

Chapter 11

Forest Sector Policy Making and Implementation

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The total forested area of Papua New Guinea is estimated at around 36 million ha. (Louman and Nicholls 1995, 155). Of this, an estimated 13.5 million ha. is regarded as potentially commercial 'production forest' (Filer 1997b, 225). Exported forest products, particularly unprocessed logs, provided some 18.6 per cent of export earnings in 1994 but there has since been a steady decline in both the FOB value and the volume of forestry exports. While the reported 1993 timber harvest of 3.5 million cu.m. was said to be at the estimated sustainable yield nationally (Duncan 1994), logging in certain areas was well in excess of the sustainable yield, especially in West New Britain and New Ireland.

Traditionally, the forests of Papua New Guinea have been an important part of the production systems on which most people depend for their sustenance and livelihood. The high rate of logging, both controlled and uncontrolled, seriously threatens not only environmental stability in some areas but also species endemism. While there are millions of hectares of forest accessible for timber extraction, the diversity of tree species and the low density of commercially known species in accessible areas makes commercial exploitation problematic.

Three main factors underlie the difficulties of managing Papua New Guinea's forest resource. First, not enough is known about the ecological requirements of commercial timber species. Hence it is difficult to estimate a sustainable rate of logging, whether overall for a mixed forest or for individual species. Secondly, the volume of exploitable species per hectare is small and many species are virtually unknown in world markets. Thirdly, virtually all land (more than 97 per cent) is owned and inherited according to customary practice; thus the power of the state to control and manage land use is limited.

Policies at independence

The colonial administration recognized customary land tenure systems and customary ownership of trees and forests but was not particularly interested in finding ways in which customary owners could participate in forestry development, except as employed labour. Charles Lane-Poole, as forestry adviser to the Commonwealth government from 1922 to 1924, was an early visionary

who saw the value Papua New Guinea's forests could have for commercial timber and for conservation. A report prepared by Lane-Poole in 1925 recommended a policy to regulate access to forests; this was not implemented at the time, but a gold rush in the 1930s and resulting exploitation of the forest eventually produced a forest ordinance.

John McAdam, the first director of Forests, obtained approval in 1948 for a forest resources survey, a program of forest reservation, research and management, a working plan for forests, and approvals for staff training (Carson 1974, 6). Three years later, Percy Spender, the then Australian minister for Territories, issued the first comprehensive forest policy statement, which placed emphasis on the production of sawn timber for post-war reconstruction and on the clearance of land for agriculture.

His successor, Paul Hasluck, made a further policy statement in 1957, which became the basis for a five-year program, 1968–1973. Included in this were the acquisition and reservation of a permanent forest estate, of 4 million acres within ten years and 10 million acres within twenty years; establishment of a forestry training centre, a forest research institute, and botanical collections and identification; research on timber utilization and preservation; and a reforestation program (including the reforestation of the extensive highlands grasslands). Subsequently the administration saw a need for forestry development, to generate revenue with a view to the eventual independence of the colony (Downs 1980).

The colonial policy for the extraction of timber from customarily-owned ('native') forests was developed over time through the mechanism of a 'timber rights purchase' (TRP) agreement, which was a way of purchasing so-called 'timber rights' from customary owners of forests, but not alienating the land. Virtually all logging companies in the colonial period were Australian-owned or Australian-based. Some of these did a degree of processing locally, but most timber was exported as round logs.

The legal framework for forest exploitation had three main elements:

Timber Rights Purchase (TRP). Under this arrangement the state acquired timber rights where customary owners were willing to sell. The state then issued a permit or licence to remove the timber on agreed terms and conditions, including the payment of royalties, a portion of which was passed on to customary owners. The TRP arrangement was intended for large-scale exploitation and was managed by the Department of Forestry.

Timber Authority (TA). Timber authorities could be issued, on payment of a fee, to enable any person to purchase a very limited quantity of timber directly from a customary owner. Without a TA no one other than a Papua New Guinean could purchase forest produce from a customary owner. However, there was no

management control over TAs other than limitation on the quantity of timber purchased.

Forestry (Private Dealings) Ordinance, 1971 (which became an act in 1974). This enabled customary owners to dispose of their timber to whomever they wished, provided that (a) the interests of the owners were protected, (b) there was no conflict with national interest, (c) prospects for economic development were considered, and (d) the administrator gave his approval (Carson 1974, 11–12; also see below). At the time, many forestry officers were concerned about these private dealings, since their impact was diametrically opposed to proper management of the forest resource.

Forestry policy at independence was based on a 1973 National Forest Policy document, which clearly recognized of the customary ownership of forests and the need to link forestry development to national needs. Its main features are summarized below:

- To have the forest resources of Papua New Guinea managed as a national asset in the interests of the present and future generations of the people (who are the forest owners);
- to preserve, develop and maintain through reforestation such forest areas as will enable domestic needs to be met as far as possible and is warranted, and will also enable full advantage to be taken of export opportunities;
- to accept the need for protection and management of watersheds, control of soil erosion, conservation of animal and plant communities, and the use of forests for recreational and other indirect benefits;
- to encourage the development of permanent forest industries and to provide opportunities for the forest owners to become involved in these industries;
- to promote research into forest technology in order to improve the efficiency of forestry and forest industries, to reduce imports and increase export earnings, and to improve the social and economic benefits to the nation and the forest owners;
- to promote education in all branches of the forest industry and to encourage a better understanding by the people of the value of their forests in both their own and the national interest;
- to provide the laws, the organisation and funds to manage effectively the country's forests having regard to overall development policies and forestry's ability to compete successfully with other demands on the nation's resources (Carson 1974, 7–8).

Policy making since independence¹

After independence there was little immediate change in forestry policy. The forestry sector thus operated under two very different laws: the highly interventionist *Forestry Act* and the relatively *laissez-faire* *Forestry (Private*

Dealings) Act. Under the *Forestry Act*, only the state could acquire timber rights from customary owners, under a standard TRP agreement. Customary owners received a set royalty but had no say over the way the resource was logged. In contrast, the *Forestry (Private Dealings) Act* permitted customary owners to sell their timber privately; the usual procedure was for a 'landowner company' to acquire timber harvesting rights from customary owners and then sell these rights on to a foreign logging company. Provided there was ministerial approval, loggers could operate without a timber permit and with minimum state supervision (Taylor 1997, 249).

However, changes were taking place in the forestry sector. From the early 1980s, virtually all of the existing Australian interests in logging in Papua New Guinea were taken over by Southeast Asian interests who brought to Papua New Guinea and to the sector their own ways of doing business. Though small groups of Papua New Guinean entrepreneurs among customary resource owners were kept happy by their close association with these foreign logging interests, there gradually arose a chorus of complaints and accusations of gross mismanagement of the extractive timber industry. These were augmented by vocal environmental groups and other NGOs, which began to emerge in Papua New Guinea at this time, and by their international partner NGOs, who began campaigning internationally against degradation of Papua New Guinea's unique environmental and biodiversity legacy.

This resulted in setting up in 1986 of a Commission of Inquiry into Aspects of the Forestry Industry. The Commissioner, Justice T. Barnett, began work in 1987 and by July 1989 had produced some twenty volumes and a *Final Report*. The Barnett Inquiry documented a timber industry out of control, characterized by pervasive corruption, rampant transfer pricing, and reckless logging practices. A detailed list of recommendations included:

- the formulation of a national forest policy;
- the enactment of revised forestry legislation;
- the establishment of a single forestry service under national control;
- full involvement of provincial government in provincial and national forestry planning;
- the inclusion of detailed requirements for sustained-yield forestry and environmental protection in every permit over land intended for future forestry use;
- provincial governments to have powers to veto projects in their own province;
- outside recruitment of experts to lead planning initiatives, resource surveys, monitoring of operations, marketing control and effective on-the-job training for local officers;
- formal consultation arrangements between national, regional and provincial bodies to prepare and update national and provincial plans;

- the full involvement of landowners and provincial governments prior to allocation of permits in discussions of desired future land use and the conditions to be imposed on the developer by the timber permit...;
- the National Forest Development Programme (i.e. harvesting projections) to be revised drastically downwards;
- outside assistance to be sought to enable an accurate professional survey of all forest resources;
- no future allocation of any area unless resource survey information and social and environmental impact reports are available and a detailed project-specific management plan for sustainable yield forestry (if appropriate) is in place;
- a review of all existing permits to introduce appropriate management conditions, revise harvesting rates, and reform logging practices;
- a new approach to improve the effectiveness of the monitoring of operations;
- a system of three-yearly review and assessment, on a company-by-company basis, to involve all aspects of operations, environmental damage, performance of permit conditions and marketing practices;
- radical changes to reduce transfer pricing, based on the Commission's very detailed investigations into this problem;
- far greater insistence on up to date and efficient local processing and the introduction of reprocessing techniques;
- a major increase in benefits for landowners and more effort to ensure that permits and licences protect their interests;
- the enforcement of conditions of permits which are designed to promote the interests of the local community (Barnett 1992, 104–107, reproduced in Filer *et al.* 2000, 13).

In addition, the Barnett Inquiry put forward a list of names for prosecution for various criminal and leadership offences, and recommended a series of measures to clamp down on political corruption.

The incoming government began to implement the recommendations in 1988. A new National Forest Policy was approved in 1990; a new *Forestry Act* was passed in 1991 and gazetted in 1992; and the *Forestry (Private Dealings) Act* was removed from the statute books.

The new *Forestry Act* incorporated the Papua New Guinea Forest Authority (PNGFA) as the responsible body for timber industry regulation under a National Forest Board; this had previously been an Office, then a Department, of Forests. As in the old act, the state reserved to itself the monopoly on the right to enter into a Forest Management Agreement (FMA) with customary forest owners. Once a FMA was agreed upon, the National Forest Board selected a registered logger to implement it. The act also required the development of a National Forest Plan, to which all forest activities had to conform. This was done through the National Forestry Development Guidelines (see below), a development

program and a statement of annual allowable cut. Provincial forest development plans were also required, and provincial forest management committees were set up to make recommendations to the National Forest Board.

The FMA process, summarized in Figure 11.1, involved several steps (see Kwa 2000 for a detailed discussion). Of these, the three most contentious were the requirements for a 'development options study', the 'formation of land groups', and 'corporate formation'.

Development Options Study

In the early days of the formulation of the National Forestry Development Guidelines, the development options study was the first step. It involved taking a look at what resources a community or group of communities controlled, and recommending whether forestry or some other kind of resource development would be best suited to the area. If forestry were the best option, the next steps could be taken. However, the PNGFA felt this requirement would be too time-consuming and costly, and it was moved down in the process, to a point where the decision to proceed with a forestry project had already been taken. As a result, the development options studies undertaken to date have been very limited and virtually useless.

Formation of Land Groups

The new *Forestry Act* required participation by customary resource owners either through the formation of land groups, according to the procedures set out in the *Land Groups Incorporation Act*, 1974, or by the agreement of 75 per cent of the customary owners. Without knowing who all of the customary owners are, it has been impractical to follow the latter practice. Nor has the formation of incorporated land groups (ILGs) gone smoothly. Logging companies paid minimal funds for forestry officers to undertake the work required to identify and incorporate ILGs in as short a time as possible. Sometimes they hired people to pay customary owners to put their names down as ILGs, just to complete this requirement. In some (perhaps many) logging projects there has been a high degree of complicity between logging companies and principals of 'landowner companies', resulting in superficial adherence to the legal requirements.

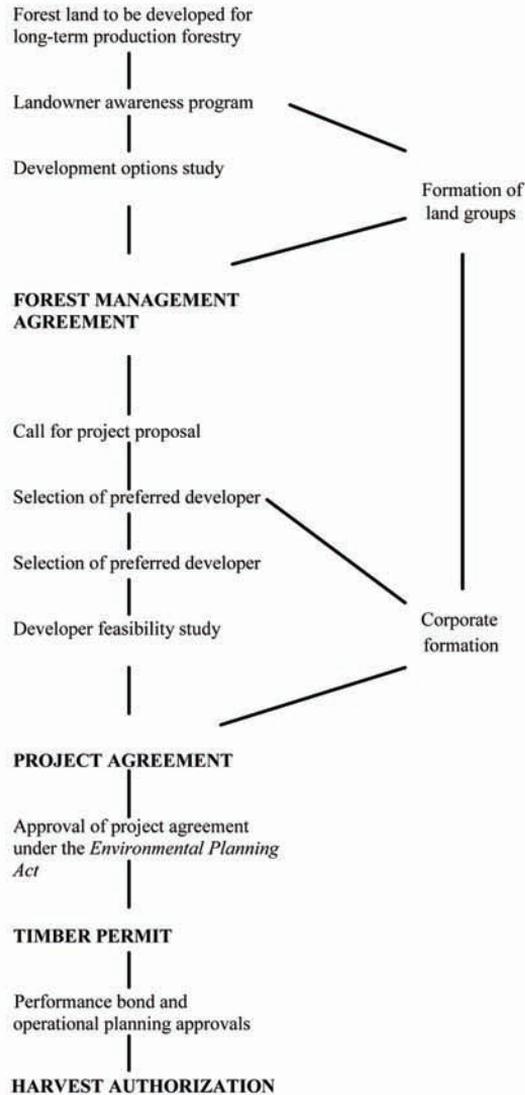
Corporate Formation

The formation of corporate structures has been another area of concern. Before the FMA process came into being, partly as a result of the previous 'private dealings', 'landowner companies' had been created which were often headed by a local entrepreneur (frequently a provincial or national MP) who was not representative of the interests of the majority of customary resource owners (see, for example, Wood 1997). Almost invariably, the leadership of these organizations supported 'their' logging company in any disputes between loggers and

individuals or communities from the areas in which they logged. Typically, they maintained a high lifestyle, usually in the provincial capital or in Port Moresby, supported by landowner company funds.

Figure 11.1 Resource Development and Allocation Process

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[Source: PNG 1991:5]

The new *Forestry Act* required landowner companies to register with the PNGFA and, in so doing, conform to the act's requirements with regard to the representativeness of their membership lists, sound and transparent management of company funds, and so on. But when the PNGFA began trying to implement this requirement of the act, landowner companies and their logging company allies raised such a political storm in the media that the minister at the time, Andrew Posai, suspended that part of the act. To our knowledge it has not been reactivated.

Policy implementation

Between 1989 and 1991 when government set up a Forestry Transitional Management Council, there is evidence of a growing involvement of the World Bank (see Filer 1997a). Major policy reviews and statements concerning the forestry sector reflect pressures by the World Bank to achieve certain political, policy and practical outcomes. These pressures contributed to increasing tension in the relationship between the government of Papua New Guinea and the World Bank in this period.

Such tensions were already evident in: the setting up of the Tropical Forest Action Plan (TFAP) for Papua New Guinea; its restructuring into a National Forest Action Plan (NFAP); the circulation of draft National Forest Policy documents; the framing of the new *Forestry Bill*; statements from the minister of Forests about criteria for exempting projects from the moratorium he himself had announced and implemented; the setting up of a Technical Support Project to support the NFAP; World Bank supervisory missions; and the setting up of a World Bank-funded Forest Management and Planning Project. A third draft of the *Forestry Bill* (including last-minute amendments that had the effect of watering down some important provisions) was finally enacted by National Parliament in 1991. The World Bank reiterated its concern about the continued non-gazettal of the new *Forestry Act*; this was finally done in June 1992.

The formation of the Forestry Transitional Management Council in February 1992 brought in a number of outside experts to work on the establishment of the new Papua New Guinea Forest Authority. After another change of government, and another change in the minister of Forests, the PNGFA came into being, and the National Forest Board held its first meeting in December 1992. The NFAP was transformed into the National Conservation Action Programme (NFCAP).

Early in 1993 the National Forestry Development Guidelines (NFDG) were circulated. Soon after, the first of many amendments to the new *Forestry Act* was approved, reducing the size of the National Forestry Board and separating the position of managing director from that of general manager of the National Forest Service. Later in the year national members of parliament, prompted by

landowner companies associated with logging companies, tried to amend the act again, but were opposed by the minister and eventually defeated. Cabinet finally approved the NFDG in December 1993. In May 1994 the government signed a log-export monitoring contract with an international firm, Société-Général Surveillance (SGS), and the following month a major fire destroyed a building containing offices and the basic filing system and project files of the PNGFA.

By September 1994 there was another new government in Papua New Guinea, and a new minister who promised to revise the NFDG to reflect the concerns of resource owners. From this point, the Papua New Guinea government came into increasing conflict with the World Bank over its Economic Recovery Plan (ERP) and associated requirements of a structural adjustment program (SAP). Issues to do with 'land reform', remaining from another World Bank project (the Land Mobilization Project), were integrated into the SAP but hurriedly dropped after public outcry and demonstrations. Further amendments to the *Forestry Act* were proposed, the managing director was sacked, pressures were increased to produce a National Forest Plan, there were visits by World Bank supervisory missions, a new forest revenue system was implemented, and there were threats of non-release of World Bank funding unless certain actions were carried out by the government and the PNGFA.

Following a further change of government in 1997, a World Bank team visited Papua New Guinea to discuss loan conditions (171 in all) for a second SAP, while another Bank mission came to design a Forestry and Conservation Project. By mid 1998, however, a further upheaval in the relationship between the Papua New Guinea government and the World Bank, associated with the appointment of the former World Bank country manager as chief economic adviser to the Papua New Guinea government, marked the beginning of a period of concerted attempts by the government to bypass the World Bank and find loan funding elsewhere. However, by early 1999 negotiations between a World Bank/IMF delegation and Papua New Guinea government officials re-opened.

When the Morauta government came to power in July 1999 it quickly put into place several key planks of a structural reform program designed to address a general 'crisis of governance' and restore the lost confidence of the donor community, particularly the World Bank. Forest policy reform was initially not part of this program, but the World Bank persuaded the government that even tougher measures than those imposed in 1997 and 1998 would be required as loan conditions, and a major condition was a moratorium on the issue of new timber permits and extension of existing permits. At the same time, World Bank staff continued to modify the design of the proposed Forest and Conservation Project so that it would complement the forestry and conservation projects notionally to be funded by other international donors.

By the end of 1999 the World Bank had reached broad agreement with other members of the donor community (including international NGOs) about the direction of forest policy in Papua New Guinea for at least the next five to six years. Questions remained about the new government's capacity to develop real ownership of a reform process which now seemed even more driven by external forces.

The new reform agenda

The main focus of the new Structural Reform Programme (SRP) was 'good governance'. The World Bank had laid down a SRP policy matrix which had 9 objectives, 39 first tranche conditions and 33 second tranche conditions. Civil society organizations gradually became more and more vocal in their objections to many of these conditions.

One of the fiscal measures adopted in the mini-budget of 1999 was the restoration of the log export tax. This came under fire from the Forest Industry Association (FIA), which predicted substantial falls in log production with consequent reductions in monthly foreign exchange earnings. A further review of the forest revenue system was called for by the FIA; this had already been signalled by World Bank. The 2000 budget addressed a number of conditions attached to the seventh of the SRP's objectives, namely 'to improve the management of the forestry sector to ensure sustainability and optimal returns to the country'.

Three other conditions called for NEC Decision 59/97 (on agricultural conversion and road-building projects in forested areas) to be rescinded. The first required a 5 per cent increase in the PNGFA's budget and called on the government to disburse the allocation to forestry 'in a timely fashion'. A further condition in the policy matrix was a moratorium on all new forestry licences and extensions until existing licenses and extensions had been reviewed for compliance with the *Forestry Act* and associated regulations. The independence and integrity of the National Forest Board had been called into question by the way the Kamula-Dosa extension in Western Province had been allocated.² The World Bank made it clear that a number of PNGFA decisions threatened the proposed new Bank-funded project. These included:

- a major extension to the largest timber concession in Papua New Guinea through a process that bypassed normal procedures;
- directions to provincial forest management committees to 'fast-track' a number of new logging operations;
- amendments to the *Forestry Act* to legitimate the fast-tracking of approvals for logging operations;
- the elimination of the SGS log export monitoring program for purposes of export tax avoidance;

- reduction of the PNGFA’s budget allocation and staffing, undermining the Authority’s capacity to support major forest projects;
- changes to the log export tax structure, resulting in logging firms paying virtually no tax; and
- the withdrawal of a forest concession to The Nature Conservancy (in Josephstaal, Madang Province) and its allocation to a commercial operator (Choi 1999).

In the 2000 budget papers, the Papua New Guinea government accepted the World Bank’s dim view of the PNGFA’s recent performance:

Governance has been particularly poor in the area of forestry, with the side effect of promoting corrupt practices and undermining environmental sustainability in logging activities. The Government is committed to introducing a moratorium on all new forestry licenses, to ensure that proper procedures are followed, that logging practices are not carried out in an unsustainable way, and that landowners get their fair share of benefits from resource use (Papua New Guinea 1999, 18).

A World Bank forestry adviser (Choi 1999) saw a proposed Forest and Conservation Programme (FACP) as an integral part of the SRP. While there was a forestry component in this project (which also set up a \$US17 million Conservation Trust Fund, financed in part by the Global Environment Facility), the focus appeared to be on a Landowner Development Options Unit (LDOU). A number of reviews of forestry and operating timber projects was carried out through the FACP, however the program was terminated by agreement between the government of Papua New Guinea and the World Bank, freeing the government to push for further large-scale commercial logging projects (some ten new projects were said to be in the pipeline).

PNGFA headquarters has produced a number of new draft policy documents — on reforestation, downstream processing and ecoforestry — but these have yet to be approved and implemented; since the suspension and dismissal of the PNGFA managing director in 2004, the PNGFA has effectively been in caretaker mode with many staff unsure of their futures and unsure of the organization’s direction. The National Forest Policy and the National Forest Plan have not been reviewed or revised since their creation fourteen years ago.

There have been further attempts to tinker with the *Forestry Act*, the most recent amendment approved by National Parliament having the effects of short-circuiting the consultation processes with both the provincial forest management committees and customary resource owners, and of reducing civil society’s voice on the PNGFA board.

Overview and conclusion

It was recognized after the Barnett Inquiry that lack of regulation and monitoring allowed all kinds of dubious activities to flourish. Simply blaming the loggers for the problems in the industry does not explain what was going on at that time nor help find ways of solving the problems. There were systemic failures within government, and manipulation of the vast majority of ordinary Papua New Guineans by a small number of their fellow citizens, many of them in positions of elected authority; there were systemic failures, also, in customary practices, which proved unable to control self-seeking individuals seduced by promises of short-term gains.

It was hoped in the early 1990s that reform of forest policy and the establishment of new instruments and processes would move the industry in the direction the mining industry had taken (R. Taylor, personal communication). The mining industry seemed to have responded sufficiently well to legislative and organizational reform that it no longer attracted carpetbaggers and fly-by-night (or *traim tasol*) entrepreneurs.

In the event, these hopes have only partially been met. The forest sector, though now certainly better regulated, remains a happy hunting ground for operators, both Papua New Guinean and foreign, from high officials to grassroots people, who still seek quick personal gain with no regard for the long-term economic, social and environmental costs for their communities, their province or their country.

There are several issues that need to be addressed in policy making:

- Rights over forest resources tend to be group rights; the forestry sector needs to be reminded that the state's monopoly over access to those rights remains tenuous, despite the fact that colonial and post-independence governments have given themselves the legal right to control such access (Holzknecht 1997). The state, in conjunction with customary resource owners, must develop better ways to involve customary owners in managing and benefiting from these resources.
- In 2002 the PNGFA was circulating a number of draft policy documents. These included: a policy on plantations (or 'reforestation' or 'resource replacement' — the terminology changes from time to time); a policy on downstream processing; review of the National Forest Development Guidelines (originally approved by NEC in 1993, but without substantive effect in the intervening period); and a policy on small-scale saw-milling, to be developed in conjunction with a European Union-funded eco-forestry project.

Other policy documents were in preparation, including papers on extension services, and non-timber forest products. Some of these draft policies seem draconian and implicitly assume that the state has complete control over forestry.

An area of critical importance in the medium and long-term is the long-ignored issue of post-harvest forests. Natural regeneration almost always produces a non-commercial ('rubbish') forest that cannot be logged when/if a harvesting cycle eventually returns to the area. The PNGFA should be advising customary forest owner groups on the best ways they can support productive regeneration of the more valuable but slower-growing timber species.

Registration of landowner companies, along the lines envisaged by the new *Forestry Act*, is long overdue; large amounts of money have been misused.

There is an urgent need to develop a cadre of land group facilitators, and to train and supervise them in working with customary resource owner communities. They should not be beholden to either line departments or logging companies, and should be able to do their work without fear or favour. The World Bank's Forest and Conservation Project may assist in this development.

The PNGFA needs to think carefully about how it can do its job better, especially in the field where communities are becoming better informed and motivated to undertake their own activities (for example, see Arentz and Holzknecht 1991 on the use of mobile sawmills). To date the PNGFA has had little interest in local-level activity, though there seems to be some notice being paid at the provincial level. It has been the non-government organizations which have made the running in developing mobile sawmill operations. This is in contrast to the situation in Vanuatu, where the national Department of Forests is actively involved with mobile sawmills and village-level forestry.

The forest sector needs to better cooperate and coordinate its programs and activities with other line departments and agencies. A whole-of-government approach to planning and implementation, linked to local communities' own efforts, seems to be needed. The decentralization process in the forestry sector specifically needs to be reviewed.

Despite the difficulties identified above, it is important to acknowledge that by and large PNGFA staff have carried on in the face of increasing workloads and decreasing numbers, while battles have raged around them, battles involving the Papua New Guinea government, politicians and some senior public servants, sector organizations such as the FIA, international and national NGOs, and international bodies such as the World Bank. It should also be acknowledged that the ongoing involvement of the World Bank, in particular, and AusAID has been critical in moving reform agendas forward in the forestry and conservation sectors.

Looking to the future, Papua New Guinea's timber resources simply cannot sustain the present approach to forestry. Strategies in relation to forests and forestry need to be critically reassessed, as a matter of urgency, to develop appropriate ways in which the PNGFA can facilitate medium- and smaller- scale

projects in which the customary resource owners play much more prominent roles. More emphasis needs to be placed on achievable regeneration of forests, whether as plantation or as forest, and less emphasis on extracting resources without considering sustainability in the sector. Such a critical reassessment of strategies and approach, however, appears not to be a high priority at present.

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Endnotes

¹ This section draws on the work of Filer and others, especially Filer (1997b) and Filer, Dubash and Kalit (2000).

² The Ombudsman Commission subsequently investigated the board's decision to extend the Kamula-Dosa timber permit into the area already allocated to Wawoi-Guavi, against the recommendation of the Forest Service management.