



COMMISSION OF INQUIRY INTO ASPECTS

OF THE

FOREST INDUSTRY

INTERIM REPORT No. 2

THE GADAI SU TIMBER PERMIT – ANGUS
(PNG) PTY LIMITED

PART ONE

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THE GADAIKU TIMBER PERMIT - ANGUS (PNG) PTY LIMITED

PART ONE

January, 1988

FOREWARD

This Interim Report is divided into two parts.

PART 1. This Part sets out in simple narrative form the history of the Angus group of companies' involvement in the Papua New Guinea timber industry; particularly in the Gadaisu permit area of Central Province. It also sets out findings of fact relevant to the Commission's Terms of Reference.

An attempt has been made to keep the narrative free from technical and legal jargon and not to clutter it with the documentation which supports the findings. This documentation is set out in appendices however, and there are frequent references throughout the text to these numbered Appendices.

Part 1 includes also a list of matters which I have recommended should be referred to the Commissioner of Police and to other authorities for follow-up action.

PART 2. The Appendices are all set out in Part 2 as a separate volume of this Interim Report. Most of the appendices consist of photocopies of some of the key documents which were tendered during the Commission's hearings. Some appendices however continue, and form an important part of, the Part 1 narrative and have their own schedule of supporting documents. I have adopted this

approach where the subject matter is a side issue which only merits a passing mention in the main text (such as liquor smuggling) or where the full expansion of the subject matter in the main text required the introduction of technical jargon (such as Transfer Pricing).

The following appendices are of this nature and require careful study by those interested in reading the continuation of the narrative which on these topics has merely been introduced in Part 1.

Appendix 8 - "Manipulation of Shareholdings and Directorships in Angus' PNG Subsidiaries"

The manipulations referred to were complex and require a study of lawyers' instruction sheets and various company documents. These are set out as a schedule to the Appendix.

Appendix 35 - "Angus PNG's Transfer Pricing Schemes"

To adequately describe the way the Angus principals set about constructing and implementing their schemes for transfer pricing on various log shipments required reference to the relevant letters of credit, inter-company correspondence and financial calculations. It is a story in itself. After a general introduction in Part 1, the full detailed story of transfer pricing is told in Appendix 35 with key documents attached as a Schedule.

**Appendix 39 - "Allocation of Kupiano Permit TP3-4 to
Goodwood Pty Ltd - Some Key Dates"**

Although this Interim Report concerns inquiries into Angus some disturbing evidence was given in the closing stages of the Angus inquiry concerning the Allocation of a Permit to Goodwood over the Kupiano permit area. As this involved two key figures in the Angus investigation, Messrs E R Diro and O Mamalai, and as it occurred contemporaneously, and also involved the Gadaisu permit area, it was given a brief mention in the text of Part 1. Appendix 39 elaborates that text by setting out key dates. The supporting documentation is not appended as I hope to make the allocation of the permit to Kupiano/Goodwood Pty Ltd the subject of a separate report.

Appendix 50 - "Apparant Liquor Smuggling"

The way duty free liquor was smuggled into Papua New Guinea on the Angus log ships is tenuously connected to the Commission's Terms of Reference as an improper benefit which has been obtained by those involved in the timber industry. It receives a brief, passing mention in the text of Part 1. As there is evidence that this practice also exists in some other operations I have included a full description of the evidence uncovered in this Inquiry and a Schedule of supporting documents.

Appendix 51 - "The Jaguar Vehicle"

The complicated story and documentary evidence involved in the importation and use of this Jaguar motor car has been elaborated upon in this appendix so as to avoid cluttering up the narrative in Part 1.

A handwritten signature in dark ink, appearing to read 'T. E. Barnett', with a large, sweeping initial 'T' and a stylized 'B'.

.....
T E BARNETT,
COMMISSIONER.

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THE GADAISSU TIMBER PERMIT - ANGUS (PNG) PTY LTD

1. INTRODUCTION

The Angus timber operation at Gadaisu in Central Province was selected for the Commission's first detailed inquiry because it was a recently commenced operation close to Port Moresby and something had obviously gone very seriously wrong. Available evidence suggested that the Permit had been issued to Angus in a way which contravened forestry policy and the *N.I.D.A. Act* and that, during the operation, the resource had been severely damaged. There were persistent rumours also of ministerial misconduct, official corruption and transfer pricing on a large scale associated with the operation. After only nine months of operation, the company had gone into official management owing K1,600,000 with assets of only K193,000. Finally all the company's records would be freely available to the Commission as Angus (PNG) Pty Ltd was under official management and the Manager, Mr Graham Parker, had promised full cooperation.

At the commencement of the inquiry I summonsed all the business records of Angus (PNG) Pty Ltd and Commission staff analysed them most carefully. The documents studied supported the rumours and indicated very serious misconduct by Mr I. R. Diro, the former Minister for Forests who at the commencement of the inquiry was Minister for Foreign Affairs and leader of the Peoples Action Party. They also showed that the former Governor General, Sir Tone Lokoloko, was involved as Chairman of Angus, that Mr Gerard Kassman,

former President of the PNG Law Society had played a significant role, that Mr Oscar Mamalai, then Secretary of the Department of Forests, had questions to answer and that some notable foreigners would be implicated in the Inquiry.

For these reasons I directed that the roles of those key people be traced through the documentary evidence and that they be then made aware of the nature of the evidence concerning them and that they be given an opportunity to come forward. Consequently, at the commencement of the public hearings, the following persons were either notified or given a copy of the Opening Address and invited to make statements or to be represented before the Commission:

E R Diro
Tan Sri Ghazali Shafei
M A Ang
J Kasaipwalova
F C Cheah
Sir Tore Lokoloko
Gerard Kassman

Only Sir Tore came forward voluntarily to assist the Commission. Tan Sri Ghazali Shafei's lawyer sought relevant transcripts and Messrs Kasaipwalova and Cheah visited the Commission and indicated statements would be provided but submitted nothing. Mr Diro came to be a major focus of the Inquiry because he was the former Chairman of Angus and was Minister for Forests at the material times. He was the only person who sought leave to appear before the Commission. Leave to appear by Counsel was granted. He was firstly represented by Mr Peter Steele and later by Mr Michael Goodman, both of **Steeles Lawyers**.

2. EARLY ATTEMPTS TO EXPLOIT GADAIKU FOREST

Although there had been previous unsuccessful attempts to exploit the forests of Bonua-Gadaiku-Magarida in the Amazon Bay Area of Central Province this Inquiry has focussed on the attempts which were made from 1984 onwards.

Attempt by Magi Wopten and Magi Manda:

During 1984 there appears to have been a concerted push to gain the rights to exploit the Gadaiku forest area. There were two local contenders for the permit: a group known as Magi Wopten, which was being advised by the Member for Central, Mr E R Diro and a rival group known as Magi Manda which was being advised by Mr John Kasaipwalova. Mr Diro was then supporting the concept of the Timber Permit being issued to Magi Wopten Development Pty Ltd (*Appendix 1*). Amazon Bay Sawmilling and Timber Pty Ltd was already established (illegally) nearby at Magarida and it negotiated an agreement with Magi Wopten Development Pty Ltd to act as its manager and logging contractor to log Gadaiku. Amazon Bay Sawmilling and Timber Pty Ltd (supported by another local member Mr Jack Genia, MP) then assisted Magi Wopten to apply for a Timber Permit over the Gadaiku area. Although the timber rights purchases were not yet completed the political pressure was such that Minister Lucas Waka finally granted Permit No.TP3-17 to Magi Wopten in April 1985. (*See Appendices 2,3,4 demonstrating the political pressure*). On receiving the State Solicitors' advice that the permit was invalid, it was cancelled on 16 May 1985.

Attempt by MOIC Investment Pte Ltd:

The large Malaysian government supported, Malaysian Overseas Investments Corporation (M.O.I.C. (KL)) became interested in projects in PNG in late 1984. One of the projects suggested to it in February 1985 by the Deputy Premier of Central Province was the "abundance of timber concessions especially around the Amazon Bay".

At this time John Kasaipwaloya was claiming to be MOIC's Cultural Consultant and he and MOIC's Port Moresby manager, Foong Chin Cheah commenced the task of preparing the Magi Wopten people for a partnership with MOIC to exploit their timber resource. The aim was to restructure the Board of Directors of their local landowners company to achieve a Board favourably disposed towards MOIC. On 14 June 1985 Mr Cheah attended a meeting of Magi Wopten Directors and Mr George Constantinou of Amazon Bay Sawmilling and Timbers Pty Ltd at which it was agreed to release portion of the area previously tied to Amazon Bay Sawmilling and Timbers Pty Ltd for exploitation by MOIC. A deed of release was later drawn up by Mr Gerard Kassman, a lawyer then employed by Gadens, and executed on the 21 June 1985. The way was thus cleared for MOIC to submit a joint proposal with Magi Wopten over the Gadaisu area.

It is very relevant that the third party mentioned in the deed was MOIC Investments Pte Ltd, a Singapore company which had recently been formed by M A Ang, the Managing Director of MOIC (KL). The two companies had no legal connection though MOIC Investments took advantage of marketplace confusion in the early days to imply a non-existing connection with the prestigious MOIC (KL). When he formed the Singapore company M A Ang was on the verge of breaking away from MOIC (KL).

In July 1985, at a meeting in the Malaysian High Commissioner's residence, Mr Somare appointed Mr Diro as joint head of a task force to help coordinate the MOIC (KL) projects in PNG - including the Bonua-Gadaisu timber project. From then on Mr Diro took a very active interest in promoting this MOIC/Magi Wopten timber operation.

At that time Mr Diro was the leader of the political alliance known as the Papuan Independent Group and he was formulating plans for his political party which eventually was formed under the name **Peoples Action Party**. Mr Kasai-pwalova and the lawyer Kassman were later to become active participants in that Party.

On the 1 August, MOIC Investments Pte Ltd and Magi Wopten Development Pty Ltd submitted a joint venture proposal to the Department of Forests to exploit the Bonua-Gadaisu-Magarida timber area and to establish a follow-up agricultural project. The proposal itself had been prepared in Singapore and was brought into PNG by Deidre Low, a former employee of MOIC (KL) who had been recruited to work for MOIC Investments in PNG. The proposal put forward the concept of two joint venture companies.

Company A was to exploit the timber and was to be predominantly foreign owned with gradually increasing involvement by Magi Wopten over the years.

Company A. (Timber)	Ownership	Years
	MOIC / M.W.	
	80% / 20%	1 - 5
	75% / 25%	6 - 9
	70% / 30%	10 onwards

6

Company B was to manage the Agricultural project and was to be owned predominantly by Magi Wopten in the following proportions;

Company B. MOIC / M.W.
(Agriculture) 25% / 75%

but for the first ten years MOIC Investments would be employed as Manager for a fee.

Evidence of Mr Diro's involvement can be seen from the fact that the MW/MOIC Joint Venture agreement dated 1/8/85 bears a signed notation:

"I have read this agreement

(Sgd) E R Diro

E R DIRO, CBE, O STJ, MP

MP for Central"

3. THE BIRTH OF ANGUS

While the proposal was being assessed in the Department of Forests the Malaysian Overseas Investment Corporation was failing in Malaysia and went into liquidation in September 1985. In that same month M A Ang, who had finally severed his links with that corporation, registered Angus Investments Pte Ltd and Angus Trading Pte Ltd as the apex of the Angus Group of Companies, which claimed to have subsidiaries in Hong Kong, Nigeria, Malaysia, Thailand, Korea and England as well as in Papua New Guinea.

In Papua New Guinea, Messrs Diro, Kasaipwalova and Kassman had joined forces with F C Cheah as active members of the Angus Group to be controlled from Singapore. Three Gaden's shelf companies had previously been purchased, named

Boomi No.93, Boomi 94 and Boomi No.96. On the 19 September 1985 these were renamed respectively Angus (PNG) Pty Ltd, Angus (Joint Venture) Pty Ltd and Marine Resources Pty Ltd. They were intended to be subsidiaries of Angus Singapore.

The evidence is quite clear that the initial shareholdings and directorships of these companies as at the 19 September was:

Angus (PNG) Pty Ltd

Shareholders:

John Kasaipwalova	1	
Gerard Kassman	1	[with Trust Deed in favour of Tamworth 35 Pty Ltd (Diro's Company) and a Deed of Indemnity from Tamworth 35 in favour of Kassman as Director]

Directors:

John Kasaipwalova
Gerard Kassman

Angus (Joint Venture) Pty Ltd

Shareholders:

John Kasaipwalova	1	
Gerard Kassman	1	[Trust Deed in favour of Tamworth 35 Pty Ltd]

Directors:

John Kasaipwalova and Gerard Kassman

Marine Resources Pty Ltd

Shareholders:

Gerard Kassman	1	[Trust Deed in favour of Tamworth 35 Pty Ltd]
Tamworth 35 Pty Ltd	1	

Directors:

L R Diro and John Kasaipwalova

These were intended to be accepted as National Companies to avoid the necessity of obtaining approval under the *NIDA Act* and to gain the more favourable treatment afforded to National Companies in matters of resource allocation and development. Subsequent manipulation of share issues however show that there was always an intention to have a secret majority foreign ownership situation. (See *Appendix B*)

The potential importance of Mr Ted Diro's political connections for the Gadaisu timber operation was highlighted when Kasaipwalova telexed Cheah in Singapore on the 24 September 1985 when Central Premier Kone Vanuawaru won a 'Vote of No Confidence'.

"Kone Vanuawaru has won the vote.
Ted in control of Central Provincial
Government. Abau (Gabina) nominated
Minister for Forestry."

From July to October, Diro's links with MOIC Investments/Anqus grew wider and deeper. In July-August Diro received considerable financial assistance regarding the purchase of a second hand Jaquar motor vehicle. Mr Diro's evidence regarding ownership of the vehicle was, and remains, very confusing. Under cross examination he changed his story to fit the facts being presented to him by Counsel Assisting. Interpreting the evidence in the way most favourable to Mr Diro although it is *possible* that he paid the deposit (through one Hardy Lee), MOIC definitely paid the balance of approximately K5,700 and K3,000 for repairs and new hub caps as well as half the freight charge. Whatever really happened, it is clear that MOIC laid out about K10,000 at least on Mr Diro's behalf. (The detailed evidence and supporting documents are set out at *Appendix 52*)

Mr Diro was by now strongly committed to MOIC Investments/Angus by way of shareholdings and directorships in its PNG subsidiaries and by reason of substantial benefits received and other business connections. For instance Mr Diro's company Tamworth No 35 rented its apartment No.306 Pacific View to Angus for K400 a month and Angus Investments was beginning to make various payments on his behalf (*and see Appendix 5: Fuel Oil tender in joint venture proposal with MOIC for BDC. At this time Mr Diro's company Tamworth No 35 was to be renamed INDEC PTY LIMITED*).

Despite the apparant conflict of interest he now accepted also a written authority to represent the Magi Wopten people in securing Forestry's acceptance of its joint venture proposal with MOIC Investments.

This proposal was in fact being assessed very unfavourably by the Department of Forests as being vague, lacking in details of financial aspects, contrary to the 1979 Guidelines, lacking reafforestation or firm agricultural follow-up proposals and unfair to Magi Wopten. (*Appendix 6 - Memo of 8 October 1985*). Despite Mr Diro's letter of the 14 October 1985, which strongly supported the proposal, (*Appendix 7*) the proposal was rejected in October 1985.

4. WORKING FOR ANGUS (SINGAPORE)

From the 18th to 21st October Diro travelled to Vanuatu via Brisbane and Sydney, at Lalair's expense to reserve the company name Angus (Vanuatu) Pty Ltd and, presumably, to promote the Angus Group interests. On the 1 November 1985 all three PNG Angus subsidiaries held meetings in Koroisau's

office at Gadens and the companies were restructured to bring in a degree of overt foreign ownership. This was done in the cases of Angus (PNG) Pty Ltd and Angus (Joint Venture) Pty Ltd by issuing one share to the Malaysian citizen F C Cheah. To qualify as a national company under the *N.I.D.A. Act* it is necessary to maintain 75% overt national ownership. To achieve this proportion an additional share was issued to Diro's Company Tamworth 35 bringing the total number of issued shares in each company up to four. For Marine Resources Pty Ltd it was decided to bring in two foreigners F C Cheah and a Victor Lee each of whom were issued one share. To maintain 75% national ownership in this company it was necessary to issue a total of six shares to nationals. This was done by issuing three shares to John Kasaipwalova and one new share was issued directly to Tamworth 35. Mr Cheah was made managing director and Mr Diro chairman of Directors in all three companies. The full history of this and subsequent changes to shareholdings and directorships in these Angus companies is set out in *Appendix B*).

The instructions for these changes were given to lawyer Kassman by Kasaipwalova. All the necessary documents were prepared and forwarded by Kassman to Kasaipwalova to be kept in the various corporate registers. (A copy of the documents prepared in relation to Angus (PNG) Pty Ltd is attached as *Appendix B.03*). Before the Returns concerning the 1 November 1985 general meeting were filed at the Company's Office, however there was a change of government.

5. MINISTERIAL APPOINTMENT - DIRO'S DILEMMA

On 21 November 1985, Mr E R Diro was appointed to the Ministry of the Wingti Coalition government and on 27 November he was appointed Minister for Forests, to the obvious delight of his associates at Angus (See Kasaipwalova's and Cheah's telexes in November - *Appendices 9 & 13*).

Mr Diro now faced a moment of choice. He had become Minister for Forests at a time when he was already heavily involved, originally with MOIC Investments Pte Ltd, and now with the foreign owned Angus Group of Companies. He had already received substantial benefits from MOIC/Angus in the form of assistance with the Jaguar motor vehicle, payment of vehicle repair bills and diners card expenses. Only a few days before he had become Chairman of the three Angus subsidiary companies in PNG and, through his company Tamworth 35, he was legal and beneficial owner of shares in those companies. Angus was renting his Pacific View Apartment (through Tamworth 35) and he was hopeful it would rent his duplex in Moonbi Street (owned by his Company Tamote Town Houses Pty Ltd). (See *Appendix 10* for details of Diro's companies). He had already made a trip to Vanuatu at Talair expense but on Angus' business and he had established close business and personal relationships with Angus principals; M A Ang and Tan Sri Ghazali Shafei. Through Tamworth 35 (to be renamed INDEC) he had tendered for a fuel oil supply contract with Bougainville Copper Ltd. This was to be a joint venture with MOIC Investments Pte Ltd but came to nothing as their tender was too high (*Appendices 5 & 11 - Kassman's instruction sheet*). He was also involved with the proposed purchase of Mamai Estate as also indicated in *Appendix 11*.

Other deals in the pipeline involving Mr. Diro and MOIC/Angus included an agency arrangement for the Rumanian firm manufacturing vehicles under the trade name "Roman". This project was being pursued in conjunction with Bougainville Development Corporation then under Leo Hannett as Chairman (*Appendix 12*).

Mr. Diro knew that MOIC/Angus was committed in its endeavour to exploit the Bonua-Magarida-Gadaisu timber concession. As Minister for Forests he was now bound, under Section 6 of the Organic Law on the Duties and Responsibilities of Leaders, to sever his links with Angus and to disclose the whole situation to the National Executive Council and to the Ombudsman Commission.

"Section 6. - Personal interest.

(1) A person to whom this Law applies who fails to reveal to the Ombudsman Commission and the appropriate authority the nature and extent of his interest, or the interest of an associate, in a matter with which he has to deal in his official capacity is guilty of misconduct in office.

(2) A person to whom this Law applies -

- (a) who, or an associate of whom, has an interest in a matter which he has to deal with in an official capacity; and
- (b) who does deal with that matter (whether by voting on a question concerning it or otherwise),

is, subject to Subsection (3), guilty of misconduct in office."

On the other hand he also knew that as Minister for Forests he would be in a position to substantially assist Angus to acquire the Gadaisu Timber Permit and to become a very profitable enterprise.

Despite Mr Diro's cover-up and blocking tactics throughout this long inquiry the evidence clearly shows, and at the end he finally admitted, that he chose to retain, and in fact to increase, his beneficial ownership in Angus, to hide that fact by a series of trust arrangements, and to make no disclosures to anyone. To clean up the public record Mr Diro resigned as Chairman of the Angus (PNG) subsidiaries but he continued to receive substantial benefits. He also began actively to use his position as Minister to promote the interests of Angus (PNG) Pty Ltd.

6. MANIPULATING MAGI WOPTEN DEVELOPMENT PTY LTD.

The Angus Group immediately appreciated the importance to it of Diro's appointment and realised that it put the group in a very favourable position, but that Diro would now have to "maintain a very low profile" in company affairs (*Appendix 13 Cheah notifies Angus HQ*). Instructions were sent to all Angus offices in other countries to delete all reference to Diro's name. From now on he is referred to in Angus Group correspondence and documents as "Andrew" - a codename which Mr Diro ultimately admitted referred to him.

On the 2 December 1985 the Chairman of Magi Wopten wrote to the Department with a new sense of confidence and in untypically correct language, suggesting perhaps the penmanship of John Kasaipwalova of Angus (*Appendix 14*). On the 4 December, at a meeting in Mr Diro's office attended by the Secretary of the Department of Forests, Mr Mamalai, the Premier, Central Province, Mr Genia, the national member for Abau electorate, two provincial members, J Kasaipwalova,

7. THE ANGUS PROPOSAL

The proposal which was prepared by Angus was basically the previously rejected MOIC proposal verbatim except that the company details of Angus (PNG) Pty Ltd. and the Angus Group were substituted for those of MOIC Investments Pte Ltd. Another difference was that in the Angus proposal the permit holder was to be Angus (PNG) Pty Ltd itself not a joint venture company with Magi Wopten Development Pty Ltd. The function of the joint venture company seemed to have been forgotten. (Angus (Joint Venture) Pty Ltd remained a shelf company until August 1986 when there was an attempt to activate it for the purpose of transferring to it some K550,000 book debts owed by Angus (PNG) Pty Ltd).

While the Department was urgently trying to find out some details about Angus (PNG) Pty Ltd, and assessing the proposals, Mr Diro and his wife Veitu Diro accepted an invitation by Angus Singapore and flew to Singapore and Malaysia with the new Angus PNG Chairman, Sir Tore Lokoloko, at Angus' expense. (Mrs Diro did not travel to Malaysia).

In Port Moresby the senior officers assessing the Angus proposal were unanimous in their recommendations that it must be rejected. They pointed out that Angus (PNG) Pty Ltd was not known and not preregistered with Forestry. Another objection was that it had been planned that Gadaisu should be allocated to Ulabu Timber Company, a Forest Development Corporation which was rapidly running out of resource on an adjacent concession (*Appendix 19*), (*Appendix 20*).

Three day's after his return from Singapore Mr Diro, on the 9 January 1986, directed Secretary Mamalai to "take immediate steps to issue the Timber Permit in due course" (*Appendix 17*) and, in his evidence, Mr Mamalai swore that he accepted that as the Minister's final decision. Diro's direction was issued four days before Angus' proposals were even received by the Department. (*Appendix 21*)

When the proposal did arrive Mamalai made it clear to his staff that a permit would be issued firstly over the Gadaisu TRP area only, but that the Bonua-Magarida area would be included when purchases were completed. (*Appendix 22*).

The staff found the proposal quite unsatisfactory for a number of reasons and again recommended that it be rejected, (*Appendix 23*) but Mr Mamalai persisted in his intention to issue the permit (*Appendix 24*). On the 30 January the Secretary received a detailed report from senior officer McNeill setting out compelling reasons why the proposal should be rejected, as it failed to comply with the 1979 Policy Guidelines in many respects:

- (a) Angus (PNG) Pty Ltd had no experience or expertise;
- (b) There were insufficient details of financial status;
- (c) There was vagueness about structure and contracting arrangements;
- (d) Angus was not registered with Department of Forest. (*Appendix 25*)

Mr McNeill noted the fact that the proposal showed that Anthony Diro was a 35% shareholder in Angus (PNG) Pty Ltd and that he had queried this on the 29 January by telephone with Kasaipwalova and Gadens, Lawyers.

On 4 February the Secretary received another report from acting Deputy Secretary Kari (*Appendix 26*) which pointed out that the Angus proposal fell far below the ideal. He said that the ideal would include a large sawmill, follow up landuse or reafforestation and clearly defined infrastructure requirements specifying an extension of the Magi Highway, with bridges and feeder roads to villages. Mr Kari supported McNeill's criticisms and his Minute provides a good statement of Forestry Policy as it should have worked in relation to this application. He also commented on the Minister's possible conflict of interest regarding Anthony Diro's shares. Mr Kari also objected to the fact that the proposal was not for Gadaisu only but also for Bonua-Magarida which he felt was forcing the Department to wrongly allocate that additional resource.

Mr Mamalai's difficulty in reconciling the Minister's decision (that the permit be issued) with the department's correct, but contrary, view is obvious from his Minute of 11 February 1986. (*Appendix 27*) which directed that a Permit in favour of Angus (PNG) Pty Ltd be prepared, incorporating some of the additional matters suggested by his staff. His attempt to justify his direction, put at its highest, seems to be pure waffle.

8. NEGOTIATING PERMIT CONDITIONS

Having decided, on very dubious grounds, that the permit would be issued to Angus, the Secretary now proceeded to conduct the detailed negotiations with Angus in a way which was most unusual. Firstly he took the task upon *himself*, bypassing the staff who would normally have performed the detailed work. Secondly he conceded almost every point pressed by Angus and finally he allowed the final permit document to be typed up outside the Department under Angus' supervision. The final version was then given to the Minister by Kasaipwalova for signing before being proof-read by the Secretary. The Minister signed without the Secretary being present and eventually a copy of the signed permit was delivered to the Department by Mr Kasaipwalova. The original permit was found amongst the Angus files produced to the Commission on summons.

During the negotiations, while Minister Diro was being briefed and consulted by the Secretary, the Minister was also in regular, secret, contact with Mr Kasaipwalova.

Even at this early stage the financial difficulties of Angus (PNG) Pty Ltd were acute and, for this reason, its principals were already trying to sell off 20% of the equity to foreigners, in order to raise working capital to get the operation started. They were negotiating with several parties, including a party in mainland China, and in order to emphasise the financial attractiveness of the Angus operation Angus successfully persuaded both Mamalai and Minister Diro to telex the intention of adding Bonua-Magarida to the concession in the near future. (*Appendix 28*). In his evidence Mamalai said that he tried to make his telex sound like a "less than full commitment" (*Appendix 29*) but Mr Diro had no hesitation in making a full commitment (*Appendix 30*). On 1 March 1986 F C Cheah immediately

brought the telexed decision to extend the Permit to the attention of Angus (Hong Kong) in order to help in the negotiations for Chinese capital. The Gadaisu area was expected to be cut out in five years but by claiming rights over Bonua and Magarida Cheah was able to offer a thirteen year operation to potential purchasers. This was the basis for his calculations in the 1 March facsimile message in which he proposed a price of USD3 million for the sale of 20 percent of the equity in Angus (*Appendix 31*). On 24 April 1986, in a letter most probably drafted and typed by Angus, Magi Wopten referred again to the two vital telexes in a letter to Minister Diro, requesting him to include their subject matter "in a clause of intent within the Timber Permit No.3-22". (*Appendix 32*). On the back of the Magi Wopten letter Mr Mamalai scribbled out a draft of the clause which was later included in the permit in accordance with this request.

The fact that both the Minister and the Secretary were well aware of Angus' financial plight, which was obliging it to try and sell off equity to meet commencement expenses, is yet another reason why the permit should never have been granted to Angus (PNG) Pty Ltd.

The reasons for Mr Diro's determination to grant the permit to Angus are easy to see. He was a 35% beneficial owner of the company and, as will be shortly shown, he held very high hopes of making a great deal of profit for himself personally and possibly, as he later claimed, for his political party. If it is true, as he now claims, that he also had high hopes of benefiting the Magi Wopten people, I can see no evidence of it. In fact the evidence suggests he was party to the reckless destruction of their forests, by virtue of the logging practices adopted, and party to a plan to systematically cheat them of their rightful profits, by the marketing schemes adopted.

It is not so easy to decide upon the motives of Secretary, Oscar Mamalai, who seems to have been unusually compliant. As a professional forester and head of the Department he was under a duty to put the professional view strongly to a new Minister. At no stage does he appear to have done this.

The permit was eventually signed by Mr Diro on the 29 April 1986.

9. OWNERSHIP OF ANGUS (PNG) PTY LTD

A great deal of the Commission's time was spent in background investigations and public hearings trying to establish the beneficial ownership of the Angus companies especially the permit holder Angus (PNG) Pty Ltd, which was also the logging and marketing company until this role was eventually taken on by the Forest Industries Council and its appointed contractor Santa Investments Pty Ltd.

The fact that the original proposal showed on its face that Mr E P Diro's brother Anthony held 35% of the shares raised the possibility that this block was actually held in trust for E P Diro himself or for one of his companies. The Department queried Anthony Diro's holdings because of a possible conflict of interest for the Minister.

Mr Diro's sworn evidence about the inclusion of Anthony Diro's name in the proposal was that when he first saw it he was surprised and angry. He swore that he directed Hasaipwal wa and Mamalai to remove his brother's name.

Right up until the last few days of the public hearing he maintained, on oath, that he held no interest legal or beneficial in Angus (PNG) Pty Ltd. The Commission summonsed Gaden's files and lawyer G Kassman's files to try and uncover the true situation. When confronted with the evidence from these files Mr Diro finally admitted that 35% of Angus (PNG) Pty Ltd shares were indeed held by Kasaipwalova in trust for him.

The result of the painstaking research through those files disclosed what had happened so clearly that there was really no room left for evasions and denials. The embarrassing question by the Department caused Kassman to rewrite the Minutes of the 1 November meeting and the associated company documents to show Anthony Diro's 35% shareholding. Even more embarrassing questions were asked by Mr Jack Genia in Parliament on the 14 March 1986, including a question about Angus' shareholders which threatened public disclosure of the improper connection between the Minister and Anthony Diro (Appendix 33 which includes Mr Diro's answers). Mr Genia's questions caused a flurry of activity as recorded in Kassman's file from Gadens. After unsuccessful attempts to contact Diro and Kasaipwalova on the 19 March, Kasaipwalova was contacted on 25 March and Kassman was instructed to hide Minister Diro's shares under deeper cover "Delete Diro Anthony in total". The Minutes of the 1st November 1986 were re-written yet again to delete all reference to Anthony Diro. This version of the 1 November Minutes also recorded the appointment, at that meeting, of Sir Tore Lokoloko as a director and Chairman of the Board, though this clearly must have happened at a later date.

The Return of Allotment of Shares and Particulars of Directors, etc, which eventually found its way to the Registrar of Companies was this third and patently false version prepared by Gerard Kassman on the instructions of J Kasaipwalova and forwarded to the Registrar on 25 March 1986. (*Appendix B* sets out the full story of the manipulation of shareholding in Angus (PNG)).

On the last day of the Commission's public hearing into Angus, through his Counsel, Mr Diro made the following admission about his beneficial interests in Angus (PNG) Pty Ltd.

"Secret retention by Mr Diro of a block of shares being 35% of the issued capital of Angus (PNG) Pty Ltd ... Mr Diro concedes that this allegation is substantially true subject to the qualification that the block of shares was for the use of the party."

I find as a matter of fact that at all material times the percentage beneficial ownership of Angus (PNG) Pty Ltd was as follows:

Anqus Investment Pte Ltd (Singapore)	51%
direct	20%
Kasaipwalova (& later Sir Tore)	
in trust	31%
E R Diro (held by Kasaipwalova in trust)	35%
J Kasaipwalova	5%
F C Cheah (a Malaysian citizen)	9%
direct	5%
held by Kasaipwalova in trust	4%
	<u>100%</u>

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in trust)	35%
J Kasaipwalova	5%
F C Cheah (a Malaysian citizen)	9%
direct	5%
held by Kasaipwalova in trust	4%
	<hr/> 100%

Thus, when the Gadaisu permit was issued, Angus was 60% foreign owned and should have been registered with N.I.D.A. and 35% of the company was held at the direction and use of the Minister for Forests through J Kasaipwalova.

10. FINANCE PROBLEMS

The scheme to sell off twenty percent of the equity came to nothing and Angus PNG was facing a desperate liquidity problem. It was having difficulty meeting basic requirements such as the payment of wages, insurance on equipment and the K76,000 guarantee required by the Department of Forests as a condition of the permit. Angus Singapore itself was now facing a financial crisis also and, far from being able to lavishly finance the initial expenses of the PNG operation, it was already beginning to look to Angus (PNG) for financial assistance.

Angus' first attempts at running a timber operation were not successful. The Company had no road construction skills and it followed no forestry working plan. Early reports by Forestry Inspectors show that the logging techniques caused great wastage and environmental damage. This was made worse by the fact that they were threatened by fear of imminent financial collapse both in Singapore and Papua New Guinea. To keep its creditors happy Angus needed large profits from log shipments quickly. To achieve this its operators chased after pockets of the highly priced rosewood wherever they were reasonably accessible and left the less valuable species. As a consequence the timber resource has been badly and unnecessarily damaged. (Appendix 34). To gain quick access to a site for the log pond the company bulldozed Sabiribo Village from its peaceful situation on the beach and left the people to

rebuild a temporary "shanty" village perched on a bare hillside. In the process the church was destroyed, graves were desecrated and the pastor's house was occupied by the company as its headquarters. The company has not honoured its promises to rebuild the village on a suitable site and to provide it with electric power and reticulated water.

In order to survive, Angus desperately needed to start receiving log payments. It was crucial that the logs could be harvested quickly and that marketing could be arranged satisfactorily. While the expatriate Malaysian and Philipino operators floundered in mud on poorly constructed roads, the headquarters people from Port Moresby and Singapore planned the marketing.

11. EARLY MARKETING CONSPIRACY - TRANSFER PRICING

(First Shipment)

It is quite clear from the documentary evidence that from the very early days of the Gadaisu timber operation there was a conspiracy between M A Ang, Tan Sri Ghazali Shafei, F C Cheah, J Kasaipwalova and, once he joined the group a bit later, Charlie Koh. The conspiracy commenced with the very first contract and it involved transferring USD10 of the true price per cubic meter, across the total contracted shipment, to Angus Singapore.

The specific details of this and other transfer pricing schemes on subsequent contracts are set out in *Appendix 35* which includes schedules of documents related to each scheme.

At the beginning of operations Angus (PNG) Pty Limited attempted to manage the logging operation and to do its own marketing. There were several contracts entered into - all with the Japanese firm Sanko Nagoya.

Angus' inefficiency however resulted in there being a shortfall in making up the first contracted shipment. This caused a delay and in fact the first shipment did not finally load until October 1986, and it loaded under the terms of the second contract.

The simple basis of the scheme for transferring part of the profits on this contract was for Angus (PNG) Pty Ltd to receive in PNG a modest price based on the minimum export price per species (MEP), as published regularly by the Department of Forests. The actual price paid however would be far higher than that, but the difference between total price and PNG price would be paid to an account in Hong Kong. The potential for transferring such profits was greatest for Rosewood because there was a great difference between MEP for Rosewood and actual market price. Rosewood thus formed the basis for illegally transferred profits from the first shipment.

For this first shipment the scheme involved using back to back letters of credit and back to back invoices. The letter of credit and the invoice between Sanko and the proposed middle company showed the true agreed price of Rosewood at USD161.25 per m3 whereas the letter of credit between the proposed middle company and Papua New Guinea showed USD117 per m3. The difference to be taken offshore was USD50744.769. The letters of credit were already in place from the first, not yet fulfilled, contract and merely needed adjusting.

A problem for Angus (PNG) Pty Ltd occurred when Charlie Koh, the Angus Group Manager in Singapore, decided to intercept the advance money due to Angus (PNG) through the Bank of South Pacific. The whole arrangement had been set up by three way negotiations between Angus (Singapore), Angus (PNG) and Sanko and this is manifestly obvious from studying Angus files. (See examples in Appendix 35) Koh arranged for the full USD300,000 advance, which Angus (PNG) was awaiting in PNG, to be telex transferred to the account of Angus Trading Pte Ltd at the Bank of Credit and Commerce Hong Kong. He then creamed off USD200,000 and forwarded on only US100,000 to Angus (PNG). This left the Bank of South Pacific over-exposed as it had already allowed Angus (PNG) overdraft accommodation to K350,000. This "treachery" by Angus Singapore brought forth a heartfelt cry from F C Cheah to Chairman M A Ang in which he accurately summarises the financial straits of Angus (PNG). (Appendix 35.25).

To save the credibility of Angus (PNG) Pty Ltd with the banks, and in fact to save the company itself, Tan Sri Ghazali Shafei established a personal credit line of USD150,000 with the BCC Hong Kong which then made the necessary advances to Bank of South Pacific Port Moresby to cover its advances to Angus (PNG).

The result of all this was that the Transfer Pricing scheme worked and a tax free profit of USD59744.644 was taken in Hong Kong by Angus Trading Pte Ltd. This was later set off against the debt owed by Angus (PNG) Pty Ltd to Angus (Singapore).

12. 'REGULARISING' ANGUS

While negotiations were continuing to get the first shipment away a substantial re-arrangement or as Ang expressed it, a "regularisation" of Angus (PNG) was being planned by M A Ang and Charlie Koh in Singapore.

They came to Port Moresby on the 15 August 1986 and while Koh proceeded on to inspect the operation at Mamai, Ang remained in Moresby at the Travelodge. This was just after Angus (Singapore) had intercepted the USD300,000 advance expected by Angus (PNG) Pty Ltd and feelings were very high. Ang came to remove Kasaipwalova as Company Secretary and to replace him with Gerard Kassman. He also wished to transfer the 31% of shares which Kasaipwalova held for Angus (Singapore) to Sir Tore Lokoloko to be held in trust for Singapore.

Mr Ang held meetings with Kasaipwalova, Sir Tore Lokoloko and Mr Ted Diro and, while at the Travelodge, wrote a memo to Charlie Koh setting out the substance of the agreements and the instructions which were to be given to Gerard Kassman. The full text of the memo was as follows:

"17/8/86

Charlie,

Andrew, myself, John K & F.C. Cheah agreed to appoint Gerard Kassman as our Company Secretary. (He is now a director of Angus PNG) and appoint TOUCH ROSS as our Company Auditor.

At present Angus PNG shares are:-

1) Angus Investment Pte Ltd	20%
2) F C Cheah	5%
3) John K.	75%

Please instruct Gerard Kassman to re-issue share as follows:-

- | | | |
|----|--|-----|
| 1) | Angus Investment Pte Ltd | 20% |
| 2) | F C Cheah | 5% |
| 3) | John K. | 9% |
| 4) | John K. - (This to hold for Andrew, John K. will let us have the blank transfer form & Share Certificate to reflect 35%) | 35% |
| 5) | Sir Tore (This is to hold for Angus Investment Pte Ltd & Sir Tore will let us have the blank Share Certificate to reflect 31%) - Charlie, we need also both John K. & Sir Tore to effect the trust deed of these shares of 35% & 31% respectively. | 31% |

Kindly study with F.C. Cheah & John K. on the day to day policy of Angus PNG to conform with local law and to keep in line with Angus Group policy.

SIGNED BY:

M A ANG

F C CHEAH

JOHN K."

This memo is clear evidence of the beneficial ownership of Angus PNG Pty Ltd and specifically highlights Mr Diro's 35% held by Kasaipwalova for him in the Code name "Andrew". The document is clearly genuine, is signed by Ang, Cheah and Kasaipwalova and was in fact acted upon. (See photocopy at Appendix 36). Mr Diro admitted in evidence that he did meet Mr Ang at the Travelodge on the morning of the 17th but denied that they discussed the subject matter of that memo except for some discussion about replacing Kasaipwalova with Kassman as Secretary and appointing Touche Ross as auditor. On the other hand Sir Tore Lokoloko swore that Ang gave him the original of the memo and that he discussed it with Diro the same day

over "lunch" at the Islander Hotel poolside. Although Diro later denied that conversation Sir Tore was never cross-examined or challenged on it. I have no hesitation in accepting Sir Tore's explanation as that of a man whom I believe was honestly trying to tell the truth over that of Mr Diro who was evading the truth whenever it was in his interests to do so. Accordingly this document is further evidence of Diro's ownership of Angus Shares and of his continuing involvement in in the management of Angus' affairs.

On his return to Singapore after this trip M A Ang was arrested on charges of criminal breach of Trust concerning MOIC (KL) for which he was extradicted to Malaysia, convicted and sentenced to eight (8) years imprisonment.

13. ON-GOING TRANSFER PRICE AGREEMENT

While efforts were still being made to solve the practical difficulties concerning the first shipment Angus' leaders in Singapore and Papua New Guinea were already well advanced in planning, with Sanko and the Bank of Credit and Commerce in Hong Kong, a far more ambitious transfer pricing scheme. The second shipment (combining the first and third contracts with Sanko) was already agreed upon. The new ambitious scheme was to be applied to contracts four to nine involving a total of six shipments of 6000 m3 each.

On the documentary evidence, some of which is set out in Appendix 35, it is quite clear that Tan Sri Ghazali Shafei, Charlie Koh, F C Cheak and J Kasripwalova were all deeply involved in planning this scheme, which was based

on a revolving letter of credit from Banker. This scheme had real potential for raising a non disclosed offshore, tax-free profit of USD9.408 million as well as a substantial disclosed onshore profit for Angus (PNG) Pty Ltd of USD\$5.071 million, after tax. The Angus files clearly show the scheme developing and then it is made quite explicit by a fax transmission from Angus (Singapore) to Angus (PNG) of 26 September 1986 (Appendix 35.43). This describes the scheme and discusses the establishment of a Jersey Island Company, Valouse Ltd into whose Hong Kong account at BCC the offshore profits were to be paid. A draft of a proforma revolving letter of credit was communicated for comment and the precise details of the projected offshore profits per cubic metre were set out. The fax also illustrated how the ailing Singapore parent company was by then looking to Angus (PNG) for financial support.

There is no direct evidence that Minister Diro knew, in September, about the details of this scheme being worked up. On the 17 October 1986 however Tan Sri Ghazali Shafei, Charlie Koh and Mr Daroovala of the Bank of Credit and Commerce in Hong Kong all flew to Port Moresby. It is most likely that the party brought with them a memo dated the 14 October 1986 which had been typed in Singapore (Appendix 35.45). From studying the document and the evidence of other documents typed in the same series I am quite sure it is a genuine document. This crucial document, which was tendered as exhibit "103", was subjected to minute examination and detailed discussion during the hearings.

Exhibit 103 specifies that the Directors of Valouse Ltd will be:-

ANDREW (Diro)	980	shares
C/S (Tan Sri)	510	shares
MAA (Ang)	510	shares

It estimates that the offshore profits to be transferred to Valouse will be USD240,000 per month when Angus' production rate is increased from 6,000 m3 to 15,000 m3 per month.

The memo continues -

"Management and Profit Sharing

6. Running of this company will be done by two nominee directors from Arthur Young acting on a standing instruction from the beneficiary shareholders that all funds received by Valouse Ltd will be paid out to five separate accounts as follows:

A	ANDREW'S Account	-	35%
B	T/S's Account	-	25.5%
C	MAA's Account	-	25.5%
D	F.C.'s Account	-	9%
E	J.K's Account	-	5%

7. For payment under paragraph 6, it is suggested that each shareholder establish separate nominee companies on personal accounts to receive your funds on your behalf.

Re: Projected Profits for Angus (PNG)

1. The production plan for Angus PNG is that wef December, production will be increased from 6,000 m3/mth to 9,000 m3/mth with a further increase of 6,000 m3/mth wef January through sub-contractors. Please see cashflow prepared by AG PNG at *Annex. B*.
2. Based on this figure, profits for Angus PNG is projected to be US\$19.399m for the duration of the permit.
(See *Annex. C*)

3. The above profit is based on profit of US\$39/m3 wef January 1987, with US\$16/m3 of this US\$39/m3 retained in HKG and balance US\$23/m3 retained in PNG. Of this US\$23/m3 retained in PNG, actual profit to AG PNG is US\$17.25/m3 (75% equity in JV Co), before tax
4. For projected timing and value of profit disbursements to shareholders, after tax, please see Annex. D."

On the evidence I am satisfied beyond all reasonable doubt that Tan Sri discussed this memo with Cheah and Kasaipwalova. A trusted Angus employee, who gave "in camera" evidence of having helped prepare materials annexed to the document, swore that Cheah showed the document to that witness in Port Moresby at the time of Tan Sri's visit in October,

Throughout the hearing Mr Diro categorically denied all knowledge of Exhibit 103, its contents and the scheme itself. On the 2 November 1987, however, in cross examination and after being faced with compelling circumstantial evidence, Diro finally conceded that he *did* have discussions with Tan Sri at that time and that they may have included general discussions about the proposed scheme.

Mr Diro's own financial situation at that period was quite desperate. Evidence from his bank files and income tax returns shows he was facing bankruptcy from having recklessly "milked" his private companies for political purposes. His financial situation was intricately involved with that of Angus (PNG) as its inability to pay the rent on

his Pacific View Apartment was a major cause of Mr Diro's own liquidity problems. From his own evidence he was stretched in September/October that he was forced to obtain K2000 from Angus to pay his wife's confinement expenses.

During the hearing I reached the conclusion that Mr Diro was not a witness of credit and that in order to put forward apparently innocent explanations he was prepared to lie on oath to whatever extent he thought he could get away with. On this question I am convinced that Tan Sri discussed this very document with Diro. In fact it is quite likely that it was prepared in such unusually explicit terms precisely in order to put it to Diro and gain his approval. Of those intended to profit from the scheme, all except Diro already were fully aware of the details. Diro was to be the major beneficiary, sharing in the same proportion as that of his admitted ownership in Angus.

As a matter of fact therefore I find that Mr E R Diro as well as Tan Sri Ghazali Shafei, C Koh, F C Cheah and J Kasaipwalova all had full knowledge of, and participated in the planning of, this scheme.

It was not merely a theoretical idea. On the evidence before me it appears to have been a detailed conspiracy to cheat and defraud the State of income tax and customs duties and to cheat Maqi Wopten Development Pty Ltd of its share of the true profits. Clear steps were taken to put this scheme into effect. The contract between Sanko and Angus (PNG) Pty Ltd for six shipments each of 6000 m3 was concluded. The company Valouse Ltd was purchased and the directors appointed were Faringdon Company Ltd and Silvercreek Ltd both of Hong Kong. An associate of Mr Diro, Mary Jean Karo, signed deeds of indemnity, as beneficial owner, to those nominee shareholders and both documents were witnessed by J Kasaipwalova.

I have recommended that this matter be referred to the Commissioner of Police to consider whether all or any of those involved should be charged with a criminal offence.

14. TRANSFER PRICING PROPOSAL FOR SECOND SHIPMENT

While that ambitious continuing scheme was being set in place, negotiations continued between Angus (PNG), Angus (Singapore) and Sanko to combine the unfulfilled first contract and a third contract to make up the second shipment. The way the scheme was set in place, adjusted and confirmed is fully set out in *Appendix 35* under the Headings "A. FIRST CONTRACT" and C. THIRD CONTRACT". At the final stages of negotiations the contemplated price transfer was to be USD\$52,536.05.

15. F.I.C. MANAGEMENT - FIGHT FOR SURVIVAL

On the 3 November 1986 however the Angus Group in Singapore went into liquidation and the liquidator began to inquire about the debts owed to it by Angus (PNG) Pty Ltd. The PNG company was also in very bad shape and clearly unable to pay its creditors. (See Cheah's letter to Ang of 25 October 1986 *Appendix 37*). It was actually facing cancellation of its permit. This was recommended by Secretary Mamalai on 23 October (*Appendix 38*) but Minister Diro rejected the advice and instead he approved a rescue operation which involved the Forest Industries Council managing Angus. When it took over negotiations for this second shipment (first/third contract)

the F.I.C. dropped the transfer price scheme and renegotiated prices in a way which ensured that the full legitimate price was to be payable in PNG for Angus (PNG)'s benefit (See Appendix 35 p 8). The gross price for that second shipment received by Angus (PNG) Pty Ltd was USD487,023.03 from which FIC deducted 3.5% Commission amounting to USD12,523.21.

Angus however was still unable to pay royalties or to furnish the K76,000 bank guarantee required by the Department. Mr Diro finally approved the issue of a 'Show Cause Notice' allowing one month to show cause why the permit should not be cancelled. This was served on the 5 November 1986.

16. CUTTING LOOSE FROM SINGAPORE

The principals of Angus (PNG) must have been growing desperate at this stage. They knew of the immense illegal profits which could flow from the transfer price agreement with Sanko if they could only hold on and somehow find the funds to trade out of their financial difficulties.

During November 1986, with the F.I.C. managing Angus PNG and its Singapore parent company being then in liquidation, a scheme to raise equity capital was hatched which would dilute Singapore's controlling interest away to almost nothing. It seems that the PNG directors first turned upon Singapore's man F C Cheah and demanded his resignation.

A General Meeting on the 19 November, from which Leach was absent, then approved an increase in authorised capital from K10,000 to K400,000. On 4 December 89,900 shares were allotted to Chairman Sir Tore Lokoloko and 127,600 one kina shares were allotted to John Kasaipwalova. Kasaipwalova raised and actually paid cash K225,000 for these shares but K7,500 was applied by G Kassman against the initial issue of 7,500 shares not yet paid for.

The legal advice for the share issue was provided by Angus' lawyer G Kassman but his involvement did not stop there. As a Director of the Company, and as Company Secretary, Kassman must also accept personal responsibility for what happened.

In the witness box Mr Kassman eventually admitted that proper notice of the meeting to increase authorised capital, and of the massive share issue, was not given to Angus (Singapore). He must have known Angus Investments Pte Ltd was then in liquidation and that fact may well have given him confidence that the fraud about to be attempted would either go unnoticed or would not be pursued by the Singapore liquidator.

The effect of the December share issue was to reduce the 51% controlling interest previously held by Angus (Singapore) down to 2.26 percent.

Even if the share issue was not valid, because of the lack of proper notice, it would appear that at least an attempt to commit a serious criminal offence was made and I have recommended that this matter also be referred to the Commissioner of Police to consider whether criminal charges should be laid.

17. DIRO TURNS AGAINST ANGUS

By the 5 December deadline no reply to the 'Notice to Show Cause' had been received. Unknown to himself Mr Diro had only four more days to serve as Minister for Forests before the sudden reshuffle of portfolios which occurred on the 9/10 December. In his own evidence Mr Diro conceded that he thought Angus "was a gonner" and that he had lost interest in the Company. He was in fact working with the very compliant Oscar Mamalai to cancel Angus' permit and to issue a new permit, in record time, to a company previously unknown in Papua New Guinea, Goodwood Pty Ltd which wished to operate both the Gadaisu (including Bonua-Magarida) and Kupiano permit areas. The speed with which this was being arranged was absolutely astounding and highly suspicious. Time permitting it should be the subject of a further separate investigation. (*Appendix 39*)

On the 10 December Mr Diro did in fact sign an Advice to the Governor General to cancel Angus' permit over Gadaisu. He also signed an Advice to Cancel the A.N.G. Permit 3-4 over Kupiano on the 11 December and on that same day signed a document granting that Permit to Goodwood Pty Ltd. The two Instruments of Advice to Cancel were dated the 10 and 11 December respectively but for technical reasons they were returned by the Governor General, through the First Legislative Counsel, unsigned. (*See Appendix 39*).

18. THE TORATO APPROACH

After his appointment as Minister for Forests on the 9th/10th December Mr Torato, after receiving a full briefing from Mr Mamalau, apparantly vacillated about the cancellation of Angus' Permit. Then, on the 10 February, 1987 he seemed to make up his mind and Angus was allowed to continue, with its operations being conducted by the F.L.C.'s newly appointed contractor Santa Investments Pty Limited. (Appendix 40)

This decision took the Department by surprise. Former Minister Diro had previously advised the Governor General to cancel the permit and had, without waiting for the Governor General to act on the Advice, then issued a Letter of Intent to allow Goodwood Pty Ltd to develop the resource. Consequently Mr Mamalau again recommended cancellation of the Angus Permit on 18 February (Appendix 41). In March Mr Torato again turned against Angus and directed the necessary instruments to be drawn up to cancel the permit. This was put in motion (Appendix 42) and the Advice to the Governor General and the instrument itself were actually drawn up (Appendix 43). Then on 13 March 1987 Mr Torato jumped the other way and instructed the Secretary to allow Angus to continue. (Appendix 44) Angus was by that time under official management and Santa Investments was still the logging contractor.

The circumstances of Minister Torato's changes of mind are now being investigated in the light of certain documentary evidence which was discovered after a police raid on the offices of Santa Investments Pty Ltd.

19. OFFICIAL MANAGEMENT

Towards the end of February the inevitable could be postponed no longer and a Meeting of Anqus' creditors resolved to place Anqus (PNG) Pty Ltd under official management. Mr Parker took over as official manager on 25 February 1987. At that stage Anqus had assets of only K193,000 against debts of K1.6 million. (*Appendix 45 - Statement of Affairs*). The equipment was owned by Credit Corporation the main creditor. Sixty national employees were found abandoned at Sabiribo village without wages or food (Parker arranged urgent food parcels and K60 for each family and then repatriated them all). The Philipino staff who had long been unpaid, had all left sometime before. No royalties had been paid under Angus' management and there was some K27,000 outstanding. Likewise the premium due to Magi Wopten of K6 per m3 had not been paid.

On the other hand the very high salaries of F C Cheah and J. Kasaipwalova (K50,000 p.a.) plus very generous expense accounts and benefits were being paid. Parker immediately terminated their employment and paid out their entitlements. (A list of Anqus' creditors prepared by the Official Manager is set out at *Appendix 46*).

Santa's logging operation was almost at a standstill because most of the equipment had been stood down by Credit Corporation and because of the poorly constructed roads, which were unusable after even light rain. In April for instance total production was 758 m3 and in July it was 270 m3, well below the targeted 6000 m3 per month.

The resource itself was badly damaged, with blocked and polluted streams, and a substantial amount of wasted timber left, both standing and felled.

A recent survey shows there is only about 18 months of logging left to be done at a rate of 6000 m3 per month - far less than was expected.

Under the official manager Angus began to trade out of its difficulties and paid royalties and the Premiums due to Maisi Trust, a Group which has split off from Magi Wopten. It then faced another 'Show Cause Notice', however, served on the 8 September 1987. This is attached as *Appendix 47* and it should be noted that most of the alleged permit breaches occurred when Angus was still under its former management. Angus' Permit was finally cancelled on 31 January 1987.

20. THE ROLE OF EDWARD RAMU DIRO

It was inevitable that the Commission would focus on the activities of Minister for Forests, E R Diro. This is because, firstly, he was Minister for Forests responsible for allocating and attempting to cancel Angus' timber permit and, being Minister, the Commission's Terms of Reference required that he be investigated with regard to possible benefits received. Secondly the inquiry was into Angus and, on his own belated admissions he held a substantial part of the equitable ownership of Angus' (PNG) subsidiaries and was, until his appointment as Minister, the Chairman of those companies. Thirdly Angus' financial records disclosed many instances where he, his wife or one of his companies received benefits from Angus. Finally, through his companies or his wife's company Mr Diro was

involved in various business dealings with Angus: these included rental arrangements, tendering for contracts, the attempt to purchase Mamai Estates and a proposed agency deal with a Rumanian firm.

After the Commission completed its preliminary investigations, which included studying all the Angus business records which had been produced on summons, it was obvious that Mr Diro could play a key role in the Inquiry. At face value those preliminary investigations suggested that he may have been deeply and improperly involved with Angus during his term as Minister for Forests; that he may indeed have been the person code named "Andrew" under which name Angus kept a "Research and Development" account which recorded many payments.

On the 6 August 1987 he was summonsed to produce all relevant documents in his possession but said that he had none. For his opening address on the Angus Inquiry, given on 6 August 1987, Mr Reeve prepared a very detailed document. On that day Mr Diro was served with a copy of the Commission's Terms of Reference and a transcript setting out all allegations which were to be made during the Inquiry about Angus and his involvement in Angus. Each gift and benefit allegedly received was specified including the fact that he was the person codenamed "Andrew" in the Angus accounts records. The opening address accused Mr Diro of being at all times the owner of 35% of the shares of Angus (PNG) Pty Ltd and of using his position as Minister to improperly grant it the Gadaisu timber permit. The fourth major allegation levelled at him in the opening address was that he was a party to Angus' schemes to make illegal offshore profits by transfer pricing. Nothing was held back; the evidence supporting these allegations was outlined

so he could consider his position. As he was a senior Minister in the government it was hoped that this open approach might lead him to come forward to offer explanations or make admissions.

Mr Diro however applied for and was granted representation before the Commission. He then briefed counsel, at public expense, and began a long fight to cover up his involvement.

Initially he adopted an aggressively defensive posture, denying all allegations. Counsel assisting the Commission was then obliged to search out every voucher, airline ticket, accounting record, telex, facsimile, and restaurant bill to put together a conclusive case based largely on circumstantial evidence. This was done meticulously by working day and night but it added some two months to the length of the proceedings. Only when confronted with an overwhelming volume of documentary evidence did Mr Diro begin to make concessions and he did so grudgingly, fact by fact, admitting only as much as he was obliged to at any one time. In the process he told a mixture of reluctant truths, half truths and untruths.

Only when applications were made that he be charged with six separate acts of perjury did Mr Diro begin to make substantial concessions. Then in the last few days, during cross examination, while making revised statements and finally by concessions made by his counsel in final address Mr Diro admitted virtually every fact which had been alleged against him during the opening address and every additional significant matter which had been raised during the hearings. (See extracts from Mr Goodman's final submissions Appendix 48). With regard to his knowledge of and

involvement in Angus' transfer pricing schemes however Mr Diro made only a partial admission in that, through Mr Goodman, he admitted:

"He was in possession of sufficient facts to establish that there was a sum of money which was to be created by virtue of transfer pricing offshore and which was also under his control as leader of the Parliamentary Wing with control over the expenditure of funds. The evidence is that Mr Diro did not consent to the transfer pricing activities and his fault was to fail to further investigate matters which came to his notice in relation to transfer pricing and he accepts that to that extent he is at fault".

During this Inquiry it has been my duty pursuant to Terms of Reference 8, to consider whether Mr Diro received any direct or indirect benefits during his period as Minister for Forests and, if so, whether it was improper. After careful consideration I have reached the following conclusions -

Actual Benefits Received:

Mr Diro received very substantial benefits from or related to the Angus Group of Companies (including MOIC Singapore) both before and after his appointment as Minister

for Forests. These benefits which were received by himself, his wife or his companies included, but were not limited to, the following:

- "(a) use of a Jaguar XJC Saloon, which Mr Diro conceded was owned at the time of its importation into Papua New Guinea in October 1985 by MOIC Investments Pte Limited, and payment by Angus of costs and expenses associated with such vehicle amounting to at least K10,000.
(see Appendix 51)
- (b) payments by MOIC Investments Pte Ltd and Angus Trading Pte Ltd charged on intercompany loan accounts to Angus (PNG) Pty Limited of:-
 - i. airfares for Mr Diro & Mrs Veitu Diro from Port Moresby to Singapore and return in December 1985 amounting to S\$8,622.20 (K3,919.18).
 - ii. airfares for Mr Diro from Singapore to Kuala Lumpur and return in January 1986 amounting to S\$365.00 (K165.91)
 - iii. accommodation expenses for Mr Diro & Mrs Veitu Diro in December 1985/January 1986 amounting to USD1,500 (K1,418.18)
- (c) payment by Angus Trading Pte Limited charged on intercompany loan accounts to Angus (PNG) Pty Limited of airfares for Mr Diro from Port Moresby to Vanuatu (via Australia) and return in February 1986 amounting to S\$3,439 (K1,563.18)
- (d) payment in October 1985 by Angus (PNG) Pty Limited of K1,600 rent for Unit 306 Pacific View Apartments for the month of October 1985.
- (e) payment in June 1986 by Angus (PNG) Pty Limited of K4,800 rent in respect of the said Unit 306 for the months of November and December 1985 and January 1986.

- (f) payment in September 1985 by Angus (PNG) Pty Limited of K4,000 in respect of an unauthorised transfer of interest to Angus (PNG) Pty Ltd of Toyota Corolla AEQ 374 which was then under lease from AGC (Pacific) Limited to Tamworth No.35 Pty Limited which payment was made to Meridien Motors Pty Limited as part payment of deposit on Mercedes Sedan AEL 810.
- (g) payment by Angus (PNG) Pty Limited in September 1985 of Diners Club charges of K300.00
- (h) payment in December 1985 by Angus (PNG) Pty Ltd of Directors fees of K300.00
- (i) payment by Angus (PNG) Pty Ltd of service charges in connection with Nissan Patrol AEL 190 of K231.45 in October 1985, and in December 1985 of K166.84
- (j) payment by Angus (PNG) Pty Limited of airfares for Mrs Veitu Diro in May 1986 and July 1986 from Port Moresby to Sydney and return amounting in each case to K632.00
- (k) payment by Angus (PNG) Pty Ltd of Talair flights for Diro's associates.
- (l) payment by Angus (PNG) Pty Ltd of Golden Bowl Restaurant bills.
- (m) payment by Angus (PNG) Pty Ltd of Veitu Diro's confinement expenses.
- (n) payment by Angus (PNG) Pty Ltd of Port Moresby-Brisbane return fares for Diro and Mr Keith Anderson.
- (o) payments by Angus (PNG) Pty Ltd of Boroko Motors bills on Mr Diro's Nissan Patrol vehicle.
- (p) payment by Pars Ram Pun: \$A1,500-00.
- (q) payment by Talair of airfares en route to Vanuatu and return.

Potential Benefits:

Through his company Tamworth 35 then through his brother Anthony Diro and finally through John Kasaipwalova Mr Diro was at all material times the beneficial owner of 35% of the issued share capital of Angus PNG Pty Ltd. With this holding he stood to benefit directly from the company's onshore and offshore profits. His estimated share of the offshore profits from the proposed continuing transfer price scheme was to be USD3,292,800. and his share of the profits taken in Papua New Guinea was to be USD1,774,700.

I am fully satisfied that he had knowledge of the details of this scheme and approved it.

Mr Diro's claim that the block of 35% of the shares was to be held in trust for the Peoples Action Party I treat with some scepticism. On this matter he first denied knowledge of the shares, then said they were to be held in trust for the people of Central Province and only when those two claims were proved to be untenable did he offer up the P.A.P. as the true beneficial owner. It appears also that he lied to Parliament on this issue. (See his answers to Jacky Genia's question - Appendix 33). I do not find it necessary to make a firm decision on this issue because, even if his claim is true, it would still be a benefit received indirectly by him. If money was received or to be received for the political party of which Mr Diro was to be the Parliamentary leader I consider that would be a direct or indirect benefit to Mr Diro within the meaning of Clause of Reference 8. At the time of the scheme the Party had not yet been formed and Mr Diro admitted that he intended to have sole control over those funds.

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Whatever the propriety of receiving benefits *before* being appointed as Minister there is no doubt that all benefits received *after* that appointment were highly improper. As soon as he was appointed Minister for Forests Mr Diro had a duty under the Leadership Code to sever all links with Angus/MOIC and to disclose his interests and all benefits received to the National Executive Council and to the Ombudsman Commission. In view of the fact that he had just resigned as Chairman of Angus I consider he should also have made special arrangements with the Prime Minister which would have allowed him to openly stand back from all decisions relating to Angus. Instead of that he not only retained his Angus interests but took active steps to cover them up behind a series of trust arrangements.

Then, as has been shown, he continued to receive substantial benefits and, worse still, he used his position as Minister to grant very substantial favours to Angus.

Favours to Angus:

The very allocation of the Permit in the unchecked "fast run" way in which it was done was a completely improper favour given to Angus. Had it not been for Mr Diro's express directions there is no way Angus would have received that Permit if established forestry policy had been followed.

Another favour granted to the financially ailing Angus was to allow it to occupy his company's apartment even after rent was at least eleven months and K17,600.00 in arrears. (He referred to this debt owed to Tamworth 35 under this improper lease agreement when attempting to put forward some justification for receiving one K2,000 payment personally from Angus).

Finally, when it was clear to the senior officers in the Department of Forests that the Angus permit should be cancelled before irreparable harm was done to the resource and its owners, still Diro refused advice to revoke it.

When he was painfully aware of Angus' financial difficulties, and that it had commenced an apparently irreversible descent into debt, he actually chaired a meeting on the 30 September 1986 in Angus' offices where he tried to obtain assistance for Angus from a Mr Pars Ram Punj regarding the Vanimo Timber extension area. (Mr Pars Ram Punj is a businessman from Brisbane who three weeks earlier had delivered a \$A1,500 "gift package" to Mr Diro in Brisbane at the telexed request of Mr Cowan of the Forest Industries Council. At the time Mr Diro was travelling on air tickets purchased for him by Angus. In evidence he claimed that he later repaid the money to Pars Ram but quoted a lesser amount). At the 30 September meeting Mr Diro put up two proposals to Mr Punj both of which would be of great benefit to the collapsing Angus. (*Appendix 49 - Minutes of Meeting*). This meeting clearly showed that Mr Diro was prepared to help Angus by improperly allocating the Vanimo extension resource either to Mr Punj's group which would pay royalties to Angus, or to Angus itself, after Punj had injected it with substantial funds in return for the exclusive right to buy Kwila logs. (Mr Punj gave *in camera* evidence in Brisbane).

Propriety of Mr Diro's Conduct:

Mr Diro's conduct in relation to Angus, while he was Minister for Forests, was disgraceful and dishonest. His conduct in relation to some other matters, as disclosed

during cross examination as to credit, was equally disgraceful. Before the Commission he was also dishonest as he clearly lied on oath and, to a large extent eventually admitted those lies. In addition to his lies before the Commission he gave evidence which shows he has deliberately made false declarations in his annual returns to the Ombudsman Commission and in his income tax returns, both of which are criminal offences.

While trying to explain various payments which he received Mr Diro gave evidence which seriously compromises the government of Vanuatu, probably without justification. At first he swore that he received consultancy fees from the Vanuatu Government while he was a Minister of State. He subsequently "revised" this evidence and said it was received from a firm known as "Mr Juicy".

One of two alternative explanations given for receiving cash sums amounting to US\$134,000 dollars seriously compromised General Benny Murdani, the Chief of the Indonesian Defence Force. The other explanation was that the money was raised for him by an Australian Company, of which he is or was a Director, and which was seeking a timber concession on behalf of Chinese clients. He swore, in this version, that the money was brought in secretly for him by an Indonesian Military Attache stationed in Port Moresby. The implications of this Indonesian connection are sinister and its disclosure was followed by Mr Diro's resignation from the Ministry and had ramifications in Papua New Guinea's foreign relations and within the Defence Force.

Although evidence given to the Commission cannot be used as evidence in subsequent criminal or civil proceedings I recommend that these matters should be referred to the Chief Ombudsman and to the Chief Collector of Taxes for independent investigation and follow up.

21. RELEVANCE OF FINDINGS TO FORMAL TERMS OF REFERENCE

The Commission's inquiries are limited to matters which are directly or indirectly related to the Terms of Reference given it by the Prime Minister. A full coverage of the terms of reference will be given in the Commission's final report but in relation to Angus the following comments are offered in this interim report.

Terms 1 and 2 (F.I.C. involvement in marketing and the benefits to PNG)

At a time when Angus (PNG) Pty Ltd was clearly insolvent and flagrantly in breach of many of its permit conditions the Secretary of the Department of Forests, very belatedly, recommended the cancellation of its permit. In a last desperate attempt to keep the company trading however Minister Diro allowed the F.I.C. to manage Angus, as had been requested by the Credit Corporation. The Forest Industries Council commenced as marketing manager on 27 October 1986. In its capacity as manager the F.I.C. took full responsibility for marketing and charged 3.5 per cent commission for its services. By December 1986, the F.I.C. had taken over the full management and in this capacity it signed an agreement with Santa Investments Pty Ltd. appointing Santa as the logging contractor.

The Forest Industries Council also took over management of Angus' financial affairs controlling the disbursement of the proceeds of log sales paid through the F.I.C.'s bank account.

The Forest Industries Council took responsibility for marketing at a time when Angus and Sanko Nagoya had already carried out transfer pricing arrangements on the first shipment, had put in place another scheme for the second shipment and had commenced setting more sophisticated transfer pricing arrangements into contracts for future shipments. The evidence available at this stage indicates that these transfer pricing arrangements were dismantled once the F.I.C. took over the management. If this is the case then Papua New Guinea's foreign earnings and perhaps its revenue was increased by the F.I.C. involvement.

The full study of this arrangement will be reported on later in a report on F.I.C. activities. At this stage however there seems to be considerable doubt whether there was legal authority in the F.I.C.'s charter for it to take over the management of Angus in this way.

Terms 4 (Policy), 5 (Functions), 7 (Interference with functions)

If Angus (PNG) Pty Ltd had been treated as a foreign enterprise involved in a large log exporting operation it would have been expected to fit within Part 3 or Part 4 of the 1979 Guidelines. Under Part 3 (Processing plus some log exports) its primary focus would have had to be on local processing and it would have had to show experience in such processing operations and the marketing of the processed timber. Under Part 4 (log exporting only) its activities

would have had to be combined with substantial additional activities such as an agro-industrial project. Once again a foreign enterprise would have had to demonstrate sufficient experience, expertise, capital and marketing skill in all aspects of the operation.

Angus (PNG) Pty Ltd managed to avoid these onerous policy requirements by passing itself off as a national company and by making token proposals for installing a sawmill and for establishing some unspecified type of agricultural project on land yet to be purchased.

If it had been treated as a foreign controlled enterprise Angus(PNG) Pty Ltd would also have been expected (according to forestry policy) to finance itself largely from overseas capital. In fact, although it commenced with an opening funds injection of about USD250,000. from Singapore, Angus (Singapore) retrieved USD200,000. when Charlie Koh intercepted the money due to Angus (PNG) Pty Ltd from he first shipment advance (see page 26). The bulk of Angus (PNG) funds was actually raised locally from the following sources:

- (a) Bank of South Pacific overdraft facility guaranteed by Angus (Singapore) and John Kasaipwalova;
- (b) Lease finance from Credit Corporation guaranteed by J Kasaipwalova;
- (c) Oft extended credit from many and varied trade creditors;

- (d) Acceptance of part salary payments by staff and executives;
- (e) Non payment of group tax from employees' salaries.

The only explanation why the resource was granted to such an inappropriate and foreign controlled company was that Minister Diro directed it and Secretary Mamalai complied with the direction against the unanimous, and correct, advice of all senior departmental officers involved in considering the proposal.

Mr Diro's motives in directing the allocation of the resource to Angus (PNG) Pty Ltd were for personal gain (either for his personal financial gain or for the political party which would benefit him personally). The conflict between his role as Minister, in which he was expected to receive and act upon correct departmental advice, and his role as a 35% owner of Angus (PNG) Pty Ltd was acute. This conflict led him to by-pass departmental advice on some occasions and to ignore it on others. Thus for instance, he had already decided to allocate the Gadaisu permit area to Angus and had actually directed the Secretary to this effect four days before the Angus proposal was received. When contrary, and clearly correct, departmental advice was received he simply ignored it.

Term 8 (Improper Benefits)

Edward Ramu Diro: Mr Diro and all his associates in Angkor's affairs sought or received direct and indirect benefits from the allocation of the permit to Angus.

(Diro's benefits have been itemised in Section 19 above).

Oscar Mamalai: The only apparant explanation for his actions is that he was receiving some benefit or that he was subjected to some outside pressure which resulted in him acting in favour of Angus and contrary to sound forestry policy. Although he has admitted receiving improper benefits in relation to other matters no direct evidence of that nature was uncovered in relation to Angus.

J Kasaipwalova and F C Cheah: They received benefits by way of very high salaries and allowances. To the extent that these were taken from an ailing company which was unable to pay its creditors and unable to pay the royalties owing to the government and landowners these benefits could be described as excessive. This however is really a question of morality in the internal management of Angus and not strictly within the Terms of Reference of this Commission. Each intended to benefit from Angus' transfer pricing schemes.

Magi Wopten Directors: These directors received a continuing stream of minor benefits in the way of trips to, and accommodation in, Port Moresby, pocket money and some quite substantial lump sum payments. Under the influence of these benefits they supported the application by Angus for the Gadaisu timber permit and acquiesced in the manouvers which resulted in their own company and people being pushed to one side by Angus and cheated of their rightful profit from the exploitation of their own timber resource.

Michael Cowan: Executive Director, F.I.C. From Angus Mr Cowan apparently received S\$1736.55 (about K790) for accommodation expenses in Singapore in June 1986. What other benefits he may have received through F.I.C. connections is the subject of a separate inquiry.

Dennis Hoivo: This Forestry Officer from Central Provincial Forest Office admitted receiving a bribe of K1,000 to acquiesce in the loading and departure of the first shipment of logs from Angus' Operation before payment of royalty and export tax.

Smuggling goods in on timber ships: One of the "side benefits" to persons involved in shipping logs appears to be smuggling duty free goods into Papua New Guinea. The Commission has uncovered evidence of several instances of this. In relation to Angus there is evidence that duty free liquor was smuggled in on log ships loading at Mamai on a regular basis. The details of this evidence and supporting documents are set out at *Appendix 50*.

Term 9 (Transfer Pricing)

All those who were party to the various Angus transfer pricing schemes described in detail in *Appendix 35* have been deliberately frustrating government policy within the meaning of this term of reference. The main people involved were: M A Ang, Tan Sri Ghazali Shafei, Charlie Koh, F C Cheah, John Kasaipwalova and E R Diro.

The purpose of the completed transfer pricing schemes applied to the first two shipments was, apparently, to avoid tax in Papua New Guinea (by creating artificially high early losses), to defraud Magi Wopten Development Pty Ltd and its

shareholders and to benefit Angus (PNG) Pty Ltd as the tax free profits taken by Angus (Singapore) in Hong Kong were eventually credited in the inter company loan accounts against Angus (PNG) Pty Limited debts. This whole arrangement was done contrary to foreign exchange regulations and without reference to the Central Bank. The purposes behind the huge illegal profits anticipated from the proposed six months continuing scheme are not so clear. The beneficiaries were to set up separate personal nominee company accounts to receive their shares. Mr Diro states he intended to hold his share in some sort of trust for the Peoples Action Party, but under his own control. Whether any portion would have been used for his own personal benefit (as happened to some of the so-called "campaign" funds in his Boroko US dollars account") and what would have happened to the shares of his co-conspirators must remain matters for conjecture.

The transfer pricing arrangements disclosed in the Angus investigations are by no means isolated incidents. The Commission's investigations so far suggest that many other companies are engaged in similar activities. Angus is unique only in the fact that the whole scheme has been so meticulously documented and that the documents were "captured" by the Commission.

22. POSSIBLE CRIMINAL AND OTHER OFFENCES

It is no part of the Commission's role to prosecute and convict for criminal offences disclosed during its inquiries. I have taken the view however that where the inquiries disclose the likely commission of criminal or other offences, and where independent evidence of those offences is available, those matters should be referred to the police or other appropriate authority for investigation.

or other offences, and where independent evidence of those offences is available, those matters should be referred to the police or other appropriate authority for investigation.

I accordingly recommend that the activities of the following people and the following matters should be so referred for investigation:

(a) Referral to the Commissioner of Police -

Mohammad Abdullah Ang, Tan Sri Ghazali Shafei, Foong Chin Cheah, John Kasaipwalova, Charlie Koh, Edward Ramu Diro to consider appropriate criminal charges relating to their conspiracy to defraud the State, Magi Wopten Development Pty Ltd and, perhaps, Angus (PNG) Pty Ltd by completed and attempted transfer pricing schemes.

(b) Referral to N.I.D.A. -

J Kasaipwalova, F C Cheah, Gerard Kassman and E R Diro for offences committed under the N.I.D.A. Act. These offences relate to the failure to declare the foreign interest and control in Angus (PNG) Pty Ltd and failing to apply for N.I.D.A. registration which resulted in Angus (PNG) Pty Ltd carrying on business in Papua New Guinea without NIDA approval.

(c) Referral to the Commissioner of Police -

F C Cheah and J Kasaipwalova for breaches of the Control Banking Act (Foreign Exchange Regulations)

This offence concerns the acknowledgement (under seal) of a foreign debt to Angus Investments Pte Ltd of \$(Singapore) 529,000 in contravention of the Act. Consideration should be given to also charging G Kassman with this offence.

- (d) **Referral to the Commissioner of Police,
the Registrar of Companies and the Papua New
Guinea Law Society -**

G Kassman: The circumstances in which three separate and different minutes all purporting to be valid Minutes of the Angus (PNG) Pty Ltd Directors Meeting held on the 1 November 1985 were prepared by G Kassman and the lodging of false Returns at the Companies office signed by J Kasaipwalova should be referred to the Registrar of Companies and the Commissioner of Police. The professional ethics of Mr Kassman's actions in this matter should be referred to the Papua New Guinea Law Society for attention.

(e) Referral to the Chief Collector of Taxes and the Chief Ombudsman Commission -

E R DIRO: The false Declarations made by Mr Diro in his Returns to the Ombudsman Commission and to the Chief Collector of Taxes, as detailed in this Report, should be referred to those authorities to be investigated for possible prosecution or other follow up action.

(f) Referral to the Commissioner of Police -

G Kassman, J Kasaipwalova and Sir Tore Iokoloko: These three were involved in the issuing and allocating of new share capital in Angus (PNG) Pty Ltd without giving proper notice to Angus Investments Pte Ltd which was then in liquidation. The intention was to reduce that Company's beneficial ownership in Angus (PNG) Pty Ltd from 51 per cent to 2.266 per cent. It seems that a serious criminal offence was committed at least by Mr Kassman and possibly by all three. It should be referred to the Commissioner of Police for investigation as, even if the purported share issue was legally ineffective, the attempt would constitute a criminal offence.

(g) Referral to the Commissioner of Police -

P. Mis Hoivo: Mr Hoivo's action in receiving the sum of K1,000 from Angus (PNG) Pty Ltd to clear the first shipment should be investigated as an offence relating to the acceptance of a bribe as a public servant.

(h) Referral to the Collector of Customs -

F C Cheah: The circumstances surrounding the importation of the Jaguar motor car, the preparation and presentation of false documents and the evasion of duty should be referred to the Collector of Customs. It is quite clear that a false invoice was prepared at the request of F C Cheah and presented to Customs and this would be an offence under the *Customs Act, Ch. No.101*. The role of the Customs Agent and Mr Diro's involvement should also be investigated.

It seems clear that the Jaguar itself should be forfeit to the State pursuant to Section 146 *Customs Act*.

(i) Referral to the Collector of Customs -

The circumstances whereby duty free liquor was apparently smuggled into the country on Angus (PNG) Pty Ltd log ships, as referred to at page 52 and detailed in *Appendix 50* should be investigated.

23. CONCLUSION

The months spent on the Angus inquiry confirmed most of the suspicions which had originally attracted the Commission's attention and this is shown by the findings. The Inquiry has also disclosed valuable information on deficiencies in forestry policy and legislation and the various devices being employed by some timber companies to benefit from these deficiencies. These matters will be drawn together in the Commission's final report.

Although I have tried to limit this interim report to matters relating to the Angus Group of Companies and the Gadaisu permit area there is of course considerable overlap with other matters being investigated by the Commission. Some of the people involved will no doubt appear again in later reports.