

# Masalai i tokaut

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*A case study on corruption in the logging industry:*



*James Lau, Director of RH, points out where he is illegally logging*

## **Rimbunan Hijau and the illegal Wawoi Guavi timber permit extension:**

PNG's largest logging company, Malaysian multi-national Rimbunan Hijau, is involved in another forest industry scandal, this time the illegal extension of the logging permit for the Wawoi Guavi concession in Western Province.

Below we reproduce in full a new 10-page report on the illegal extension.

The report details who some of the key individuals and organisations are in the murky world of the corrupt logging industry. And it shows how they have conspired in the case of Wawoi Guavi to ensure that Rimbunan Hijau has been unlawfully favored with the rights to log a further one million cubic meters of logs worth over US\$ 100 million.

After reading this report, we hope that you will be as disgusted as we are by the continued revelations of corrupt deals, illegal logging and unlawful employment practices in the logging industry.

But these corrupt deals and mismanagement are not going to stop unless we all take action. If we want to see an end to this continuous cycle of corruption all of us must use our voices to ensure that the authorities take action.

## **Rimbunan Hijau and the Illegal Wawoi Guavi extension**

**"Governance has been particularly poor in the area of forestry, with the side effect of promoting corrupt practices and undermining environmental sustainability."**

***The Prime Minister, Sir Mekere Morauta***

**"Logging companies are the worst offenders for corruption. Some of the managing directors of these companies have a direct line to our national leaders, while I as a senior Minister had problems reaching them."**

***Ex Labor and Employment Minister, Jerry Nalau,***

**"Some of the companies are now roaming the countryside with the assurance of robber barons; bribing politicians and leaders, creating social disharmony and ignoring laws."**

***Justice Barnett***

June  
2002

## **1. Introduction**

**There is a lot of rhetoric in the media about corruption in the logging industry and there are many reported instances of illegal logging, political interference, bribery, poor governance and bad management practices in the forestry sector.**

**However, there is very little reported detail or insight into how the corruption operates and who the main culprits are.**

**This report tries to address these gaps through a simple case study on one of the latest examples of illegal logging; the unlawful 10-year extension to the Wawoi Guavi Timber Permit.**

**This extension, which was granted in February 2002, involves many of the main players in the corrupt world of the logging industry and provides a typical example of what has been the norm in forest management in PNG for many years.**

**The 10-year extension was granted totally outside the lawful allocation process and with no attempt to follow proper procedures or statutory requirements.**

**As has become typical and despite the protests of the resource owners and the support of NGOs, the authorities appear to be incapable or unable to take any action to challenge or overturn the illegal extension.**

**This case study clearly establishes the culpability of the ex Managing Director of the Forest Authority in facilitating the illegal extension.**

**The study also highlights the complicity of the National Forest Board, the Minister for Forests, the Secretary for Environment and Conservation and the Forest Industries Association in allowing the illegal extension to stand.**

**More surprisingly perhaps, this case study also shows how both the Ombudsman Commission and the Chamber of Commerce have themselves contributed to the situation where the illegal extension was possible and remains unchallenged.**

## **2. The players**

**Rimbunan Hijau: Malaysian based Rimbunan Hijau is one of the world's largest logging companies with operations in Asia, the Pacific, South America and Africa.**

**The company is headed by Datuk Tiong Hiew King, one of Asia's biggest timber tycoons with an estimated family fortune of US\$2.5 billion (*High Stakes. World Rainforest Movement and Forest Monitor. 1998*).**

**Rimbunan Hijau (or RH) dominates the logging industry in PNG where it is thought to**

control over two thirds of all log exports. RH directly owns at least 18 logging and timber companies who themselves account for around 50% of log export volumes.

RH has also diversified in PNG into computer sales and servicing (*Comserve*), shipping (*Straits Marine*), a travel agency (*Travel Planners*) and wholesale distribution (*RH Trading*).

RH is the owner of the Wawoi Guavi Timber Company Limited that holds the timber permit for the Wawoi Guavi logging concession.

**The Minister for Forests:** Minister for Forests and Deputy Prime Minister, Michael Ogio, has a long history of very questionable interference in the logging industry.

Ogio has been directly responsible for illegal logging permits (*eg Timber Authority 1-08*) and tax concessions (*eg for Concord Pacific*), he has tried to interfere with the proper allocation of logging rights (*eg Josephstaal*), he has frequently ignored government policy (*eg the moratorium on new concessions*) and instructions from his Prime Minister (*eg appointment of the new Forest Authority Managing Director*).

**The National Forest Board:** The National Forest Board is the body created to carry out the functions and objectives and manage the affairs of the Forest Authority, the statutory body that is responsible for the management of forest resources in PNG.

The Board is made up of the Managing Director of the Forest Authority, representatives of various Government Departments, and nominees from the Chamber of Commerce, the Association of Foresters, resource owners and NGOs. The Board usually meets for one or two days every two months.

**The Chair of the National Forest Board:** The Chair of the National Forest Board, Dr Wari Iamo, is also the Secretary for the Department of Environment and Conservation.

Dr Iamo has a consistent record of support for Rimbunan Hijau.

Dr Iamo was implicated, along with the Managing Director of the Forest Authority and the Forest Industries Association, in the massive Kamula Dosa scam in 1999.

This involved the National Forest Board granting RH permission to log the huge Kamula Dosa concession as a geographical extension to its existing and much smaller Wawoi Guavi logging operation. This was totally outside normal allocation procedures, against the advice of the National Forest Service and conveniently avoided the need for a public tendering process.

The Ombudsman Commission stopped the allocation going ahead, but the Ombudsman's report has never been published, it is believed because of legal threats from RH and its lawyers.

In 2001 Dr Iamo launched a defamation case against an independent Forestry Review Team for what he described as its imputations that he had received a bribe from Rimbunan Hijau, prostituted his reputation and was dishonest.

In May 2002 the National Court dismissed the defamation action and ordered Dr Iamo to pay the defendants legal costs.

**The Managing Director of the Forest Authority:** The MD is the chief executive officer of the Forest Authority, which he is required to manage in accordance with the policy and directives of the National Forest Board.

However, the Managing Director is a political appointment made by the Minister for Forests.

Thomas Nen, the MD at the time of the Wawoi Guavi extension, left the Authority in April 2002 in order to contest the National elections. He had previously been implicated in a number of scandals.

These included the Kamula Dosa scam, illegal logging in Brown River (where the National Court described his actions as 'unlawful' and 'irrational'), a massive illegal Timber Authority in Western Province (that allowed logging through seven unallocated concessions with a total area of 2.7 million hectares), illegal logging in Pondo and Tuwapu and a refusal to implement Board directives on many issues including presentation of financial reports to the Board and the completion of financial audits dating all the way back to 1994.

**The Forest Industries Association: This is a lobby group representing the interests of around 85% of the overseas logging companies operating in PNG.**

**The Association is funded through a voluntary levy paid by its members according to the volume of their log exports. This means that the FIA is effectively dominated by one company, Rimbunan Hijau, who provides around two thirds of the FIAs annual operating costs.**

**After the Kamula Dosa scam, legislative changes were made to the Forestry Act to remove the Forest Industries Association from its position on the National Forest Board.**

**However, the FIA has returned through the 'back door' as the nominee of the Chamber of Commerce. This is despite a specific prohibition in the legislation against the Chamber of Commerce nominating 'a principal or nominee of a foreign owned or controlled company dealing in, trading in or contracting in relation to timber'.**

**The National newspaper: The National is one of two daily national newspapers in PNG and is owned by Rimbunan Hijau.**

**The National carries a weekly column, 'Timbertalk', on behalf of the Forest Industries Association.**

**The National is widely known for it's seeming inability to report on any issues that show RH in an unfavorable light and it is infamous for its vitriolic diatribes against NGOs and what it claims is unjustified interference in the forestry sector by the World Bank.**

**In March 2002, The National refused to publish a paid advertisement placed by the NGO umbrella organisation the PNG Eco-Forestry Forum on the extent of forest loss in PNG. The Post Courier newspaper had no problems with publishing exactly the same advert. The National was guilty of denying the Forum its constitutional right to freedom of speech.**

### **3. The timber permit**

**The Wawoi Guavi logging concession is in the remote Western Province of PNG. The Timber Permit (1-7) for the project was issued in 1992 and was due to expire in April 2002. The 1992 permit was granted on the expiry of an earlier 10-year permit issued in 1982.**

**The timber permit permitted an annual harvest of 300,000 cubic meters of round logs. In the period 1982-2001 the value of the declared log exports from the project was US\$ 330 million. In the period 1992-2001, the volume of declared log exports was 2,400,000 cubic meters (*Forest Authority data*).**

**Despite the existence of the timber permit, there was never any 'project agreement' negotiated by the Forest Authority with the logging company that specified the resource owner benefits that were to be provided by the logging company.**

**As a result of this 'oversight', the Forest Authority has concluded that the local resource owners,**

**"have not realized any real tangible social and economic benefits on the development of their large forest area over the past 19 years. The landowners have totally missed out, it's a big loss" (*Business Paper B4, 30<sup>th</sup> January 2002*)**

### **4. Ecological impacts of the logging operation**

**In 1997 the European Union sponsored a study of the ecological impact of the Wawoi Guavi logging operation.**

**The study found that for every tree felled and extracted 45 other standing trees were destroyed (an average of 119 trees per hectare). All the watercourses inspected were found to be blocked and polluted. There were serious erosion problems and unnecessary destruction of sacred sites.**

**The report concluded that the logging company practices demonstrated the companies contempt towards the Papuan territory and its' inhabitants (*Avenir des Peuples des Forets Tropicales Working Paper. Florence Brunois. 1997*)**

## 5. Negotiations for an extension

After receiving the application for an extension from the logging company in 2001, the National Forest Service began a series of consultations with the resource owners and provincial administration. A series of community meetings and other consultations were held in Kamusie, Daru and Port Moresby.

In these consultations, the resource owners made clear that if they could not negotiate a substantial package of infrastructure development and financial benefits to be provided by the company, then they were not prepared to allow any extension to the timber permit.

The view of the Forest Authority staff was also to recommend that only a minimum extension of 6-months should be granted to the Timber Permit to allow for the negotiation and finalization of a new package of resource owner benefits (*Business Paper B4, 30<sup>th</sup> January 2002*)

## 6. The proper process for an extension

The proper process for the extension of a timber permit is given in Section 78 of the Forestry Act 1993 as amended.

Section 78 provides that the holder of a timber permit may apply to the National Forest Board for an extension of the term of the permit (Section 78(1)). Such an application is to be lodged in the prescribed manner.

The Board is then obliged to obtain a report from the Provincial Forest Management Committee on the social acceptability of the permit holder and their performance to date, and the amount of remaining forest resources (S.78(3)).

Where these reports from the PFMC are satisfactory the Board can recommend to the Minister that the extension be granted and the Minister can then grant such an extension (S.78(4)).

Section 46 of the Forestry Act expressly recognizes the rights of customary resource owners to make the final decision over the use of their forests. Forest resources can only be allocated with the informed consent of the resource owners.

## 7. The extension

On February 1<sup>st</sup> 2002 the Managing Director of the Forest Authority signed an official Notice (Form 124) recommending to the Minister that he grant a 10-year extension of Timber Permit 1-7 over the Wawoi Guavi logging concession.

The Notice stated that the National Forest Board had received a satisfactory report from the Provincial Forest Management Committee under Section 78(3) of the Forestry Act and was therefore recommending to the Minister that he grant the extension.

This Notice contained two vital but clearly false statements.

Firstly, the National Forest Board had not received any report, satisfactory or otherwise, from the Provincial Forest Management Committee.

Secondly, the Board had not made any decision to recommend to the Minister that he grant the extension. Indeed, the Managing Director had personally ensured that the Board had never even had the opportunity to discuss the issue of the extension.

The National Forest Board minutes for their meeting on the 30<sup>th</sup> of January clearly shows that the matter of the extension was listed for consideration, but that the Board did not actually discuss the matter as at that meeting the MD withdrew the Business Paper prepared by the Forest Authority.

This was two days before the Managing Director signed the recommendation to the Minister.

The Business Paper that the Board never had the opportunity to consider on the 30<sup>th</sup> of January, in fact recommended that the 10-year extension should not be granted.

The Paper details how the resource owners had effectively received very little benefit

under the terms of the original timber permit and that they were only prepared to allow an extension if new conditions were first negotiated that would give them far more benefits from the logging operation in the future.

In order to give the landowners a strong negotiating position, the recommendation made by the Forest Authority in the Paper was that only a six-month extension should be granted to the timber permit at that stage and that if the landowner demands could not be accommodated by the logging company then no further extension should be allowed.

The Paper bears the signatures of both the General Manager of the National Forest Service and the Managing Director.

Three days after the Managing Director signed the recommendation to the Minister, the Minister issued a 10-year extension notice.

Bizarrely, and as further evidence of their culpability, it would seem that neither the Managing Director or the Minister informed the National Forest Service or the Board that they had granted the 10 year extension.

Thus in April 2002, the General Manager of the Forest Service signed a submission to the Board in which he was still recommending that the Board approve only a 6-month extension to the timber permit (*Business Paper dated 3<sup>rd</sup> April 2002*).

The General Manager clearly had no idea that a 10-year extension had already been granted.

8.

#### Clear illegality

The extension of the Wawoi Guavi timber permit granted by the Minister is clearly illegal for a whole number of reasons:

- it was given against the wishes of the resource owners (S.46)
- there was no report from the Provincial Forest Management Committee (S.78(3))
- there was no information on the social acceptability of the permit holder (S.78(3)(a))
- there was no information on the performance of the permit holder (S.78(3)(b))
- there was no information on the extent of the remaining timber resources (S.78(3)(c))
- the Board had not given any consideration as to whether the extension should be granted
- the Board had not made any recommendation to grant the extension (S.78(4))
- it was granted on the basis of a fraudulent notice signed by the Managing Director

#### 9. Subsequent events

Local resource owners have complained in a petition to the Prime Minister, the Minister for Forests and the National Forest Board about the unlawful extension (*dated 26<sup>th</sup> March*). All the relevant authorities have ignored the petition.

The PNG Eco-Forestry Forum has raised the matter of the illegal extension in writing with the National Forest Board and through its nominated representative in Board meetings. The Board has refused to acknowledge the issue.

The forest activist network, PNG Forest Watch, has made two media releases that were covered in the Post Courier newspaper, on national radio and on regional news services. The releases were not reported in The National.

There has been no response from RH, the Minister, the National Forest Board, the Forest

**Industries Association, the Forest Authority or the Ombudsman Commission to this press attention.**

**However there has been a brief mention of the issue in The National. On 17<sup>th</sup> May The National reported a comment by the Chair of the National Forest Board, Dr Iamo, that the extension granted by the Minister "was in order as the proper procedures were followed".**

**Meanwhile, of course, the logging at Wawoi Guavi continues with RH now illegally working its way through the remaining forest area and effectively stealing the trees. The illegally felled logs are being sent to markets in China or are cut into rough sawn timber that is being exported to Australia.**

#### **10. The effect of the illegal extension**

**It is of course the local resource owners who are suffering under the illegal extension. They have received very very little from 19 years of logging in their forests and have suffered enormous environmental and social problems.**

**As a result of the illegal extension this situation is set to continue and to become worse over the next 10 years as Rimbunan Hijau helps itself to the remaining forest resources.**

**If RH continues to log at current levels then it will be able to illegally remove more than 1 million cubic meters of logs over the next 10 years. Logs that as rough sawn timber will be worth over US\$ 100 million.**

#### **11. Culpability**

**Although we have not been able to conduct a criminal investigation into the illegal extension, to interview the parties or to seize all the relevant documents, some basic facts are very clear.**

**The Managing Director intentionally stopped the National Forest Board from considering the issue of the extension on January 30<sup>th</sup>.**

**The Managing Director signed a direction to the Minister that contained a number of totally false statements.**

**As a result of those false statements the Minister signed what is clearly an illegal permit extension.**

**The Minister and the National Forest Board have done nothing to correct what is obviously an illegal extension. The extension has not be cancelled, withdrawn, declared invalid or otherwise challenged.**

**The Chair of the National Forest Board has endorsed the illegal extension.**

**Rimbunan Hijau has remained silent, but they have continued to log the forest under an illegal permit. This is theft.**

**The Forest Industries Association has remained silent. This is in marked contrast to their repeated public denouncements of another illegal logging operation in Western Province, that of RH rivals, Concord Pacific.**

**The silence of the FIA where there is clearly an illegal extension and now illegal logging is tantamount to an admission of complicity.**

**But what about the question, why?**

- Why would the MD sign a false document?**
- Why would the Minister grant an illegal extension?**
- Why would the Chair of the Board say the extension was valid?**
- Why would the Minister or the Board take no action to correct a clearly illegal extension?**
- Why would The National refuse to report on the issue?**

● **Why would the FIA remain silent?**

**There is surely only one plausible explanation...corruption.**

**But culpability does not stop here. The Chamber of Commerce and the Ombudsman Commission have also had a meaningful role to play in creating a situation where the illegal permit extension was possible.**

**In 1999 the Ombudsman Commission blocked another attempt by the National Forest Board to unlawfully favor Rimbunan Hijau by ignoring proper procedures and the advice of the Forest Authority in the allocation of the Kamula Dosa logging concession.**

**The Ombudsman Commission launched an investigation that concentrated on the role of individual Board Members in agreeing to the unlawful allocation and the actions of Rimbunan Hijau. Those Board members included Dr Wari Iamo, Thomas Nen and the Forest Industries Association.**

**Although the Ombudsman distributed a preliminary report in November 2000 and completed its final report in June 2001, those findings have never been published. If they had been published then it is entirely plausible that the recommendations of the Ombudsman could have prevented the illegal Wawoi Guavi extension that has involved many of the same individuals and organisations.**

**As a result of the Kamula Dosa scandal and in response to the preliminary findings of the Ombudsman, amendments were made to the Forestry Act to remove the Forest Industries Association from the National Forest Board. The Association was replaced by a nominee of the Chamber of Commerce who is not 'a principal or nominee of a foreign owned or controlled company dealing, trading or contracting in relation to timber'.**

**Despite the intentions of this legislative change, the Chamber of Commerce has decided to nominate the Forest Industries Association as their representative on the National Forest Board. This has undoubtedly contributed to a situation that has assisted the illegal Wawoi Guavi extension to go unchallenged.**

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