

Masalai i tokaut

Number Ten: 7 August 2002

The Simbali story

Another illegal logging permit granted in total breach of the requirements of the Forestry Act shows yet again the complete failure of governance in the logging sector

The National Forest Board has given approval for what was presented as a small agriculture clearance operation.

In fact the intended project is a large scale logging operation that will involve the export of logs worth over US\$10 million.

The project is sponsored by the same logging company that last year was found to be illegally logging at Pondo.

On 29th May 2002, Philip Kikala, the Deputy Chair of the National Forest Board and Secretary of the Department of Planning, signed a consent for a Timber Authority to allow logging in the Simbali area of East New Britain Province.

The Timber Authority is totally unlawful as,

1. It has been granted in complete contravention of the legal limitations on the use of such permits
2. No attempt has been made to follow the proper allocation procedures that should have applied to the proposed project
3. Some members of the National Forest Board and the Provincial Forest Management Committee were deceived on the nature of the proposed project
4. There is no evidence that the permit is based on the informed consent of the resource owners.

The logging project will involve the harvesting of over 170,000 cubic meters of round logs from an area of about 12,000 hectares. At current values the unprocessed logs will have an export value of some US\$10 million.

However, the project is presented in official Forest Authority documents as if it is an agricultural clearance operation involving only 40 hectares of forest and some 1000 cubic

meters of timber.

It was on this basis that both the National Forest Board and the Provincial Forest Management Committee (PFMC) considered and granted approval for the project.

However the National Forest Board consent that was signed by Mr. Kikala did not limit the project to 40 hectares or 1000 cubic meters of timber, instead the consent was in fact unlimited in both area and volume (*see below*).

Simbali is an area of East New Britain between Open Bay and Wide Bay. The area was allocated and logged by Open Bay Timbers under a Timber Rights Purchase agreement that expired in 1998.

On 26th April 2002, a letter was sent from the Managing Director of the Forest Authority, to the East New Britain PFMC seeking the PFMC endorsement for the project. The letter refers to the TA application as being for "the removal of up to 50 hectares of trees for agriculture and other land use development".

With the letter were enclosed various official documents that also state that the TA will be granted for the purpose of "forest clearing operations for 40 hectares" and "the estimated volume of timber to be harvested is approximately 1000 cubic meters" (*see below*).

On 2nd May 2002 a submission was made to the ENB Provincial Forest Management Committee for an Agriculture Timber Authority for Simbali. The submission stated that the purpose of the TA is the "establishment of Agriculture project" and refers to a "portion of some 1,000 plus cubic meters of timber".

The draft TA that was shown to the PFMC also described the project area as 40 hectares and estimated the merchantable volume of timber as approximately 1000 cubic meters (*see below*).

It was on this basis that the PFMC granted their approval and the matter was referred to the National Forest Board for their consent. National Forest Board papers listed the project as an agricultural clearance of less than 50 hectares (*see below*) and this was duly approved.

However, the Board consent that was signed by Mr. Kikala totally fails to mention that the project is supposed to be limited in size and in area and it gives a blanket approval for "harvesting logs for commercial use" (*see below*).

Some of the PFMC and the NFB members have been sorely deceived, not only because the consent that has been signed is not limited in area and volume but also because the original application made to the Forest Authority made it clear from the very beginning that what was intended was a large logging operation.

The original TA application was dated December 2000 and was made by a company called Simbali Limited. The company claimed to represent the landowners of the Simbali Extension Timber Area. However the application did not include the required forms identifying the true landowners or showing their consent to the application.

The application stated that the resource owners wished to "sacrifice our timber resources

in the area shown on the enclosed map" to provide the money to establish a cocoa plantation. The map that was submitted clearly shows the proposed boundary of the harvesting operation, which is labeled as 11,700 hectares (*see below*).

Also submitted were a boundary description and a resource assessment that both stated the area to be harvested as "approximately 11,700 hectares" and estimated the available timber resource to be 170,000 cubic meters (*see below*).

The application also included a copy of the agreement between Simbali Ltd and SSG Services Ltd, engaging SSG as the logging company for the project (*see below*). SSG Limited is part of the Kerewara group that has various logging interests in PNG including the illegal Pondo concession.

A Timber Authority is supposed to be a mechanism to allow specific types of small timber projects to be allocated under a procedure that is much simpler and less time consuming than the normal allocation procedures for large log export projects.

The normal requirements for a TA are that they involve the harvesting of less than 5000 cubic meters of timber and involve downstream processing or that the harvesting is to clear a small area of land for agriculture or a road.

The Forestry Act specifically does not allow a TA for the type of timber project that was being proposed at Simbali – selective felling of over 150,000 cubic meters of timber across 11,700 hectares of forest.

In these circumstances the use of a TA was a total breach of the requirements of the Forestry Act and this was only exacerbated by the fact that the PFMC and NFB were specifically deceived as to the true nature of the project. The consent that has been granted is totally illegal.

The consent signed by Philip Kikala. Note that there is no limitation on the size of area to be harvested or on the quantity of timber that can be cut

SCHEDULE 1

Forestry

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec. 89
Reg. 174

FORM 172

~~*CONSENT/NON-CONSENT TO GRANT OF TIMBER AUTHORITY~~

To: Chairman of Committee responsible for forestry functions in East New Britain
Provincial Government.

Having received notification from the Provincial Chairman of the Forestry Committee
under Section 89(5) of the Forestry Act that he intends to grant a timber authority to
Simball Limited for the following purpose over the project area described below.

- * harvesting logs for commercial use from roadside clearing operations
- * harvesting logs for commercial use for use from forest clearing operations

Project Area: Simball Extension Timber Area, Wide Bay
(description)

The Board hereby ~~*consents/does not consent~~ to the said grant.

~~*delete whichever is inapplicable~~

Dated this 29th day of May 2002



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For the Board

Form 167. Clearly shows that the proposed project was being processed as if it was an application to clear less than 50 hectares

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec. 38
Reg. 169

FORM 167

Date: 26/04/2002

Application number: 15-61

TO: The Managing Director
Simbali Limited
P.O. Box 1831
KOKOPO
East New Britain Province

APPLICATION FOR TIMBER AUTHORITY

Your application for a Timber Authority for the removal of up to 50 hectares of trees for Agricultural or other land use development in the Simball Extension Timber Area has been received by this office.

The application has been accepted.

Your application will now be referred to the ENB Provincial Forest Management Committee to consider and evaluate and make a recommendation under Section 89 of the Forestry Act.

Yours faithfully,

Dated 26th day of April 2002.


for
DAVID S. NELSON
MANAGING DIRECTOR

c.c. Area Office, NGI Region
National Forest Authority Board Secretariat
PFMC Chairperson, ENB Province

Form 170. Clearly shows that the project was being presented as if it was just for the harvesting of approximately 1000 cubic meters of timber

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec. 55(4)
Reg. 173

FORM 170

RECOMMENDATION BY THE PROVINCIAL FOREST MANAGEMENT COMMITTEE

To: The Chairman of the Committee responsible for Forestry functions in the **ENB** Provincial Executive Council.

The Forest Management Committee having considered and evaluated under section 89 of the Forestry Act an application by the person named below for a Timber Authority and being of the opinion that it is satisfactory recommends the grant of a Timber Authority in the Form and in terms of the attached timber authority to the applicant for the purposes of:

- harvesting logs for commercial use for use from forest clearing operations for a 40 hectare cocoa development project.

Name of Applicant. **Simbali Limited.**

The recommendation is in respect of the following project area:

Simbali Extension Timber Area, Kavudemki Area, Wide Bay, East New Britain Province. The estimated volume of timber that is to be harvested is approximately 1,000 cubic metres.

Attached herewith is the recommended draft Timber Authority

Dated this day of 2002.

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For **ENB** Provincial Forest
Management Committee

Draft Timber Authority. Again the project is presented as if it is to be limited to 40 hectares of forest and 1000 cubic meters of timber

SCHEDULE 1 -- Map and description of Project Area

The Project Area is an area of 40 hectares.

The Project Area which is to be known as the Simbali Extension Timber Area is located in the Kavudemki Area, Wide Bay, East New Britain Province.

The site is purposed for the development of a 40 hectare Hybrid Cocoa Project.

The estimated merchantable volume of timber that is to be harvested to make way for the planting of cocoa is approximately 1,000 cubic metres.

SCHEDULE 2 --- Term and commencement date

The term of the Authority is for a period of 12 months commencing on the day this TA is signed by the Chairman of the Committee responsible for forestry matters in the East New Britain Provincial Administration.

SCHEDULE 3 --- Performance Bond

The amount of the performance bond will be K 1,600.00.

The Performance Bond will be released on the authorisation of the Managing Director under Seal of the Forestry Authority after the holder has submitted a completion report and has satisfied the terms and conditions of this Authority.

SCHEDULE 4 --- Standard conditions

1. INTERPRETATION

1.1 In this Authority --

"Authorised Harvesting Area" means the area in respect of which harvesting is, from time to time, authorised under Clause 3;

"Project Area" means the area described in Schedule 1;

"resource owners" means the customary owners of the timber and other forest products in the Project Area, and includes any person named as owners in the Sales and Purchase Agreement;

"the Act" means the *Forestry Act 1991*;

"the holder" means the registered forest industry participant named in this Timber Authority.

1.2 Words and phrases have the same meanings as in the *Forestry Act 1991*.

Forest Board Paper. This is all that the NFB was told about the project. Simbali is listed as a TA-03(a), Agricultural clearance of less than 50 hectares

FOREST AUTHORITY BOARD MEETING

NO. 84 — 29TH MAY, 2002

FOR THE BOARD

PAPER NO. A2

SUBJECT: CURRENT STATUS OF TIMBER AUTHORITY APPLICATIONS

A. PURPOSE

To inform the Board of the status of Seventeen (17) applications for Timber Authorities that have been lodged recently by registered Forest Industry Participants with the Managing Director, and which, having been deemed to have been lodged in the approved manner, have been referred to the relevant Provincial Forest Management Committees for evaluation in accordance with Sections 88 and 89 of the Forestry (Amendment) Act, 1993.

B. NFS VIEWS AND RECOMMENDATION

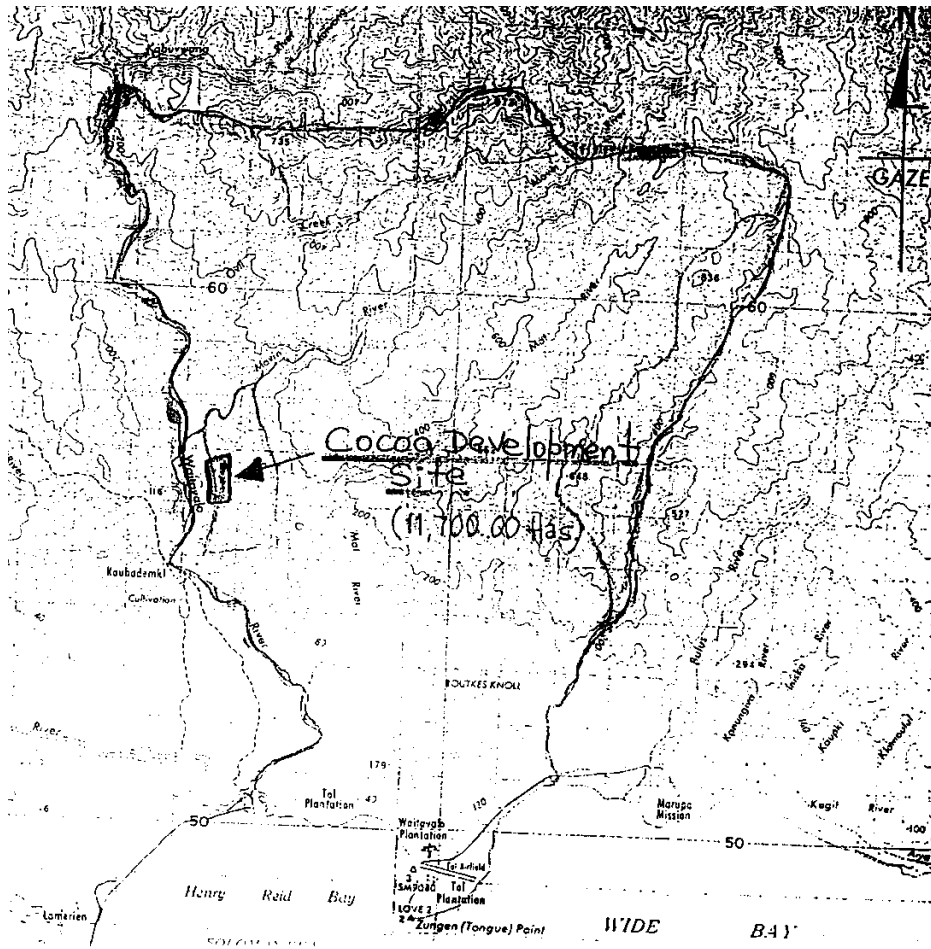
That the Board notes the list of applications as follows:-

NO.	APPLICANT	TYPE	PROJECT AREA	DATE OF REFERRAL TO P.M.C.	TA NO.
1	Tropical Forest Products (PNG) Ltd	TA-01	Yauhene, Rigo, Central Province	20/02/02	TA 3-69
2	Lanina & Raha Resource Ltd	TA-01	Kaega-Inauabul, Makeo, Central Province	04/01/02	TA 3-70
3	JCA Lumber Co. Ltd	TA-01	Saea, Cape Rodney, Central Province	09/01/02	TA 3-71
4	Debo Ninina Business Group	TA-01	Debo Ninina, Bereina, Central Province	09/01/02	TA 3-72
5	Furniture Exports (PNG) Ltd	TA-01	Narumbas/Muamu, Huon Gulf, Morobe Province	13/02/02	TA 13-48
6	Timber & Forestry Training College.	TA-01	Wampit, Lae, Morobe Province.	07/03/02	TA 13-50
7	Kabatau Limited	TA-01	Liang, Kerevat, East New Britain Province	06/03/02	TA 15-60
8	Obo Forest Products Ltd	TA-01	Kasa, Lake Murray, Western Province	26/03/02	TA 1-08
9	Obo Forest Products Ltd	TA-01	Quamekui, Lake Murray, Western Province	02/04/02	TA 1-10
10	Obo Forest Products Ltd	TA-01	Suevi, Lake Murray, Western Province	11/04/02	TA 1-11
11	Obo Forest Products Ltd	TA-01	Kwina, Lake Murray, Western Province	25/04/02	TA 1-12
12	Herea Dae Company No. 85	TA-05	Lapegu, Goroka, Eastern Highlands Province	09/04/02	TA 7-03
13	PI Logging Pty Ltd	TA-01	Tingidaang Kimbom, Huon, Morobe Province	26/03/02	TA 13-51
14	Koh Kum Timber Limited	TA-01	Wamarat, South West Coast, Manus Province	12/04/02	TA 18-03
15	Simball Limited	TA-03(a)	Simball Extension, Wide Bay, ENBP.	26/04/02	TA 15-61
16	Ulamona Sawmill Development Corporation	TA-03(a)	Ulamona Kamarere Plantation (Blk 1), Bialla, West New Britain Province	06/05/02	TA 14-13
17	Hawly Limited	TA-03(a)	Ulamona Kamarere Plantation (Blk 2) Bialla, West New Britain Province.	06/05/02	TA 14-14

Footnote:

- TA-01 Application for Timber Authority for harvesting under 5,000 cubic metres of timber per year for domestic processing.
 TA-02 Application for Timber Authority for harvesting timber for Roadline Clearance.
 TA-03 (a) Application for Timber Authority for harvesting timber for Agriculture and other landuse clearance up to 50 hectares.
 TA-04 Application for Timber Authority for harvesting other forest products other than timber.
 TA-05 Application for Timber Authority for harvesting of plantation materials.

Map and boundary description submitted with the original application. These clearly show that the intention is to log an area of 11,700 hectares



BOUNDARY DESCRIPTION

Area of approximately 11,700 hectares known as SIMBALI Extension wholly within the SIMBALI Extension Timber Right Purchase Area situated in the POMIO Sub-District of the WEST NEW BRITAIN Province and Milinches of OPEN and MERAI Fourmil of RABAU. Commencing at a point being the south western most corner of the said Timber Area and the eastern most boundary of OPEN BAY Timber Area on the mouth of the HENRY REID BAY (WAITAVALO) on the high water mark of the SOLOMON SEA in the HENRY REID BAY then proceeding generally north easterly and north westerly for approximately 18,000 metres to its confluence with the HENRY REID River (WAITAVALO) upstream generally north easterly and north westerly for approximately 18,000 metres to its confluence with the BUWANG River thence by unsurveyed straight lines bearing approximately 109 degrees for 4,150 metres 77 degrees for 4,150 metres 106 degrees for 33,000 metres and 85 degrees for 2,550 metres to the headwaters of the Unknown River thence by the left bank of the said Unknown River upstream generally in a southerly direction for approximately 14,000 metres to its mouth at the high water mark on WIDE BAY thence by the said high water mark in a generally south westerly and north westerly direction for approximately 10,000 metres to the point of commencement by the said boundary line all a little more or less and all bearing magnetic and excluding Portion 3 WAITAVALO and Portion 18 TOL and Portion 539 TOL EXTENSION.

Resource statement submitted to the Forest Authority. Clearly shows the project area as 11,700 hectares and the timber resource as 170,000 cubic meters

area assessed for commercial logging lies on lower altitudes.

area is classified as lowland rainforest with 'open forest canopy' towards Waitavoio and Bulus areas but described 'closed canopy' towards the upstream area of Mat. Oviu and Mavin Rivers.

under this type of forest is typically red and yellow latosols which are mainly found on hills, mountain peaks and the upper slopes. Towards the lower slopes brown soils which composed of acid some lithosols is quite dominant.

pecially the soils on the lower slopes which has a value of pH6 and below is considered very fertile suitable to growing cocoa and other cash crops. This is well drained soils which has a low rate of ion capability.

FOREST RESOURCE STATEMENT

The total area of Simbali timber Extension Area is 11,700 hectares.

is further broken down to the following categories viz;

Inaccessible Areas	1,700 hectares
Plantation, Regrowths & Gardens	2,200 hectares
Productive Forests	<u>7,800 hectares</u>
TOTAL	<u>11,700 hectares</u>

boundaries of the above forest types were based on the 1:100 000 topographic map of the area.

The total area of 7,800 hectares which was assessed is the best estimate of the operable area. This area normally reduced in reality by:-

- Accessible areas marked on topographic map.
- Inaccessible pockets such as deep gullies within the accessible area.
- Plantations, Regrowths & Gardens.

In the case of Simbali Extension area, a 10% is allowed as fair estimates for the 7,800 hectares of the lowland rain forest.

Therefore, net productive area becomes, Operable area = 7,800 hectares
Plantations, Gardens, Regrowths = 2,200 hectares
Accessible areas $7,800 \times 0.90 = 7,020$ hectares

ESTIMATED RESOURCE VOLUME

Volume sampled is 1,174.959m³
Area sampled is 48 hectares
Volume per Hectare 24.478m³/hectare
Sampling intensity 0.61% (based on Productive Forest Area).
Projected Volume In Productive Forest (Accessible) thus
become 7,020 hectares x 24.478m³/Ha = 171,835.56m³

Agreement between Simbali Ltd and SSG Services as the logging contractor

MEMORANDUM OF AGREEMENT

This Agreement is made on the 21st day of NOVEMBER, 2000 between SSG Services Ltd (hereinafter is called the logging contractor) and SIMBALI LTD (hereinafter is called the landowner company).

WHEREAS

- A. The Logging Contractor is a reputable logging company working in East New Britain Province for many years now.
- B. The Landowner company is registered with Investment Promotion Authority and the Forest Authority to participate in the timber industry of Papua New Guinea.
- C. The Landowner Company aspire to develop Agriculture ~~40~~ hectares cocoa land along Henry Reid river next to Kavudamki village

NOW IT IS HEREBY AGREED AS FOLLOWS:

APPOINTMENT

The landowner company appoint the Logging Contractor and the logging contractor accept the appointment to carry out logging, marketing, processing and other associated activities in the Agriculture Timber Authority area of Simbali Extension Resources.

1. OBLIGATIONS - SIMBALI LTD (LANDOWNER COMPANY)

- a. The landowner company shall maintain close and clear dialogue with the logging contractor.
- b. The landowner company shall not carry out any activities that may be detrimental to the spirit of good working relationship.
- c. The landowner company shall maintain to continuously renew its Agriculture Timber Authority annually with the National Forest Services, Kerevat and Port Moresby.

2. OBLIGATION - SSG SERVICES LTD (LOGGING CONTRACTOR)

- a. The logging contractor shall maintain close and clear dialogue with the landowner company.
- b. The logging contractor shall adhere to conditions in the Agriculture Timber Authority so as not to violate the Sales And Purchase Agreement.
- c. The Logging Contractor shall initially finance all pre logging project cost and the landowner company to reimburse all funds later once the project is operational.

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