



ITS Global

Consultants on Global Issues

CELCOR's anti-forestry campaign in Papua New Guinea

***Part I: Review of the 'Bulldozing
Progress' case***

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Executive Summary

The human rights campaign against the forest industry forestry in PNG

Since 2006, the Centre for Environmental Law and Community Rights (CELCOR) based in Port Moresby has mounted a case that commercial forestry in Papua New Guinea (PNG) has been a source of widespread abuse of human rights.

CELCOR has done this in partnership with the Australian Conservation Foundation (ACF) which has used these claims to support fundraising for campaigns against commercial forestry, to file legal claims to international agencies and to pressure the ANZ Bank to cease providing financial services to the largest forest operator in Papua New Guinea, Rimbunan Hijau (RH).

The accusations were made in a report released in August 2006 entitled 'Bulldozing Progress: Human Rights Abuses and Corruption in Papua New Guinea's Large-Scale Logging Industry'.¹ The report notes Caritas Australia financed the report and the British Government money supported publication.

The report accuses the forest industry and Rimbunan Hijau of responsibility for a series of abuses, ranging from violence to intimidate employees and stakeholders, sexual abuse, destruction of cultural sites, poor working conditions, human trafficking and arms trafficking. The report uses Rimbunan Hijau as a proxy for the entire industry in PNG.

The report contains a detailed review and in the opinion of its authors, demonstrates that the most heinous either have no substantiation in the report (claims of sexual abuse by company employees) or are published in disregard of easily discoverable facts which put an entirely different complexion on the circumstances of the complaints (such as claims of use of police violence by the company).

Problems with the claims

There are a total of 53 accusations made in the report. Twenty-one are directed at RH. Of these claims, none can be substantiated with court records, official accounts or officially endorsed reports. Most are either factually incorrect, speculative, or from discredited reviews. At its most extreme points in the opinion of the authors, two claims are without foundation.

In the second part of this report, every accusation is analyzed and the critical method used to build the case is examined.

¹ Australian Conservation Foundation and Centre for Environmental Law and Community Rights (2006). *Bulldozing Progress: Human Rights Abuses and Corruption in Papua New Guinea's Large-scale Logging Industry*. Boroko, Papua New Guinea and Melbourne Australia.

To back up its claims, the report draws upon two pools of evidence, each insubstantial. The first is a series of “case studies” based on testimony of apparent victims of human rights abuse. The testimony provided is, in our view, either demonstrably incorrect or a severe distortion of the facts. The second pool of evidence is a series of unofficial reports that have previously been reviewed and discredited.

To support claims that the forestry industry is responsible for widespread human rights violations, the report insinuates it is contributing to trafficking in guns and people and even claims the industry undermines regional security. There is no sound evidence to support these claims.

Human rights problems in PNG

Papua New Guinea's genuine human rights problems are significant and institutionalized. There is no charter for human rights. There is no separate justice system for children; meaning juveniles are often jailed in poor conditions with lengthy pre-trial periods and child abuse and neglect is common.² There is still institutionalized discrimination against homosexuality³, and violence against women is endemic and institutionalized.⁴ Cronyism and corruption among government officials is rife.⁵ AIDS sufferers are stigmatized.⁶

The United Nations High Commission for Human Rights states that, “insufficient resources, lack of professional training for the police force, and the absence of strong political leadership and national identity have all compounded law-and-order problems in the country,” and that “the proliferation of small, homemade arms and the continued migration

Police brutality ‘case studies’ - the facts

Ben Harevela's claims

The report cites claims by a Ben Harevela that nine years ago RH had hired police to bash him and attack his village, Paevera. ACF headlined this claim and put a video clip of Mr Harevela on its website.

The report neglects to mention why the police visited. An affidavit from a member of a land owner company in Paevera verified they were invited to apprehend one Haihavu Kori Kaiks an escapee from custody on charges of murdering an Australian geologist.

Shooting at Vailala

Another “case study” is a claim that in 2001 police shot two men after the RH directed them to intimidate local people. An affidavit to the police by a witness shows that seven men armed with shotguns, a grenade and knives had tried to rob an RH company camp in Vailala and was holding five company employees hostage. Police shot two apprehending them.

Both claims were common knowledge in the local areas.

² Human Rights Watch September (2005). “Making Their Own Rules: Police Beatings, Rape, and Torture of Children in Papua New Guinea”. Vol. 17, No. 8 (C)

³ Christine Stewart (2006). Prostitution and Homosexuality in Papua New Guinea: Legal, Ethical and human Rights Issues. Gender Relations Centre, Research School of Pacific and Asian Studies, Australian National University. Working Paper 19. http://rspas.anu.edu.au/grc/publications/pdfs/WP_19_Stewart.pdf

⁴ Amnesty International (2006). “Papua New Guinea: Violence against women - Not inevitable, never acceptable”.

http://action.amnesty.org.au/svaw/comments/violence_against_women_continues_in_papua_new_guinea/

⁵ Papua New Guinea scores in the bottom 20 (i.e. most corrupt) in Transparency International's Corruption Perception Index for 2007. http://www.transparency.org/policy_research/surveys_indices/cpi/2007

⁶ UNAIDS Press statement. 30 August 2007. “UNAIDS and OHCHR express concern at reports of violence against people living with HIV in Papua New Guinea and supports the Government's call to investigate”. http://data.unaids.org/pub/PressStatement/2007/20070830_ps_png_en.pdf

to urban areas have augmented security concerns.”⁷ At the end of 2007, the PNG Government had not responded to requests to visit Papua New Guinea from the UN special rapporteurs on torture, health, or education.⁸

All these problems are tragic and severe. None of these problems are caused by the timber industry, as *Bulldozing Progress* insinuates. And no other published human rights investigations have principally blamed the forestry industry for human rights abuses.

By directing energy and time to forestry questions, CELCOR is distracting attention from real human rights problems in PNG and solutions to the basic cause: poverty.

The rural poor are the victims

CELCOR wants to replace commercial forestry in PNG with community forestry or eco-forestry. Neither is commercially viable, as even WWF, a major supporter of CELCOR, has found.

If commercial forestry ended, it is the rural poor who would suffer most. Commercial forestry contributes about 6.1 per cent of PNG's real GDP – placing it close to par with the mining and quarrying sector in terms of the contribution to the size of the economy.⁹ It provides jobs to about 9,000 people¹⁰ – approximately 4-5 per cent of formal employment in PNG.¹¹ Most of these jobs are located in remote areas with little or no prospects for alternative formal employment. And it earns export income and provides tax revenue.¹²

Forestry companies provide infrastructure and social services to the communities in which they operate according to the specific conditions of the timber resource permit and approved plans. Facilities provided include roads, airfields, air services, schools and rural health facilities, which government either services inadequately or not at all.

Bulldozing Progress shows no regard for the social hardship which would result from ending commercial forestry.

⁷ United Nations Office of the High Commission for Human Rights, Country Report – Papua New Guinea. <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/PGIndex.aspx>

⁸ Human Rights Watch (2008). World Report (Events of 2007). http://www.hrw.org/wr2k8/pdfs/wr2k8_web.pdf

⁹ PNG Department of Treasury (2007) *2008 National Budget*, Vol. 1, Government of PNG

¹⁰ Overseas Development Institute (2006) *Issues Opportunities for the Forest Sector in Papua New Guinea*, PNG Forest Studies Paper No. 3, November

¹¹ PricewaterhouseCoopers (2006) *Economic Analysis and Potential of PNG Forestry Industry*, prepared for the PNG Forest Industries Association, November

¹² The exports of forest products represented 4.2 per cent of the value of all PNG exports in 2006, making forest products the largest non-mineral export of PNG. The log export tax paid to the Government contributed about 3.3 per cent of the Government's total tax revenue for the year ended 2006. PNG Department of Treasury (2007)

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Acronyms

ACF	Australian Conservation Foundation
ANZ	Australia and New Zealand Banking Group Ltd
APU	Asia Pacific Unit (Australian Conservation Foundation)
AusAID	Australian Agency for International Development,
CELCOR	Centre for Environmental Law and Community Rights
COC	Chain of Custody
FCP	Forestry and Conservation Project
FIA PNG	Forest Industries Association of Papua New Guinea
FMA	Forest Management Agreement
ILG	Incorporated Land Group
ITTO	International Tropical Timber Organization
LOC	Landowner Company
NANGO	National Association of Non-government Organisations
NGO	Non-government Organization
OECD	Organization for Economic Cooperation and Development
PNG	Papua New Guinea
PNGFA	Papua New Guinea Forest Authority
RH	Rimbunan Hijau (PNG) Group Ltd
SGS	Societe du Generale Surveillance
TLTV	Timber Legality and Traceability Verification
TRP	Timber Rights Purchase

1. Introduction

CELCOR has campaigned against commercial forestry in PNG since it was established in 2000. The Australian Conservation Foundation (ACF) has campaigned against commercial forestry since 2003. The campaigns almost exclusively focussed on PNG's largest forestry operator, Rimbunan Hijau (RH).¹³

They have accused the company of a series of human rights abuses, ranging from using violence to intimidate employees and stakeholders, sexual abuse, destruction of cultural sites, poor working conditions, human trafficking and arms trafficking.

These accusations were made in a report released in August 2006 by ACF and CELCOR in Papua New Guinea entitled "Bulldozing Progress: Human Rights Abuses and Corruption in Papua New Guinea's Large-Scale Logging Industry".¹⁴ The report was funded by Caritas Australia and the British Government.¹⁵

The report was used to pressure the ANZ Bank to cease business with the company, first by using it to support allegations ANZ was breaching OECD guidelines to ensure multinational companies were not engaged in unacceptable practices in developing countries and then to encourage people through an internet campaign to cease banking with the ANZ while they did business with RH. Both strategies failed.

ITS Global was commissioned to review and assess the claims made in 'Bulldozing Progress'. This included a field trip to PNG. ITS Global assessed every claim and reviewed the evidence supporting every claim. All details are provided.

Some will claim the review will not be reliable because it was commissioned by the commercial forest industry for whom ITS Global work. Readers can look at the case and the evidence and judge for themselves.

The approach

ITS Global undertook a comprehensive review of every claim made in 'Bulldozing Progress'. It also undertook a field visit to assess the circumstances and evidence of some particular claims. It created criteria to classify the substantiations for the claims in the report.

The ITS Global assessment is in two parts. Part One is "Abuse of Virtue: a review of "Bulldozing Progress, the CELCOR/ACF case that the forest industry and Rimbunan Hijau, PNG's largest forestry business, abuses human rights in Papua New Guinea." Part

¹³ Rimbunan Hijau (PNG) Group Ltd, is a subsidiary of Rimbunan Hijau, based in Sarawak, Malaysia. References in this report to "Rimbunan Hijau" refer to the former.

¹⁴ Australian Conservation Foundation and Centre for Environmental Law and Community Rights (2006). *Bulldozing Progress: Human Rights Abuses and Corruption in Papua New Guinea's Large-scale Logging Industry*. Boroko, Papua New Guinea and Melbourne Australia.

¹⁵ The funding was supplied by British High Commission in Port Moresby to support publication of the report. The report disclaims endorsement by the British Government of the contents. Given the antagonism displayed by the then High Commissioner to commercial forestry in PNG and RH (which lead to public complaint by the PNG Minister for Forests) this disclaimer in retrospect seems simply disingenuous.

Two is “Analytical Review of “Bulldozing Progress: Human Rights and Corruption in Papua New Guinea’s Large scale Logging industry”. Part Two examines in detail every claim, and assesses and critiques the methodology used in the report.

2. The CELCOR/ACF case – ‘Bulldozing Progress’

2.1 Summary

‘Bulldozing Progress’ was released in August, 2006. The Executive Summary states the purpose of the report: “to raise the lid on human rights abuses in PNG, to identify their underlying cause and purpose, to propose necessary steps to stop the abuse and to reignite the political will to do so.”

There is setting for the report and campaign. It follows a campaign initiated around 1999 by Greenpeace to stop commercial forestry in PNG in which Greenpeace singled out Rimbunan Hijau. Details of that campaign can be found in a publicly available report.¹⁶

The goals ACF and CELCOR hoped to achieve through the report, as professed in it, were:

- to lobby the PNG Government into preventing the growth of the commercial forestry sector in PNG;
- to pressure donor agencies to withhold financing for forestry sector activities and increase donations to legal advocacy non-government organizations (NGOs) such as CELCOR;
- to pressure financial organizations such as banks to withdraw the provision of services to forestry companies operating in PNG.

The core charges levied against the forest industry in PNG, and many directly against RH itself are:

- Abuses of human rights;
- Arbitrary detention and physical brutality by police against landowners;
- Intimidation and sexual abuse of women;
- Denial of due process in appropriating property;
- Abuse of labor conditions;
- Contamination of food and water sources;
- The destruction of cultural sites, artifacts and grave sites;
- Cross-border trafficking in timber, guns and people;
- Political and Commercial Influence;
- Attacks on reform lawyers.

Each individual claim was reviewed. The result is set out in Part 2 of the report. Some broad conclusions can be drawn.

2.2 The charges

The report makes 53 accusations of improprieties by commercial forest operators in Papua New Guinea. Twenty one of the claims are made specifically against Rimbunan Hijau. The

¹⁶ See ITS Global, 2005, “Whatever it Takes: Greenpeace’s anti-forestry campaign in Papua New Guinea”

remaining 32 are general accusations which do not name the companies or parties against which the accusations are being made. Most of these accusations are not referenced by date, month or year. However since RH accounts for half of the forestry business in PNG, most readers will treat many of these as generally applying to RH.

Of the 21 claims – and these include the most sensational of sexual abuse, enlistment of police to perpetrate violence, and abuses of labor rights – our assessment was that nine are factually incorrect, nine are speculative, 12 can be considered from unreliable sources, and nine are from reports which were rejected on review, not adopted or subsequently discredited. Four are based on documents or statements that could not be obtained or verified. None of the accusations are substantiated with court records, police accounts or officially endorsed reports. Typically they rely on third-party accounts.

The key charges against the industry are set out in the executive summary of the report. Those relevant to Rimbunan Hijau are summarized below. A detailed analysis of all the charges is in Section Two of this Report.

2.2.1 Abuses of human rights

These are generalized in the report as being a general feature of the forestry industry. The specific claims are addressed individually in sub-categories below.

2.2.2 Arbitrary detention and physical brutality by police against landowners

There are four direct accusations that RH has either 'hired' law enforcement authorities or influenced them to intimidate landowners. In two cases, the 'testimony' about the incidents omits critical details which show that in the incidents the police were responding to serious threats to life and property by criminals, and that this were widely known, as verified by affidavits regarding the events.¹⁷ Another other case relies on the testimony of a police officer who has subsequently been under investigation for corruption.¹⁸ Another is based on a low-level report prepared by a junior official, as part of a World Bank project, which was never adopted into the main body of the final report. For the record, that report remained a draft because it was never adopted by the PNG Government.¹⁹

¹⁷ Affidavit dated 31/1/2008 from representatives of Land Owner Companies

¹⁸ The officer in question is Emmanuel Bani, a former member of the Southern Command Taskforce, regarding the actions of police in the Wawoi Guavi concession. PNG Prime Minister Sir Michael Somare had stated that Mr. Bani was previously suspended from the police force for corrupt activity involving drug smuggling with criminal gangs in Australia. Bani subsequently fled PNG. Bani's claims are unreliable. SBS has removed both transcripts and all references to these broadcasts for "legal reasons." Bani has also been implicated Assistant Commissioner of RPNGC Southern Command, John Maru, in drug-smuggling operations with Australian motorcycle gangs. See: Mark Forbes, "Guns for drugs and gold as PNG trafficking revs up" in the Sydney Morning Herald, December 11 2004.
<http://www.smh.com.au/news/World/Guns-for-drugs-and-gold-as-PNG-trafficking-revs-up/2004/12/10/1102625536650.html>

¹⁹ The World Bank conducted three reviews in 2001 to support the Forest and Conservation Project (FCP). Many of the individual audit and research reports which were commissioned for the Review were not officially endorsed by the Review and have not been officially released. They have, however, been widely circulated in PNG among NGO circles, and are used by groups such as Greenpeace to substantiate claims against the forestry industry.

2.2.3 Denial of due process in appropriating property

These charges are leveled at the industry as a whole. It is easy for campaigners against commercial forestry in PNG, such as Greenpeace, to make these claims, but the problem lies elsewhere. Forestry rights are allocated under PNG law to local communities and invariably there is a local group which considers itself excluded. Forestry rights are under almost permanent challenge in PNG. The source of the problem is the law and the Government's administration of it. Some of the areas cited in the CELCOR/ACF report are not in areas where RH operates.²⁰

The report also retraces an old and long standing issue about the terms by which a particular permit held by RH was extended to a fresh concession area. This was the subject of legal challenge and protracted dispute within the PNG Government, but the final resolution leaves no question about the consistency of the process with PNG law.²¹

The report also makes passing references to claims of illegal logging. This was the focus of a Greenpeace campaign which made sensationalist claims which were publicly demonstrated to be wrong.²² The company has initiated introduction of a system to verify legality of its operations which will provide documentary evidence its forestry is legal.

2.2.4 Intimidation and abuse of women

There are six claims of sexual abuse, only one directly citing RH. It relies on an anonymous, unofficial report that was never verified or endorsed.²³ RH has strict policies regarding sexual relations and cohabitation at worksites. There is no supporting evidence for three of the claims of sexual harassment in the references cited in the ACF report. The other two claims are discredited or unverifiable.

2.2.5 Abuse of labor conditions

There are four claims of abuse of labor rights. Three relate to living conditions, occupational health and safety practices and non-payment of overtime. All cases rely on the draft reports which were not be verified and were set aside. A subsequent review of the claims by the Department of Labor found no contravention of labor laws by RH.²⁴ Rather, the review found that average wages paid by RH were double the national average. The fourth claim states that the company withheld payment from a worker. RH has had no formal claim

²⁰ The areas referred to are Hirie, Musula and Kubut. The consultant was unable to locate Hirie Village.

²¹ Gadens Lawyers, "Advice on Section 137 and Section 78 of the Forestry Act". Letter to Mr. Paul Barker, Department of Prime Minister, PNG, 21 July 2003.

State Solicitor, "Re: Extension of timber permits under sections 137(1) and 78 of the Forestry Act", Letter to the Managing Director of the PNG Forest Authority, Office of the State Solicitor, Department of Justice and Attorney General, 25 February 2004.

²² In September 2008, the Greenpeace vessel *Esperanza* illegally seized a vessel in the Gulf of Papua, claiming the timber on board was illegal and that the timber and the vessel belonged to RH. That was publicly demonstrated to be incorrect, yet Greenpeace continue to make the claims, drawing criticism from the Government and the media.

²³ Department for Community Development. *Draft individual project review report – Wavoi Guavi & Panakawa*. PNG, 2004

²⁴ Cf. Lohia Bodibo, Aloysius Aoae, Moses Make, *General labor inspection – Kamusi and Panakawa logging camps, general labor inspection report prepared for the Department of Labor and Employment*, PNG, 2004

submitted for outstanding pay. Additionally, no names or dates of employment are given, meaning that the claim cannot be verified against payroll records.

2.2.6 Contamination of food and water sources

There are two charges of contamination or damage to waterways by RH. RH has been operating in PNG for 17 years. In forestry some incidences of contamination would be expected. Two instances do not demonstrate a systemic problem. The claimed instances did not stand scrutiny.²⁵

2.2.7 The destruction of cultural sites, artifacts and grave sites

There is one direct allegation of the destruction of a sacred site by RH. This allegation relies on the testimony of an individual who gives incorrect testimony on another matter and gives testimony on events to which he has no legal links.²⁶ In addition, he has previously worked closely with Greenpeace who have run a campaign in PNG against RH.²⁷

There is an additional claim of destruction of a gravesite by the construction of a logging road. RH's involvement is implied by location. Planning, Monitoring and Control Procedures for natural forest logging operations under Timber Permits issued by the PNGFA require the submission and inclusion of a "Landowner Cultural Site Identification Form"²⁸ during the application process. This form demarcates sites of cultural significance, such as sacred sites and gravesites. Significant sites are demarcated with a 100 meter buffer zone, as required by the PNG Logging Code of Practice.²⁹ It is not possible that a demarcated site was disturbed, nor is it possible that RH's predominantly local workforce would have accepted direction to ignore demarcation of cultural sites.

2.2.8 Cross-border trafficking in timber, guns and people

None of these claims can be substantiated.

RH has no case to answer in the case of cross-border trafficking of timber. Allegations against RH are implied and rely on a report by an environmental NGO, the Environmental Investigation Agency. This report in turn relies upon a "personal communication" between

²⁵ Cf. John Sambeok, *Rimbunan Hijau Group of Companies (RH) Ongoing Logging Operations, Southern Region*, a field compliance monitoring & inspection report no: 2:2003, prepared for the Department of Environment and Conservation, PNG, 2003, 19. The report states that 'the Vailala Block 2&3 TRP environmental concerns are minimal... remedial management strategies have been deployed or mitigated as to address the issue... this is indicative for Frontier Holding's Limited environmental commitment'.

²⁶ In other parts of the report, Ben Harevela gives testimony on the LMA at Vailala. However, Harevela is not a party to the LMA and has no direct or indirect relationship with the company, nor is he affiliated with any LOCs in the area.

²⁷ Interview with landowner company representative January 2008

²⁸ PNGFA. 1995b. *Planning, Monitoring and Control Procedures for Natural Forest Logging Operations under Timber Permit*.

Incorporating: Key Standards for Selection Logging in Papua New Guinea. Papua New Guinea Forest Authority, PNG, November 1995.

²⁹ Cf. Papua New Guinea Logging Code of Practice, Key Standard 2a: "Cultural sites, reserves, conservation and garden areas". The local community is asked to demarcate cultural sites prior to commencement of operations, with a 100m buffer zone around each cultural site.

the report authors and a representative of Greenpeace. RH can verify all of its shipments of timber.

RH has no case to answer in the case of trafficking of weapons. The suggestion that the forest industry is responsible for weapons trafficking is insinuated.. There is no direct allegation against RH or any other company. The cause and effect is the same that could be levied at mining and plantation industries. The industries open up remote areas which makes it easier for gun-runners (or anyone else) to operate. RH goes to great lengths in order to improve the law and order situation in PNG, in collaboration with the local government and the police force. This includes responding to requests from government for logistical support in districts.³⁰

There are two specific allegations of “people trafficking”. The first claims that RH has recruited sex workers from Indonesia by plane. The claim relies on anonymous report prepared for the Department of Community Development which was formally set aside because it could not be verified and contained no supporting evidence. RH has a strict company policy in place that prevents extra-marital cohabitation and sexual relations at logging sites. The second claim is that RH has violated the *Employment of Non-Citizens Act*. These claims have been refuted by both the Minister for Labor and in a Department of Labor report.³¹

2.2.9 Political and commercial influence

RH has no case to answer. Charges of political and commercial influence are commonplace in the hurly-burly of PNG politics. The system of allocation of forestry leases by Government to locally based landowner companies, as required by law, provide fertile ground for such charges and are regular bases for such claims by NGOs. This reflects the intent of NGOs to conflate problems with governance at large in PNG to commercial forestry. The report also implies that sponsorships of public events, charitable donations to landowner companies and infrastructure developments such as “roads, schools and health clinics” are a negative influence on PNG society.

2.2.10 Attacks on reforming lawyers

RH has no case to answer regarding attacks on reform lawyers. The report implies an association between RH and an attack on lawyer, Annie Kajir, because of her involvement in a court case with RH.

³⁰ J. Andrew (Assistant Commissioner, Southern Division Command, RPNGC), “Deployment to Purari / Escort on MV Swift II, 17/1/2001”; Zaidul B Jahar (Administration Manager, Rimbunan Hijau PNG), “Unethical conduct of duty police personnel at Terebau Camp, East Kikori”; J. Biamaga (SDHQ Task Force Commander), “Arrest Brief”; J. Andrew (Assistant Commissioner, Southern Division Command, RPNGC), “Re: Request assistance to airlift eight (8) drug suspects from Baimuru to Kerema”; J. Biamaga (SDHQ Task Force Commander), “Transportation arrangements for a news reporter and Task Force member”. Hon. Charles Maiu, MP (Deputy Governor, Gulf Province, PNG). Untitled letter to Mr. Axel Wilhelm; ITS Global, Field Trip to Rimbunan Hijau Logging Concessions, 15–19 March 2006.

³¹ Cf. Lohia Bodibo, Aloyisus Aoa, Moses Make, op.cit.

2.3 Problems with methodology

The report uses a number of methods in its attempt to implicate Rimbunan Hijau. The net effect of these methods when combined with a lack of substantial evidence is a report that pushes the reader to draw negative conclusions about Rimbunan Hijau. In summary, we believe:

- It relies upon hearsay and lay opinion evidence to back up these claims;
- It omits vital information about events, which leaves a negative impression of RH;
- It makes two allegations about child and sexual abuse, without substantiation;
- The report conflates Rimbunan Hijau with the entire industry and relevant government administration, making it a proxy for these external bodies.

Each of these methods is reviewed fully in Part II of the report – “Analytical Review of ‘Bulldozing Progress: Human Rights and Corruption in Papua New Guinea’s Large Scale Logging Industry.’”

3. The Setting: the CELCOR/ACF campaign against commercial forestry in PNG

3.1 Background: ACF in PNG

ACF is opposed to commercial forestry in Papua New Guinea. In 2000, ACF launched its Asia Pacific Unit (APU). In the same year, CELCOR was established. One of the APU's stated aims was to "increase ACF's voice within Australia in relation to environmental concerns of the region" through AusAID and other NGOs.³² A key focus was PNG. The establishment of the APU coincided with ACF's receipt of AusAID grants for PNG-based projects under the AusAID-NGO Cooperative Partnership (ANCP) program.³³ ACF also set up a number of partnerships with PNG-based NGOs such as CELCOR and the Bismarck Ramu Group.

ACF's direct campaign against the commercial forestry industry commenced in October 2003 with a letter-writing campaign to the Australian Government.³⁴ This followed the tabling of a Senate Inquiry Report into Australia's relationship with PNG. ACF's campaign was based on the low priority of environmental issues in the Committee's recommendations. The Committee recommended that governance and developments of environmental standards be improved.³⁵ This complemented the strategy of the World Bank "Forest and Conservation Program" where the emphasis in Bank funding was on environmental management and improved governance, not support for commercial forestry.

The ACF campaign subsequently appeared to shift gear in December 2003, when ACF announced that it had secured funding with CELCOR for an advocacy and monitoring program for international financial institutions in relation to environmental issues.³⁶ ACF then appeared to concentrate upon the performance of the World Bank's Forestry and Conservation Project (FCP).³⁷ The FCP was frozen by the PNG Government in 2004 (and then subsequently cancelled) because the World Bank was insisting on conditions unacceptable to the PNG Government. Green NGOs then mounted an effort to pressure the PNG Government to continue the FCP program. ACF then appeared to concentrate its efforts on the commercial forestry industry itself, in line with other NGOs which had begun to pressure financial institutions in turn to pressure commercial forestry customers to end or restrict commercial forestry.

³² Tan, Lee (2000). "ACF in the Asia-Pacific". *Habitat Magazine*, February 2000. Australian Conservation Foundation, Melbourne, Australia.

³³ AusAID (2000). *AusAID-NGO Cooperation Statistical Report 1999-2000*. Canberra, Australia.

³⁴ Australian Conservation Foundation. "International financial institutions campaign: Asia Pacific campaign". *Habitat*, December 2003. Melbourne, Australia

³⁵ 35 Australian Senate (2003). *A Pacific Engaged: Australia's Relations with Papua New Guinea and the Island States of the South-West Pacific*. Foreign Affairs, Defence and Trade References Committee Report. Canberra, Australia. http://www.aph.gov.au/senate/Committee/FADT_CTTE/completed_inquiries/2002-04/png/report/b3recs.pdf

³⁶ ACF (2003)

³⁷ Australian Conservation Foundation (2004). "World Bank loan backtrack (Asia Pacific Campaign)" in *Habitat Australia*, August 2004. Melbourne, Australia.

3.2 The CELCOR/ACF advocacy campaign

Of the professed three goals in 'Bulldozing Progress', pressuring financial institutions to cease dealing with the commercial forestry industry, and Rimbunan Hijau in particular, was the focus of ACF's advocacy program. ANZ Bank is the leading banker for RH in PNG.

According to ACF publications, in 2005, ACF had had established a donations program with ANZ whereby ANZ would match ANZ customer donations to ACF of up to A\$1000.³⁸ Facility was made on the ANZ website to enable this.

In April 2006, ACF released a report that was highly critical of the environment-related decision-making processes in Australian financial institutions.³⁹

In August 2006 the ACF released 'Bulldozing Progress' and used the report to support a complaint to the Australian Treasury that the ANZ Bank had committed a "specific instance" under the OECD Guidelines for Multinational Enterprises by having Rimbunan Hijau as a client. The claim was ANZ Bank was supporting violations of human rights because it was providing banking services to Rimbunan Hijau in Papua New Guinea. The complaint was co-sponsored by CELCOR and supported by three other NGOs.⁴⁰

Treasury dismissed the complaint in October 2006, noting ANZ's claim that the Bank is "provider of banking and financial services to an entity that was operating legitimately under PNG law", and that the issue did not warrant further consideration.⁴¹

Despite the failure of OECD complaint, ACF maintained its offensive on ANZ. ACF withdrew its support from the bank at the time the bank released its draft sustainability policy for forests in February 2007.⁴²

Eight weeks later in April 2007, ACF launched a web-based video petition against ANZ, using ACF members⁴³ to encourage ANZ customers to complain to the Bank about its dealings with RH as part of this campaign to pressure ANZ to dealing with RH.

3.3 Why attack RH?

Rimbunan Hijau holds approximately a 40 per cent market share of the forestry sector in PNG. Its diverse interests in both PNG and elsewhere make it a highly visible company. Its high profile means that it is a strategic target for environmental campaigners.

³⁸ Australian Conservation Foundation. "ANZ Donations Program". Habitat, April 2005. Melbourne, Australia

³⁹ Australian Conservation Foundation (2006). *False Profits: how Australia's finance sector undervalues the environment*. Australian Conservation Foundation. Melbourne, Australia.

⁴⁰ The NGOs were the Environmental Law Centre (Port Moresby), the Human Rights Council of Australia (Sydney), and the PNG Eco-Forestry Forum (Port Moresby).

⁴¹ Australian Treasury (2006). "Statement By The Australian National Contact Point: ANZ Specific Instance" http://www.ausncp.gov.au/content/docs/331_376_20061013ancpinitialassessmentstatement.pdf

⁴² "Some red faces over green donations blue" in *The Age*, 12 April 2007.

<http://www.theage.com.au/news/business/some-red-faces-over-green-donations-blue/2007/04/11/1175971180003.html>

⁴³ Charles Berger (2007). "Financing of illegal logging in PNG" in Habitat Australia, January 2007. Australian Conservation Foundation, Melbourne, Australia.

It is a common tactic among environmental campaigners to campaign against the most visible targets rather than those who are actually committing environmental offences.

ACF has been highly critical of ANZ, yet ANZ has made binding commitments to environmental policies in the form of the Equator Principles. ACF has been an outspoken critic of the activities of BHP Billiton, launching campaigns against operations at Olympic Dam⁴⁴, Roxby Downs⁴⁵, Sandstone Island⁴⁶ and its climate change policy⁴⁷. This is despite ACF's own corporate rating assessments putting BHP ahead of other companies they have not touched – such as paper producer Carter-Holt Harvey and petroleum company Caltex.⁴⁸

The campaign against RH is no different. It comes despite RH being arguably the most environmentally responsible commercial forestry operator in Papua New Guinea. In 2007, with the support of the International Tropical Timber Organization (ITTO), the company engaged the services of Societe Generale du Surveillance (SGS) to implement a Timber Legality and Traceability Verification (TLTV) scheme for its operations at Sagarai Gadaisu in Milne Bay Province. Implementation was completed in 2008.

TLTV tracks the legality of timber, from where it is harvested through to processing. In the case of Sagarai Gadaisu, it is being used as the basis of a chain-of-custody (CoC) system that will verify the legality of the timber from harvesting through to processing and export.

Two internal assessments of legality documentation have shown that RH's concession areas are 100 per cent legal. This includes required documentation for company registrations, operational requirements, planning requirements and environmental management – as required by PNG law.

3.4 About Rimbunan Hijau

Rimbunan Hijau (PNG) Group is a subsidiary of Rimbunan Hijau, a conglomerate based in Sarawak, Malaysia. The parent company has a diverse set of interests, ranging from forestry to media and retail. In PNG, RH has interests in forestry, processing, retail, transport, property development, hospitality and media. RH PNG was established in 1989.

There are 12 businesses operating in the forestry sector as part of the group in PNG. There are a further 12 businesses in the non-forestry sector as part of the Group. Forestry makes up approximately one-third of the group's total operations.

⁴⁴ Australian Conservation Foundation (2007). "Help us halt the Great Artesian water grab!" at http://www.acfonline.org.au/articles/news.asp?news_id=631

⁴⁵ Australian Conservation Foundation (2005). "Make a submission on the planned expansion of the Roxby Downs mine" http://www.acfonline.org.au/articles/news.asp?news_id=664

⁴⁶ Australian Conservation Foundation (1976). Policy Statement: "Mornington Peninsula and Westernport Region". http://www.acfonline.org.au/articles/news.asp?news_id=389

⁴⁷ Australian Conservation Foundation (2007). "Leadership missing from BHP Billiton climate policy" http://www.acfonline.org.au/articles/news.asp?news_id=1286

⁴⁸ Kerr, Michael. Corporate Australia: Stuck In-Reverse. The Environmental Performance of Australia's Top 100 Companies 2002. Report prepared by Michael Kerr for the Australian Conservation Foundation

In 2006 the company had a turnover of approximately K505 million. In the same year the company paid approximately K70 million in direct tax payments and approximately K11 million in royalty payments to landowner companies.

The company employs approximately 5,300 people across its various businesses. In 2006, the company paid more than K22 million in wages.

RH has made capital investments of approximately K500 million since its establishment. The company has plans to invest approximately K300 million over the next five years.

The company has also outlaid more than K27 million in community-based (non-operations) infrastructure since 1993. This includes the construction of aid posts, health centers, schools and churches.

3.5 Poverty in PNG

As outlined in the Annexes, Papua New Guinea's economic outlook is bleak – particularly for those in rural areas. While the resources boom has recently increased growth and government revenues, there is a long term trend to reduce the supply of government services, particularly in rural areas. The forestry sector provides these areas with jobs, roads, infrastructure and health facilities that would otherwise be unavailable.

As one of the country's major employers and arguably one of the more significant infrastructure providers in the country, Rimbunan Hijau does much to improve this outlook. As stated above, an increase of output in the forestry sector by 25 per cent could produce an additional 15,000 jobs – a 7.5 per cent increase in formal employment. A contraction would have the opposite effect.

However, this is precisely the effect campaigns by ACF and Greenpeace are likely to have. The ACF campaign directly targets “large-scale logging”⁴⁹. Its alternative is a “transition to community-based forest management and production”. Yet community-based forestry in PNG has thus far been a failure.

In 2000, a WWF analysis showed that small-scale eco-forestry was only viable when relying upon donations for business establishment, marketing and certification, as well as tax subsidies and a quantification of conservation values for accounting purposes.⁵⁰

The European Union's Eco-Forestry Project (EFP) mid-term review in 2004 showed that the project had thus far only produced enough timber for local needs, but that the community was reliant upon external project funds for sales and marketing, energy costs and maintenance of machinery.⁵¹ The project also showed that the construction of roads to transport wood made the project financially unviable if operators required 100 per cent

⁴⁹ ACF and CELCOR (2006), p. 6

⁵⁰ See for example, World Wide Fund for Nature (2000). A Future for our Forests: Strategies for Community-Based Conservation in Papua New Guinea. World Wide Fund for Nature, South Pacific Program, Suva.

⁵¹ Agrisystems (2004) EFP Mid-Term Review Mission. Final Report to the European Commission – Papua New Guinea. Bucks, UK. p. 27

financing for the operation.⁵² The ESF report nevertheless recommended a moratorium on new commercial forestry projects.

CELCOR and several other NGOs have received a consistent flow of funding from foundations including the MacArthur Foundation, and ICCO (a Dutch foundation established by Protestant Churches – which is half funded by the Dutch Foreign Ministry) to develop ecoforestry. They do not fund commercial forestry and recently have provided funding to NGOs to mount legal challenges against licences for commercial forestry in PNG courts.

As stated above, the forestry sector provides 9,000 jobs in Papua New Guinea. It is estimated that for every job held, a further four people are dependent upon this income source.⁵³ This translates to a total of 45,000 livelihoods. ACF's campaign imperils these lives in a country that suffers from poverty, disease and violence.

⁵² Op. cit. Annex 9 p. 3

⁵³ Cf. ITS Global (2007)

4. Conclusions

In our assessment, the campaign by CELCOR and ACF raises many questions because of its manner, content and approach. CELCOR and ACF have:

- Made a series of unsubstantiated claims against the company;
- Used Rimbunan Hijau as a proxy for the entire forest industry and its shortcomings now and over the past 30 years;
- Constantly emphasized the Malaysian ownership of Rimbunan Hijau and other forestry companies in Papua New Guinea;
- Argued that governance failures in PNG are the fault of private enterprise, despite evidence showing otherwise;
- Ignored evidence showing Rimbunan Hijau's standing as a good corporate citizen;
- Argued that eco-forestry alternatives are viable when they are clearly not;
- Implied a link between social ills such as the spread of AIDS, guns and trading in illicit drugs to forestry;
- Distributed the report throughout Papua New Guinea, Australia and abroad, with the effect of harming the country's reputation.

ACF and CELCOR's ultimate aim is to prevent the expansion of the current forestry industry and eventually close it down entirely. The implications of this for PNG's poor – particularly the rural poor would be disastrous. Such a move would constitute a greater breach of human rights than anything suggested by ACF and CELCOR. Shutting down the forestry industry would:

- Deprive 9,000 people of livelihoods and income;
- Deprive an additional 36,000 dependents of their livelihoods;
- Deprive PNG landowners of approximately K40 million in royalty payments annually;
- Deprive the PNG Government of 3.3 per cent of its tax base;
- Erode a significant proportion of PNG's export base;
- Cause the economy to contract by 6 per cent;
- Deprive rural communities of infrastructure developments such as educational facilities, aid posts, access to medicines, housing, roads and other transport facilities;
- Impose an opportunity cost that would severely impact upon rural communities.

The short-term aim is to make the case to encourage financial contributions from aid donors so that CELCOR can continue its campaign against forestry in PNG.

In our view, the allegations of systematic human rights abuses have been advanced not to protect human rights but to curtail commercial forestry. Given the human cost were it to succeed, this strategy deserves censure.

Annex I: The campaign against forestry in PNG

Background

There has been small scale opposition to commercial forestry operations in Papua New Guinea (PNG) since the 1970s. This opposition was primarily in response to the World Bank's recommendation in 1964 that PNG develop its commercial forestry industry as a means of attaining development goals, and to the establishment of the Gogol wood chipping project in Madang Province in 1975.⁵⁴

Large-scale opposition to commercial forestry did not develop until 1986, when the *Times of Papua New Guinea*, commenced publishing a series of articles that vilified foreign investors and their dominance of the forestry sector.⁵⁵ Fear and vilification of foreign businesses – particularly Chinese⁵⁶ – has since framed the forestry interests in PNG.⁵⁷

The newspaper reports in *The Times* were in part responsible for the initiation of the Barnett Commission of Inquiry into the forestry industry in 1988.⁵⁸ The Barnett Inquiry squarely blamed the government's lack of capacity and governance for the state of the forestry sector, which was plagued by allegations of bribery and corruption.⁵⁹

The Barnett Inquiry's recommendations led to the drafting of the new *Forestry Act (1991)*, which, in turn, led to the establishment of the Papua New Guinea Forest Authority (PNGFA) comprising the National Forest Board and Provincial Forest Management Committee (PFMC) in all 19 provinces. The board and each committee prescribed a member of a non-governmental organization (NGO) for membership.

This greater recognition of NGOs was facilitated by the support of the World Bank in the creation of the National Alliance of Non-Government Organizations (NANGO) in 1990. The World Bank had pinned its hopes on NGOs playing a large role in forestry reform.

However, this greater entrenchment of NGOs was counterproductive to development objectives. International green organizations such as Greenpeace and the Australian-based Rainforest Information Centre and New Guinea Island Campaign Group found themselves at a fundamental disconnect with PNG's landowners, the PNG Government and even the World Bank.⁶⁰

⁵⁴ Filer, Colin with Skehran N. (1988) *Loggers, donors and resource owners. Policy that works for forests and people series no. 2: Papua New Guinea*. National Research Institute, Port Moresby, and International Institute for Environment and Development, London. p. 88

⁵⁵ See for example Grynberg, R. (1987). "Our logs are virtual giveaways." *Times of Papua New Guinea* May 14: 6

⁵⁶ Crocombe, Ron. "The Fourth Wave: Chinese in the Pacific Islands in the Twenty-First Century." CSCSD Occasional Paper Number 1, May 2007. http://rspas.anu.edu.au/cscsd/occasional_papers/cscsd_op1_5_chapter_2.pdf

⁵⁷ Ichikawa, Tetsu (2006). "Chinese in Papua New Guinea: Strategic Practices in Sojourning" in *Journal of Chinese Overseas*, 2, 1: May 2006. http://muse.jhu.edu/demo/journal_of_chinese_overseas/v002/2.1ichikawa.pdf

⁵⁸ Joku, Harlyne (1995). "The Times of Papua New Guinea: An Investigative Tradition". *Pacific Journalism Review*, Vol 2 No 1, November 1995

⁵⁹ Barnett, T.E. (1989). *Report of the Commission of Inquiry into Aspects of the Forest Industry: Final Report*. Unpublished report to the Government of Papua New Guinea., p 375. "... the State, which is the constitutionally appointed guardian of the forests, has failed to assert the guiding principles under which this trust is to be administered."

⁶⁰ Filer, C. op. cit. p. 111

The second phase of the National Forestry Conservation and Action Plan instituted in 1990 designated NGOs the responsibility of engaging landowning communities as part of a Technical Support Project. However, a review of that project made it plain that the conservation objectives of international NGOs clashed with the development wants and needs of local communities, whose needs are “simple, modest and consistent – roads, schools and health centers”⁶¹ – everything the current forestry industry provides via Project Management Agreements.

International NGO involvement in forestry and has since favored developed world environmental ideals over basic development objectives for Papua New Guinea's poor.⁶²

The long-running campaign against forestry in Papua New Guinea has effectively been managed by Greenpeace Pacific, which has effectively subsumed the role of NANGO since the mid-1990s.⁶³ Their role in Papua New Guinea as a protest organization rather than a meaningful participant in the forest industry culminated in a well-coordinated campaign against Papua New Guinea's largest and arguably most environmentally responsible forestry operator, Rimbunan Hijau.

The campaign by Greenpeace against Rimbunan Hijau in Papua New Guinea commenced in 1999 in a survey of major forestry operations. The campaign culminated with two reports, *The Untouchables: Rimbunan Hijau's World of Forest Crime and Political Patronage* in 2004, and *Partners in Crime: the UK timber trade, Chinese sweatshops and Malaysian robber barons in Papua New Guinea's rainforest* in 2005.

The claims in both of these documents were comprehensively shown to be insubstantial in the ITS Global report, *Whatever it takes: Greenpeace's anti-forestry campaign in Papua New Guinea*⁶⁴.

In addition to Greenpeace's activity, two anonymous websites – Masalai I Tokaut and Rimbunan Hijau Watch – have published a host of unsubstantiated claims. Claims by these websites were comprehensively discredited in another ITS Global report.⁶⁵

The “illegal logging” debate

Setting the numbers straight

The term “illegal logging” is relatively new. International NGOs such as Greenpeace, the World Wide Fund for Nature (WWF), Friends of the Earth and the Australian Conservation Foundation (ACF) use the term “illegal logging” unsparingly in their campaigns against

⁶¹ Taylor, Siagaru, Millett and Hill (1994). Review of the National Forest and Conservation Action Programme. Port Moresby: United Nations Development Program

⁶² See for example, WWF (2000) *A Future for our Forests: Strategies for Community-Based Conservation in Papua New Guinea*. In this analysis WWF argues that small-scale eco-forestry is both economically viable and sustainable, despite requiring donations for business establishment, marketing and certification, as well as tax subsidies and a quantification of conservation values for accounting purposes.

⁶³ Cf. Filer, etc. al. p. 269

⁶⁴ ITS Global (2006).

⁶⁵ ITS Global (2006a).

forestry operations. Yet a survey of forestry governance literature indicates clearly that there is no established definition of “illegal logging”.⁶⁶

A reasonable definition of “illegal logging” would be “when timber is harvested, processed, transported, bought or sold in violation of national laws.” However, the definitions used by international NGOs stretches “legal” forestry to a series of non-forest issues, such as immigration procedures, training and education, health insurance, the unionization of staff, payment of taxes, the efficiency of government administration and the extent to which local communities have been consulted.

It has been claimed by ACF and Greenpeace that as much as 90 per cent of timber exports from Papua New Guinea are “illegal” and that this claim is backed by the World Bank.⁶⁷ This claim relies on two false assumptions. The first is the interpretation of the *Forestry Act* (1991). There is a general claim by NGOs that logging concessions granted before the passage of the Act (the so-called “saved permits”, which form the majority of RH operations) were never meant to be granted extensions, and are hence “illegal”. This claim exploits a difference of interpretation of the Act between the PNG Government and a series of reviews of forestry projects conducted by a World Bank-appointed Inter Agency Review Team (IRT). However, legal advice given to the PNG Government indicates that these extensions are legal.⁶⁸

The second is from a World Bank report on illegal logging titled “Strengthening Forest Law Enforcement and Governance: Addressing a Systemic Constraint to Sustainable Development” published in September 2006. The report claimed that 70 per cent of PNG’s timber production was illegal.⁶⁹

This report was immediately seized upon by CELCOR to argue most logging in PNG was illegal. No evidence for the claim was provided in the report, which the author conceded when queried. The Bank had itself relied on a report by a US consultancy Seneca Creek Associates⁷⁰ (not cited in the report), which analyzed illegal logging for the US timber industry in 2004.

⁶⁶ This point was also conceded in the UK Government consultations. See United Kingdom Department for Foreign Investment and Development (2006). Additional options to combat illegal logging: Document for Public consultation. <http://www.dfid.gov.uk/pubs/files/illegal-logging-consultation.pdf>

See also: Linda A. Kramme, Sarah P. Price (2005). Practical Actions to Combat Illegal Logging: A summary of a multistakeholder dialogue on best practice for business and civil society. The Forests Dialogue New Haven, USA

⁶⁷ Henry, Don and Shallhorn, Steve (2006). “PNG forests lost in the spin cycle”. The Weekend Australian October 14 2006. Available at: http://www.acfonline.org.au/articles/news.asp?news_id=972&c=205440

⁶⁸ State Solicitor, “Re: Extension of timber permits under sections 137(1) and 78 of the Forestry Act”, Letter to the Managing Director of the PNG Forest Authority, Office of the State Solicitor, department of Justice and Attorney General, 25 February 2004.

⁶⁹ World Bank (2006). Strengthening Forest Law Enforcement and Governance Addressing a Systemic Constraint to Sustainable Development Environment and Agriculture and Rural Development Departments Report No. 36638-GLB August 2006.

http://siteresources.worldbank.org/INTFORESTS/Resources/ForestLawFINAL_HI_RES_9_27_06_FINAL_web.pdf

⁷⁰ Seneca Creek Associates (2004). “Illegal” Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry. Prepared for: American Forest & Paper Association .

http://www.afandpa.org/Content/NavigationMenu/About AFandPA/Public Calendar and Industry Events/Events_Calendar/AFPAIllegalLoggingReportFINAL2.pdf

The Seneca Report attributes the 70 per cent claim to a general estimate about the level of illegal logging in South East Asia and states that no empirical analysis of PNG forestry was undertaken. It also cites a WWF report as a source of the claim of 70 percent illegal logging and that report has no substantiation of that number.

PNG Minister for Forests, Patrick Pruaitch, subsequently wrote to the World Bank on 6 October 2006 asking for the report to be withdrawn and corrected. The Bank replied on 5 November but did not attempt to justify the 70 per cent claim, simply stating it accepted the work of others. The Bank also remarkably asserted that the level of unsustainability of forestry is a good measure of illegality, pointing to an International Tropical Timber Organization (ITTO) study reporting that at least 26.8 per cent of PNG forests allocated for timber production are managed sustainably.

A study on illegal logging undertaken by Jaako Pöyry⁷¹ for the Australian Department of Agriculture Forestry and Fisheries has general estimates about the global incidence of illegal logging and also cites the Seneca Creek Report.

The PNG Forest Industries Association (PNGFIA) considers that its members account for 85 percent of forestry in PNG. It is policy of the Association not to undertake illegal logging. It is therefore likely the rate of illegal logging may be up to 15 percent of forestry in PNG and certainly not the 70 and 90 percent routinely claimed by Greenpeace.

Lobbying for global regulation

The current prominence of the term “illegal logging” among environmental NGOs is in part a result of the failure of these groups to successfully lobby for an international agreement on forests that could be used to regulate forestry industries at a global level. This is despite the engagement of the United Nations Food and Agriculture Organization’s mandate to achieve sustainable outcomes on forestry.

An attempt to achieve an NGO-backed global agreement on forestry first took place at the Rio Earth Summit in 1992, when it was blocked by developing countries. Following this failure, the term “illegal logging” emerged as part of a broad campaign leading up to the 2005 United Nations Forum on Forests (UNFF) meeting, where a global convention on forestry would again be considered. But, again, Green groups were unsuccessful. A non-binding instrument setting out principles to guide forestry was adopted. The idea of a convention will not be considered again until 2015.

While the Rio Earth Summit did not agree to establish a global forest convention, two developments to create privately-based systems to verify the sustainability of forestry occurred around the same time. WWF lead the formation with Greenpeace, Friends of the Earth and others Environmental NGOs of the Forest Stewardship Council (FSC). As well sets of criteria and indicators to underpin development of systems of sustainable forestry were also developed, principally among European forest industries, which lead to the ultimate formation of the Program for the Endorsement of Forest Certification (PEFC).

⁷¹ Jaakko Pöyry Consultants (JPC), 2005. Overview of illegal logging. DAFF, Canberra.

FSC and PEFC today are the leading global systems for demonstrating sustainability of forestry management.

Even so, only about 8 percent of the world's forests are certified. Coverage by PEFC is double that of FSC. FSC was established with funding from the outset to engage in advocacy of sustainable forestry and the FSC system.

A global campaign to halt illegal logging gained momentum in the late nineties with significant funding from EU, Dutch and UK government agencies and foundations. Despite the high level of government attention given to the issues, the global incidence of illegal logging is unknown. The Seneca Creek report, which was commissioned by the American Paper and Forest Products Association in 2004, estimated that between 5 and 10 percent of timber harvested worldwide was illegal. It noted the range of error in these estimates was 100 percent. It is generally conceded that the greatest incidence of illegal logging has been in Indonesia and Brazil. The Indonesian Government is reported to have succeeded in reducing the flow of illegal harvested timber to 5 percent of production from 50 percent at its peak (2000) when governance collapsed in Indonesia during the reform period after the fall of the Suharto Government. New controls have been recently imposed in Brazil. It is likely therefore that the share of illegal harvested timber today is much less than estimated in the 2004 report.

A feature of the anti-illegal logging campaign was pressure by Greenpeace and WWF on companies to adopt and governments to endorse the FSC system when campaigning against companies accused of illegal logging. Greenpeace and WWF have been active in encouraging governments to ban "illegal" timber imports. The EU has mounted a major program entitled "FLEGT"⁷² through which it is pressuring developing country forestry producers in Southeast Asia and Africa to introduce regulated systems to demonstrate traded timber products are legally secured.

These same NGOs are pressuring governments worldwide to endorse the FSC model.⁷³ ACF is a member of the FSC council in Australia. The lay observer would see little difference between the FSC and PEFC systems. The criteria and principles for sustainable forestry are similar. However there are key differences. PEFC subscribes to ISO standards of governance (FSC doesn't – governing bodies retain executive control and standards and conformance functions are not arms length) and FSC does not permit conversion of forest to other purpose, regardless of how much is set aside for conservation. PEFC is more popular with business and FSC is unpopular with Governments and businesses in developing countries which consider that forestry should be allowed to serve as an important industry to support economic development. Businesses which adopt FSC usually do so in order to satisfy retailers who have been pressured by Greens (typically WWF and Greenpeace) to require FSC certification under threat of a besmirching of their environmental reputation. It is a clear Green ambition to have FSC standards regulated by Governments. They have made most progress in winning sympathy in Europe. Most governments however will endorse PEFC accredited standards as well. The Australian Forestry Standard is accredited to PEFC.

⁷² Forest Law Enforcement Governance and Trade

⁷³ Cf. Greenpeace (2007). The Greenpeace UK Tissue Guide at <http://www.greenpeace.org.uk/forests/tissue-guide> .

Anti-Asian sentiment in the campaign against forestry

As noted above, the broad campaign in PNG against forestry was larded from the outset with anti-foreign investment sentiment. As Asian companies moved into forestry in PNG, anti-forestry attitudes have become infused with traditional suspicion of PNG's long-standing Asian, mostly Chinese origin, population.

More recently, anti-Asian sentiment has been a source of tension in Papua New Guinean society⁷⁴ and Melanesian society at large. This type of sentiment has resulted in acts of violence against Asian members of the PNG community.⁷⁵

A very unsavory aspect of the campaigns against commercial forestry has been to emphasize the Asian and particularly Malaysian or Chinese ethnicity of the owners of forest companies in PNG. The racial origins of many forestry operators have been referred to by left-wing activist Nick Chesterfield⁷⁶ and in various anti-forestry NGO publications as a "Malaysian timber mafia"⁷⁷, a "Malaysian cartel"⁷⁸, or are referred to as "ethnic Chinese."⁷⁹ Two Greenpeace reports focusing on Rimbunan Hijau mention the origins of Malaysian timber companies a total of 14 times. The CELCOR/ACF report, "Bulldozing Progress" mentions Malaysian origins of the owners of forestry businesses in PNG 10 times.

The consistent emphasis upon the ethnic origins of the forestry operators in these campaigns is irrelevant to the public interest and would probably be regarded in Australia as breaching the *Victorian Racial and Religious Tolerance Act* (2001) and national laws prohibiting racial vilification.

⁷⁴ Nelson, Hank (2007). "The Chinese in Papua New Guinea". State Society and Governance in Melanesia Discussion Paper. Australian National University, Canberra.

http://rspas.anu.edu.au/papers/melanesia/discussion_papers/07_03_dp_nelson.pdf

⁷⁵ Roberts, Greg (2009). "Papua New Guinea vow to burn all Asian shops" in *the Australian*, May 29 2009; and ABC Radio Australia (2007). "PNG: Police investigate threats to Asian businesses". Broadcast date August 15, 2007

⁷⁶ Nick Chesterfield. (2005) *Terror-Razing the Forest – A report on PNG politics*. West Papua National Authority. Windsor, Australia

⁷⁷ Greenpeace (2005). *Partners in Crime: the UK timber trade, Chinese sweatshops and Malaysian robber barons in Papua New Guinea's rainforest*

⁷⁸ Rainforest Action Network (2005). Press release: "Citigroup Commended For Enforcing Environmental Policy"
<http://www.commondreams.org/news2005/0303-16.htm>

⁷⁹ Greenpeace (1997). *An Overview of Asian Companies: Malaysia*
http://archive.greenpeace.org/comms/97/forest/asian_companies_malaysia.html

Annex II: Forestry in Papua New Guinea

An Overview of the PNG Economy

Papua New Guinea (PNG) is an economy on the brink. Eighty-five per cent of the country's population is supported by a semi-subsistence agriculture sector. More than 42 percent of the population live on less than US\$1 a day⁸⁰ and over 60 per cent lack access to an improved water source⁸¹. In 2006, PNG's Human Development Index (HDI) ranked at 139 out of the 177 countries surveyed globally.⁸² Poverty remains high with per capita real gross domestic product (GDP) growing by less than 0.5 per cent between 1980 and 2006.⁸³

With population growing at an annual rate of about 2.7 per cent, socio-economic problems have exacerbated. PNG has one of the highest unemployment rates in the Pacific region, with only 15 percent of the workforce engaged in formal wage employment.⁸⁴ 40 per cent of the population is under the age of 15 - implying a very high level of youth dependency and youth unemployment. Only one in ten school graduates manage to find jobs in the private sector.⁸⁵

Rural development is a pressing challenge in PNG. An estimated 41.3 per cent of the rural population lives below the national poverty line, compared with 16.1 per cent of the urban population.⁸⁶ 87 per cent of PNG's population lives in rural areas with limited infrastructure and facilities. A large proportion of the population is dependent on subsistence farming for their livelihood.

PNG is well endowed in natural resources, particularly minerals, forest and marine resources. These resources hold significant potential for the country, both in terms of their contribution to economic growth as well as to human development. However, the input of the forestry sector to the economy of PNG is disregarded by donor agencies in the developed world. Its vast potential to contribute to development objectives remains, to a large extent, untapped.

⁸⁰ World Bank, www.worldbank.org/pg, accessed 5 February 2008

⁸¹ United Nations Development Program (2007), *Human Development Report 2007/08 - Fighting climate change: Human solidarity in a divided world*, November

⁸² Government of Papua New Guinea and United Nations Development System (July 2007) *United Nations Country Programme Papua New Guinea 2008-2012: A Partnership for Nation-Building*, Port Moresby

⁸³ International Monetary Fund (2007) World Economic Outlook Database, October; Chand S. (2004) PNG Economic Survey: Transforming Good Luck into Policies for Long-Term Growth, The Australian National University, presented at the Papua New Guinea Update, Sydney 21 May

⁸⁴ World Bank (2007a) *Strategic directions for human development in Papua New Guinea*, Working Paper, Report No. 40924

⁸⁵ World Bank (2007b) Papua New Guinea Country Brief, October, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/PAPUANEWGUINEAEXTN/0,,menuPK:333777~pagePK:141132~piPK:141107~theSitePK:333767,00.html>, accessed 5 February 2008

⁸⁶ Asian Development Bank (2007) *Asian Development Outlook 2007*, Hong Kong

The PNG Forest Sector

PNG has an estimated forest area of 30.6 million hectares, covering about 67.6 per cent of the total land mass.⁸⁷ The 2005 Global Forest Resources Assessment by the FAO estimates that there are 29.4 million hectares of forest and 4.5 million hectares of other wooded land in Papua New Guinea.^{88,89} According to the PNG FIA, approximately 15 million hectares of the forested area is suitable for forestry.⁹⁰

Forest conservation in PNG

Approximately 99 per cent of the forest land in PNG is held under customary ownership, and is governed by traditional land tenure systems. Only 3 per cent of all land is owned by the State. The Government has very limited access to the land for development purposes.⁹¹ Commercial forestry is permissible only after the Government has acquired or purchased forest management rights from the customary owners.

PNG's forest area is designated for a number of different uses: 7.3 million hectares (24.8 percent) is designated as production forest⁹², 1.35 million hectares (4.6 percent) is designated for conservation of biological diversity⁹³, 1.44 million hectares (4.9 percent) is designated for multiple purpose management⁹⁴, and 19.3 million hectares (65.7 percent) is not classified^{95,96}.

The designation of forests for production or maintenance for other values is important because it means the forest is subject to regulation and in some cases active management. The International Tropical Timber Organization (ITTO) recognises that designation of permanent forest areas provides a considerable degree of protection towards maintaining forest resources.⁹⁷ This is significant in countries like PNG where customary ownership of forest resources can pose complexities for long term sustainable management.

⁸⁷ International Tropical Timber Organisation (2006) *Status of Tropical Forest Management 2005 - Papua New Guinea*, www.itto.or.jp/live/Live_Server/1243/PNG.e.pdf, accessed 5 February 2008

⁸⁸ FAO (2005) *Global Forest Resources Assessment 2005: Papua New Guinea Country Report*, Country Report 097, Food and Agriculture Organization of the United Nations, Rome.

⁸⁹ Although this estimate is based on extrapolated data from 1975 and 1996 surveys, it is more conservative than many other estimates. For example, the Enterprise Research Institute's report to the Asian Development Bank estimates 36 million hectares of forest (77 percent of total land area). See The Enterprise Research Institute (2003) *Papua New Guinea – A Private Sector Assessment*, Report prepared by ERI for the Asian Development Bank, June, p. 45.

⁹⁰ Tate, Robert (2007) *PNG Forest Sector: An Overview*, presented at the International Tropical Timber Organisation, 42nd session, Port Moresby, 7-12 May 2007

⁹¹ United Nations Development Program (2004) *Millennium Development Goals - Progress Report Papua New Guinea 2004*, <http://www.undp.org.pg/>, accessed 1 February 2008

⁹² This includes forest allocated for current and future production. It does not include areas within timber concession which are set aside for conservation of biological diversity, buffer zones, waterway protection and social purposes.

⁹³ This includes areas of protected forest and areas within timber concessions set aside for conservation of biological diversity. Since the year 2000, 10 percent of concession areas have been set aside for the conservation of biological diversity.

⁹⁴ This indicates the 15 percent of areas within timber concession which is required to be reserved for buffer zones for waterway and watershed protection, and for village and social service areas.

⁹⁵ This indicates land for which no allocation has been made (10.88 million hectares), forest designated for land use change, land designated for afforestation, and other.

⁹⁶ FAO (2005) *Global Forest Resources Assessment 2005: Papua New Guinea Country Report*, Country Report 097, Food and Agriculture Organization of the United Nations, Rome

⁹⁷ International Tropical Timber Organization (2006) *Status of Tropical Forest Management 2005*, ITTO Technical Series No. 24, Yokohama, p. 13

The majority of PNG forests are primary (old growth). They are estimated at 25.2 million hectares (85 percent of the total forest area). Modified natural forest is estimated to be 4.1 million hectares (14 percent of the resource), with productive plantations covering 0.09 million hectares (0.3 percent of total forest area).⁹⁸

The largest removal of roundwood is subsistence use for fuelwood. In 2003, woodfuel extraction was 6.4 million cubic metres; industrial roundwood production was less than half of that figure at 2 million cubic metres.⁹⁹

Given the reliance of most of the national population on subsistence forest use and the socio-economic and ecological values of the resource, the sustainable use and management of Papua PNG's forests is fundamental to national economic development.

Economic Benefits of Forestry to PNG

PNG's forest resources represent an important contributor to socio-economic development of the country. Forestry generates a number of benefits in the form of increased exports, higher government revenue, employment, and provision of infrastructure and services. In addition, these benefits create various multiplier or flow-on effects.

In 2006 agriculture, forestry and fishing sector contributed an estimated K3,138.7 million to the real GDP of PNG, an increase of 0.7 per cent compared to 2006. The sector generates around 37.1 per cent of PNG's real GDP, with its contribution to the growth in real GDP estimated to have risen by 1.4 per cent between 2006 and 2007.¹⁰⁰ The agriculture, forestry and fishing sector is expected to grow solidly by 3.7 per cent in real terms in both 2007 and 2008. Log production will be a major contributor to this growth.¹⁰¹

If relative values of exports generated are considered, the forestry industry is estimated to contribute about 6.1 per cent of PNG's real GDP – thus placing it close to par with the mining and quarrying sector in terms of the contribution to the size of the economy.¹⁰²

There are currently 29 forest concessions in production in PNG, covering a total area of 3.5 million hectares.¹⁰³ The timber industry consists of 40 sawmills, a plywood factory, a woodchip mill and more than 25 furniture-making factories and joinery shops. Downstream activities include furniture making, plywood, flooring and other building products.¹⁰⁴

The timber industry provides jobs to about 9,000 people.¹⁰⁵ The sector is currently responsible for about 4-5 per cent of formal employment in PNG.¹⁰⁶ Indirect employment

⁹⁸ *Ibid.*

⁹⁹ The growing stock is estimated to be 1035.2 million cubic metres over bark. This figure is limited to trees having a breast height diameter of 50 centimetres and above and is therefore a significant underestimation.

¹⁰⁰ PNG Department of Treasury (2007)

¹⁰¹ Asian Development Bank (2007)

¹⁰² PNG Department of Treasury (2007)

¹⁰³ PricewaterhouseCoopers (2006)

¹⁰⁴ Investment Promotion Authority Papua New Guinea, *Sector Profiles and Investment Opportunities- Forestry*, http://www.ipa.gov.pg/index.php?option=com_content&task=view&id=83&Itemid=68, accessed 1 February 2008

¹⁰⁵ Overseas Development Institute (2006)

would be much higher. Most of these jobs are located in remote areas with little or no prospects for alternative formal employment.

PNG is a major exporter of tropical timber products. In 2006, approximately 2.6 million m³ of logs were exported valued at K491 million, making PNG the world's second-largest exporter of tropical logs after Malaysia.¹⁰⁷ Log exports accounted for about 30 per cent of the total value of all agricultural exports by PNG in that year. The exports of forest products¹⁰⁸ represented 4.2 per cent of the value of all PNG exports in 2006, making forest products the largest non-mineral export of PNG. Log exports have grown strongly, rising by more than 15.6 per cent in real terms in 2006 and with an estimated growth of 7.1 per cent in 2007.¹⁰⁹

The log export tax paid to the Government contributed about 3.3 per cent of the Government's total tax revenue for the year ended 2006.¹¹⁰ Approximately 34 per cent of the gross receipts from the sale of logs are paid to the Government in the form of log export tax.¹¹¹ In addition to this, the logging industry provides 16 per cent of all indirect taxes (mainly through the General Services Tax) earned by the Government.¹¹² Also as part of the PNG Government's revised tax regime, since 2007 timber permit, timber authority and timber license holders are required to pay a new levy called "premium levy" of K8 per cubic meter in respect of the exports of natural unprocessed logs.^{113 114}

In addition to providing significant tax revenues to the Government, agreements with landowners require logging operators to pay royalty to the land owners and build infrastructure, such as roads, schools and rural health facilities. Royalties and levies to landowners are currently estimated at around K30-40 million a year.¹¹⁵ Royalty, premium and annual benefits paid to landowners total approximately 15 per cent of the logging industry's gross receipts from the sale of logs.¹¹⁶

The forestry industry also creates flow-on or multiplier effects in addition to expenditure generated by the industry's own production and distribution activities. A PricewaterhouseCoopers study found that for every K1.00 of output from the forestry industry, K2.50 in production value is generated within the PNG economy. This has further multiplier effects. An increase in output of K1.00 flows onto the economy to generate an additional K0.70 in wages and salaries, which in turn impacts upon employment. For every K2.50 million increase in output, an additional 26 jobs are created. Applying the multipliers to a 25 per cent increase in output in the PNG forestry industry is estimated to have an

¹⁰⁶PricewaterhouseCoopers (2006)

¹⁰⁷PricewaterhouseCoopers (2006)

¹⁰⁸ Forest products include log, timber, plywood and woodchip

¹⁰⁹ PNG Department of Treasury (2007)

¹¹⁰ PNG Department of Treasury (2007)

¹¹¹ PricewaterhouseCoopers (2006)

¹¹²Overseas Development Institute (2006) *Issues Opportunities for the Forest Sector in Papua New Guinea*, PNG Forest Studies Paper No. , November

¹¹³ In order to offset the cost to the industry of paying this levy the Government has reduced the log export tax and changed the tax rate to a flat rate of 28.5 per cent

¹¹⁴ PNG Department of Treasury (2007)

¹¹⁵ PNG Department of Treasury (2007)

¹¹⁶ PricewaterhouseCoopers (2006)

economic impact equivalent to raising PNG's GDP by 7 per cent and creating an additional 15,000 jobs in the economy.¹¹⁷

Social Contributions of Forestry to PNG Economy

Logging companies are required to provide infrastructure and social services to the communities in which they operate according to the specific conditions of the timber resource permit and approved plans. This includes roads, airfields, air services, schools and rural health facilities. Logging companies operate in very remote and hard-to-reach areas, many of which have little or no access to infrastructure or social services.

The state of infrastructure in PNG is poor. An estimated 17 per cent of the population has no access to any road and 35 percent lives more than 10 kilometers from a national road.¹¹⁸ A recent socio-economic impact study associated with a World Bank road maintenance and rehabilitation program in PNG found important links between improved infrastructure and poverty reduction. The study findings show a strong relation between improved roads and economic growth. Improved transport is also concluded to have a direct positive impact on the health and education of communities, especially those belonging to remote disadvantaged areas.¹¹⁹

A key component of Rimbunan Hijau's contributions to the PNG economy takes the form of investments in local infrastructure. Since 1993, Rimbunan Hijau (PNG) Group has spent a substantial K233 million on roads and bridges and K26.7 million on other infrastructure.¹²⁰ Wharves and jetties have also been constructed in some project areas, amounting to K7.6 million. In addition, the Company has spent a total of K6.3 million since 1993 on education and K2.6 million on health infrastructure.¹²¹ The aid posts constructed by the Company provide basic health services to the communities in the project areas. The schools constructed provide education and skills to the community members.

Recently ITS Global undertook to estimate the economic contributions of Rimbunan Hijau (PNG) Group's forestry activities in the Gulf Province of PNG. Estimates indicate that the Company's forestry activities in the province make a contribution of around K18 million a year to the national economy of PNG.¹²² The study also concluded that public funds allocated to health, education and roads in the province in 2007 were comparatively low. Given the limitations faced by the Local and Provincial Governments, expenditures by companies such as Rimbunan Hijau (PNG) Group are vital to the social and economic welfare and growth of the regions of PNG.

¹¹⁷ PricewaterhouseCoopers (2006)

¹¹⁸ World Bank (2007b)

¹¹⁹ World Bank (2008) *PNG: Improved Infrastructure Brings Economic and Social Growth*, January 12, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/PAPUANEWGUINEAEXTN/0,,contentMDK:21612112~menuPK:333773~pagePK:2865066~piPK:2865079~theSitePK:333767,00.html>, accessed 5 February 2008

¹²⁰ ITS Global (2007)

¹²¹ ITS Global (2007)

¹²² ITS Global (2007)

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