yield of logs (from the current residual trees), and to produce logs in the longer term (from regeneration after logging). The Review Team observations in this regard are:

- There is a need for full implementation of the Key Standards as a matter of urgency;
- Current logging practices are causing excessive damage to the residual stand; and
- There is also a need for rehabilitation of logged over areas using the reforestation levies and the establishment of strategically located forest plantations (see photo 9) in accordance with the Project Agreement.

Niugini International Corporation Ltd disputes the Review Team's assessment of damage as being excessive. It notes that it is continually improving operator performance through ongoing training and the refinement of training procedures.

8. BROAD RECOMMENDATIONS FOR TP 2 –14 VAILALA BLOCK 1

The Timber Permit for Vailala Block 1 states that the gross area of the TRP is 99,016 ha containing a total of 1.5 million cubic metres of commercial timber suitable for processing and exporting. Statistics obtained from SGS indicate that some 247,452 cubic metres have been exported from the area since 1997. Thus there is a considerable resource remaining to be harvested from the area.

The current logging company, Niugini International Corporation Ltd is not strictly following the Key Standards and is causing (in the opinion of the Review Team excessive) damage to the residual stands, and is making no effort towards reforestation other than paying the reforestation levy. The company notes that "self-assessments indicate that the average level of compliance is satisfactory and instances of deficiencies depicted in the [photographs presented in Appendix 1] are not representative to justify general non-compliance as suggested".

Given the above findings of the Review Team it is recommended:

- That the PNGFA review under what legal basis and arrangements China Long Kong (PNG) and Niugini International Corporation Ltd are operating in Vailala Block 1.
- That the PNGFA replace the current Project Supervisor and issue instructions to Niugini International Corporation Ltd to follow the Key Standards.
- That the PNGFA implement reforestation activities in the area using the reforestation levies collected since the project began.

- That the PNGFA carry out an assessment of the logs that have been abandoned in the Opau concession area and determine whether all royalties due to landowners have been duly paid.
- That the PNGFA and Niugini International Corporation Ltd ensure that there are no land disputes in areas before they are approved for logging so that the wastage that occurred at Opau is not repeated elsewhere.
- That the PNGFA investigates allegations from landowners that advance premium payments are being paid to people who do not have rights to such payments and that all royalty payments and premium payments are paid on time and to the rightful owners.
- That there is more dialogue and cooperation between the PNGFA, Niugini International Corporation Ltd and the relevant Provincial Authorities to ensure proper compliance with the Project Agreement, particularly with regard to the implementation and standard of infrastructure requirements.

9. BROADER FORESTRY SECTOR ISSUES FOR PAPUA NEW GUINEA

The following is a list of issues identified by the Review Team during its work on TP 2-14 Vailala Block 1 which are of broader concern than this specific project. These will be addressed as forestry and conservation sector issues in the Observations and Recommendations Report to be produced by the Review Team towards the completion of the Review.

- A general lack of compliance with the Logging Code of Practice is causing unnecessary damage to residual stands, environmental damage and a general deterioration in the quality of Papua New Guinea's rainforests reducing the potential for future harvests and therefore bringing the whole concept of sustainability into question.
- Lack of commitment by all stakeholders but particularly the relevant government departments and agencies to ensure compliance by logging companies with the terms and conditions of Timber Permits and Project Agreements.
- The general lack of maintaining proper record of key project documents at the PNGFA Headquarters and its Regional Offices continue to raise serious questions on the legal basis of the projects.
- Landowners' lack of faith in the independence of the PNGFA especially when PNGFA officers rely so heavily on the logging companies for transport, accommodation, telephones etc.
- Landowners' lack of faith in the PNGFA's role in ensuring that benefits due such as royalties and levies are paid to the rightful owners.
- Lack of commitment by stakeholders, particularly logging companies and the PNGFA to resource replacement such as the establishment of forest plantations

and tending the natural regeneration to ensure sustainability of logging operations.

- Lack of independent funding for the Department of Environment and Conservation to travel to remote areas to monitor compliance of logging operations.
- Lack of meaningful training and localisation programmes in forestry operations, resulting in lack of employment opportunities for PNG graduates from the forestry training institutions.

APPENDIX 1: SELECTION OF PERTINENT PHOTOGRAPHS