

**PAPUA NEW GUINEA
REVIEW OF CURRENT LOGGING PROJECTS**

**CARRIED OUT UNDER THE AUSPICES OF THE DEPARTMENT OF NATIONAL
PLANNING AND MONITORING**

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FINALISED INDIVIDUAL PROJECT REVIEW REPORT No 5.

**TIMBER PERMIT (TP) : TP 14-50 KAPULUK & KAPULUK
EXTENSION**

TP HOLDER : MEDA ASSETS (PNG) LTD

LOGGER AND MARKETER (L&M) : BISMARK INDUSTRIES (PNG) LTD

L&M PARENT COMPANY (If Different) :

DATE OF FIELD REVIEW : SEPTEMBER 2003

DATE OF FINAL REPORT : APRIL 2004

This Final Individual Project Review Report (IPRR) has been prepared by the Review Team after undertaking a review of documents, a field assessment, and receiving feedback to a draft IPRR distributed to stakeholders for corrections and comment. Responses were received from the following:

STAKEHOLDER	COPY DRAFT IPRR PROVIDED	RESPONSES RECEIVED
Logging Company	Yes	Yes
Timber Permit Holder	Yes	Yes (*)
Landowner Company	Yes	No
PNG Forest Authority	Yes	Yes
Dept Environment & Conservation	Yes	Yes
Provincial Administration	Yes	No

(*) No formal response received. Some verbal comments were provided by a Port Moresby based representative.

Disclaimer: It should be noted that this documents sets out the findings and views of the Review Team, and does not represent an official Government position.

FOREWORD

The Terms of Reference for this Review of Existing Logging Projects provide a broad mandate to examine the operation of logging companies within their legal and contractual obligations, and the framework within which forestry activities are planned, monitored and controlled by the relevant Government Departments/Authorities. The Review is focused on future improvements in the actions of stakeholders, and not on the pursuit of instances of poor or non-performance. Of key concern are the future achievement of sustainable timber production within a stable regulatory framework; effective environmental guidelines for logging and associated roading; adequate attention to and mechanisms for forest conservation; and sound long term benefits for the forest resource owners.

Given this broad mandate, and the extensive requirements set out in the legal and contractual documents governing each logging project, the Review Team has by necessity focussed on identifying and exploring meaningful issues. This Final IPRR focuses on project specific areas of concern, and will be used as input for the Review Team's draft Observations and Recommendations Report.

ACKNOWLEDGEMENTS

The Review Team acknowledges the support and cooperation given by the PNG Forest Authority (PNGFA) Port Moresby and Dami, and PNGFA field officers, the Department of Environment and Conservation (DEC), Meda Assets Ltd, Bismark Industries Ltd, the West New Britain Provincial Government and Administration and the landowners of the Kapuluk and Kapuluk Extension Timber Permit area.

CONTENTS

1. Legal Basis, Parties and Contractual Relationships
2. Sustainability of Log Production
3. Field Work
4. Review Team Observations
5. Landowner Voiced Concerns
6. Provincial Administration District Office
7. Observations Regarding Silviculture
8. Broad Recommendations for TP 14-50
9. Broader Forestry Sector issues for PNG Forest Authority
and Department of Environment and Conservation Consideration

Appendix 1: Selection of Pertinent Photographs

1. LEGAL BASIS, PARTIES AND CONTRACTUAL RELATIONSHIPS

The key legislation governing logging projects is the Forestry Act 1991 (as amended), the Environmental Planning Act 1978, and the Environmental Contaminants Act 1978 (as amended), and the Water Resources Act chapter 205. The relevant documents enabling and prescribing TP 14-50 Kapuluk are set out in Tables 1 and 2.

The logging project is governed by the Timber Permit. The permit was originally granted to Nam Yang Timbers (PNG) Ltd in June 1989 pursuant to a Project Agreement between the company and the State entered into in December 1988. Some of the terms and conditions were amended through a “Deed of Variation and Restatement” dated July 1996.

In 1998 the Timber Permit was transferred to Meda Assets (PNG) Ltd. Meda Assets (PNG) Ltd has engaged Bismark Industries (PNG) Ltd to undertake the logging and marketing under a Harvesting and Sale Agreement dated April 2001. Terms and conditions were further varied through a “Deed of Variation to the Project Agreement” in April 2003.

Pursuant to clause 10 of the Harvesting and Sale Agreement compliance with or performance of any of the terms, conditions and provisions of the Timber Permit remains with the permit holder, Meda Assets (PNG) Ltd. Under the original arrangements as set out in the Timber Permit and Project Agreement prior to variation Meda Assets (PNG) Ltd is required/permitted to:

- Harvest not more than 175,000m³ and not less than 60,000m³ of logs during permit years 1 to 2; 175,000m³ and 87,000m³ during permit years 3 and thereafter (cl. 4.1);
- Export up to 175,000m³ of logs during permit year 1; 170,000m³ in permit year 2; 160,000m³ in permit year 3; 150,000m³ in permit year 4; and 135,000m³ during permit years 5 and thereafter. The aggregate export volume under the permit and the Project Agreement shall not exceed 200,000m³ in any project year (cl. 4.2);
- To establish at Silovuti a sawmill with log input design capacity of not less than 40,000m³ per year and to commence commercial production of sawn timber and timber products not later than the third quarter of permit year 2. The following minimum log input volume is required for each permit year (cl. 4.3):

Project Year 2	5,000m ³
Project Year 3	15,000m ³
Project Year 4	25,000m ³
Project Year 5 to Project Year 20	40,000m ³

- To submit to the State a Wood Chip Mill proposal in accordance with the Project Agreement (cl. 4.4.1);

- To pay to PNGFA K2.00/m³ of logs in reforestation levy, such levy to be the property of the State (now PNGFA) of which K1.00m³ shall be expended solely for replacing the forest resources. The other K1.00 per cubic metre to be paid to the West New Britain Provincial Government to carry out follow-up land use projects in the Timber area (cl. 4. 2);
- To construct, upgrade and maintain all roads, bridges and crossings at its own costs, in particular the following roads and bridges (cl. 4.6):
 - East -West Road in accordance with the Project Agreement extending from the western to the eastern boundaries and forming part of the Government's proposed trunk road from Kimbe to Gloucester (cl. 4.6.3)
 - In accordance with the Project Agreement to construct or cause to be constructed bridges over rivers along the East-West road or such agreed sites with the West New Britain Administration (cl. 4.6.3)
 - Construct or cause to be constructed or upgraded in consultation with the Provincial Administration such infrastructure facilities within and around town areas developed by the company to accommodate its employees, public social and recreational amenities, works and services for water supply, drainage, sewerage, garbage, and other facilities in accordance with the approved proposal under clause 5 of the Project Agreement (cl. 4.7)
 - Modify the wooden wharf at Silovuti in accordance with clause 4.3 of the Project Agreement (cl. 4.7B)
- To conduct its logging operations in accordance with approved Forest Working Plans pursuant to clauses 5 and 11 of the Project Agreement (cl. 5);
- To pay compensation for cutting and/or removing forest produce not authorised under the Timber Permit, such compensation as valued by the Valuer General to be paid to the State on behalf of the customary owners of the permit area (cl. 11);
- To pay royalties as prescribed (cl. 14);
- To lodge with the Secretary (now Managing Director) a bank guarantee (performance bond) in favour of the State (now PNGFA) for K100, 000 or such other sum or security as specified by the Managing Director in writing (cl. 15). Under clause 28 of Project Agreement the Permit Holder is required to lodge a performance bond guarantee of K200, 000 for its obligations to replace/modify the wooden wharf at Silovuti in accordance with cl. 4.3 of Project agreement;
- To carry out and complete the project diligently and efficiently with sound forestry, environmental, engineering and business practices (4.9 of Project Agreement);
- To insure and keep insured its properties (cl 4.9 (c) Project Agreement);

- To take out public liability insurance and to insure all persons employed by it in accordance with the Workers Compensation Act (cl. 4.9(e) Project Agreement);
- To measure and grade all logs in accordance with the SEALPA log grading Rules (cl. 4.9(g)) (now superseded by the PNGFA grading rules); and
- To employ only PNG citizens in its operations and all ancillary activities except in specific positions disclosed in the approved Training and Localisation Proposal (cl 7.1 Project Agreement).

The 1996 Deed of Variation dealt mainly with the annual allowable cut and the delivery of infrastructure. The annual allowable cut was reduced slightly to 160,000 m³/annum (of which 120,000 m³ is allowed to be exported). In addition a log export premium was introduced at 3% of FOB, the reforestation levy was reduced to K1.00/m³, and a Township maintenance levy of K0.50/m³ was introduced. All of these variations were restated in the 2003 Deed of Variation.

A key component of the 1996 variation was the agreement that the agreed revenue payment rates would be superseded by the introduction of any new national forest revenue system. This obligation is reiterated in the 2003 Deed of Variation. A new revenue system, being the Project Development Levy (later renamed the Project Development Benefit or PDB), was gazetted in July 1996.

The 2003 Deed of Variation mainly updates the infrastructure delivery schedule. It also requires the company to make all reasonable efforts to conform with requirements of the "Key Standards for Selection Logging in Papua New Guinea".

TABLE 1 : KEY DOCUMENTS

DOCUMENT	PARTIES	DATE OF ISSUANCE/ SIGNING/ APPROVAL	DATE OF EXPIRY	DOCUMENT LOCATION
TRP Agreement	Landowners and the Administration/State	20 November 1971 (Kapuluk) 21 May 1975 (Kapuluk Ext)	19 November 2011 (Kapuluk) 20 Nov. 2015 (Kapuluk Ext)	Held at PNGFA
Project Agreement	State, Nam Yang Timbers (PNG) Ltd	30 December 1988	End of Timber Permit period	Held at PNGFA
Timber Permit	Granted to Nam Yang Timbers (PNG) Ltd. Transferred to Meda Assets (PNG) Ltd in 1998.	30 June 1989	For 20 years commencing 30 June 1989.	Held by PNGFA.
Deed of Variation and Restatement	State and Nam Yang Timbers (PNG) Pty Ltd	29 July 1996.	End of Timber Permit period	Held at PNGFA
Deed of Variation to Project Agreement	Endorsed by Governor General on behalf of the State of PNG and Meda Assets (PNG) Ltd and witnessed by landowner representatives.	08 April 2003	End of Timber Permit period	Held at PNGFA Project Office - Silovuti
Harvesting & Sale Agreement	Meda Assets (PNG) Ltd and Bismark Industries Ltd	2 April 2001	Until all available logs in the permit area have been extracted or until the expiry of the permit.	Held at PNGFA Project Office - Silovuti

Environmental Plan (EP)	A requirement under the Environmental Planning Act 1978	3 April 1981 for Kapuluk TRP. 23 May 1997 ¹ for Kapuluk & Kapuluk Extn.	End of Timber Permit period	PNGFA Project Office - Silovuti
EP Approval Conditions	Set by Minister for E&C	23 May 1997	End of Timber Permit period	DEC's file
Environmental Management & Monitoring Programme (EMMP)	Set by Secretary DEC	16 April 1997	End of Timber Permit period	DEC's file
Waste Management Plan (WMP)	Set by Secretary DEC	16 April 1997	End of Timber Permit period	DEC's file
PNGFA's Planning, Monitoring and Control Procedures	Issued by Managing Director.	November 1995	No expiry date	Standard document available from PNGFA
PNG Logging Code of Practice (Including 24 Key Standards)	Endorsed by NEC. Observance required by Regulation	April 1996	No expiry date	Standard document available from PNGFA

¹ This approval supersedes previous approval/ decision by former Environment & Conservation Minister.

TABLE 2 : ADDITIONAL (OR SUPPLEMENTARY) AGREEMENTS

DOCUMENT	PARTIES	DATE OF ISSUANCE/ SIGNING	DATE OF EXPIRY	DOCUMENT LOCATION
Balave Export Agreement for use of log pond as storage and export point.	Meda Assets/Bismark Industries Ltd and Bakovi Clan of Kandoka	26 th May 2003	31 st Dec. 2004	Meda Assets/ Bismark Industries office at Silovuti
Cape Ruge Export Agreement for the use of log pond as storage and export point	Meda Assets/Bismark Industries Ltd and clan groups from Sapulo, Talagone and Kou.	25 th May 2003	31 st Dec. 2004	Meda Assets/Bismark Industries office at Silovuti
Stevedore Contract Agreement	Meda Assets/Bismark Industries and landowners at Silovuti, Kandoka (Balave) & Cape Ruge (Sapulo, Talagone and Kou)	Annually		Meda Assets & Bismark Industries office at Silovuti
Agreement for the Handover & Takeover of the Management of Silovuti Sawmill	Meda Assets/Bismarck Industries and the landowner company Kove Holdings Ltd.	8 th April 2003	If the Kove Holdings breaches the conditions of the agreement or is liquidated or under receivership	Meda Assets/Bismark Industries Ltd office

2. SUSTAINABILITY OF LOG PRODUCTION

The Kapuluk project was set up under the old Forestry Act when the sustainability of log production and the forest industry was not yet a policy objective. The rights to harvest logs were acquired by the State in 1971 (Kapuluk) and 1975 (Kapuluk Extension) under Timber Rights Purchase (TRP) agreements.

PNGFA records of logs harvested by Nam Yang Timbers (PNG) Ltd provided to the Review Team by the Provincial Forest Office in Kimbe show that logging in the project area commenced in September 1981 under Timber Permit 14-30 before a Project Agreement was negotiated in 1988.

Timber Permit 14-50 was issued to Nam Yang Timbers (PNG) Ltd in June 1989 and this allowed the forest resource to be harvested over a period of 20 years (June 1989 to June 2009). The current permitted annual allowable cut is 150,000 m³ per annum of which 120,000 m³ may be exported.

The Project Agreement of December 1988 introduced obligations on the permit holder in relating to the establishment of a woodchip mill and a sawmill, and to reforestation activities to supply these processing facilities in the longer term. Bismark Industries Ltd reports that the woodchip mill was constructed by Nam Yang Timbers (PNG) Ltd at a cost in excess of US\$ 10 million. At that time fire damaged one of the three generator plants, but did not destroy the mill. The processing of wood chips at that time was not considered to be commercially viable, and the mill and buildings were left to be gradually destroyed by land owners and company employees. During the period that Nam Yang Timbers (PNG) Ltd held the Timber Permit to September 1998, they did not carry out any reforestation.

In March 1994 the PNGFA Board passed a general resolution allowing a minimum of 60% of reforestation levies collected from a project area to be used in that project area for reforestation purposes, including the use of the technique of "Reforestation Naturally". From 1995 to date 2,832 hectares have been treated with this technique at total cost of K4,626 for administration and K100,016 for landowner labour input (or K37 per hectare). Although there is current activity with the use of the reforestation levy to treat large areas of regenerating forest, some areas have become inaccessible within 15 months of logging due to the collapse of log bridges.

In 1997 the Timber Permit was transferred to Meda Assets (PNG) Ltd who initially engaged Sunshine Investments Ltd as logging contractors. The current logging contractor is Bismark Industries Ltd operating under a Timber Harvesting and Sales Agreement. For all practical purposes Meda Assets (PNG) Ltd and Bismark Industries Ltd appear to co-manage the operation.

Oil palm developments have begun to encroach on the project area partly due to the failure of any sustainable forestry initiatives. Landowners are resigned to the fact that it is in their interest to allow some expansion of oil palm into the project area. One particular reason for the acceptance of oil palm is that the standard of road construction in oil palm growing areas is much higher than in logging areas and those roads that are constructed are better maintained.

The people of the Kapuluk Timber area are mindful of the fact that large areas of their land is unsuitable for oil palm and have indicated a willingness to establish forestry plantations, forest conservation areas, and areas of “Reforestation Naturally”, under an integrated land-use capability/social acceptability plan.

The PNGFA notes that as Kapuluk was not set up as a long term sustainable forestry project, it is the right of landowners to change land use after logging. The Review Team would point out however, that application of the Key Standards aim to ensure long term log production, and if alternative land use such as oil palm is contemplated, then the land should have been clear-felled. This would have saved considerable expenditure on the monitoring of logging operations by the PNGFA and DEC, and also significantly reduced the cost of preparing the land for oil palm planting.

3. FIELD WORK

The field inspection for TP 14-50 was undertaken during the period 19th to 24th September 2003. As well as meetings with the logging company managers and staff, and with landowners, the field inspection involved the following:

- An inspection of a set-up prepared for logging but not yet approved (Set-up No: S2003/G5);
- An inspection of a set-up cleared after logging (Set-up No: S2003/P-6) Balave Gulu;
- An inspection of base/transit camps at Balave, Silovuti, Cape Ruge and transit camp 1/A;
- An inspection of roads and bridges currently being used, and no longer being used;
- An inspection of log ponds and barge loading facilities at Cape Ruge, Silovuti and Balave;
- An inspection of the main logging camp/township at Silovuti;
- An inspection of forest regeneration treatments at three locations, on land belonging to the Sisili, Mongamonga and Kalmaruhi clans;
- Meetings with Villagers, and interested groups (see Chapter 5); and
- Discussions with the acting Provincial Administrator and Deputy Administrator, West New Britain Province, in Kimbe.

4. REVIEW TEAM OBSERVATIONS

4.1 LEGAL DOCUMENTS AND DUE PROCESS

The Review Team examined the legal documents underpinning the logging project as listed in Tables 1 and 2. Particular attention was paid to the observance of due process with regard to the application for, processing of and issuance of the various legal instruments.

With regard to TP 14-50 Kapuluk, the Review Team's observations were that:

- The records checked by the Team do not show any letter, instrument or document of approval of the Harvesting and Sale Agreement between Meda Assets Ltd and Bismark Industries Ltd by the Managing Director of PNGFA pursuant to clause 23 of the Timber Permit.

The PNGFA's view is that the logging company is licensed under the Forestry Act 1991, and that as a consequence approval by the Managing Director is not required.

4.2 LOGGING COMPANY

The logging company Bismark Industries (PNG) Ltd, under the terms and conditions of the Harvesting and Sale agreement, is generally responsible to Meda Assets (PNG) Ltd for observing the requirements of the Timber Permit. In practice it appears that the two companies work together as one causing some confusion for landowners.

The observations of the Review Team are that:

(a) Planning and Control of Logging

- The company has employed a forest surveyor, and a fair effort is being made to meet the requirements of the Planning Monitoring and Control Procedures with regard to laying out individual set-ups in the field prior to seeking approval to log.
- Once set-ups are approved for logging, the actual felling and extraction of the timber is generally done with little care. Key observed non-compliance issues are:
 - Logging within buffer zones of Class 1 & 2 streams;
 - Marked skid tracks were not being followed by skidder operators resulting in excessive damage to residuals (even those that are clearly marked) and opening up large gaps in the canopy;
 - Excessive soil pushed into watercourses by bulldozers as a result of road and/or skid track construction;
 - Debris not removed from streams or watercourses resulting in ponding;
 - Bridges and other water crossings were not being constructed properly. Log cluster culverts (prohibited under the Key Standards) were observed;
 - Lack of decommissioning within set-ups (log landings/skid tracks/roads including temporary water crossings);

- Lack of machine with rippers to rip used log landings;
- Occasional logging on slopes greater than 30° (prohibited under the Key Standards); and
- Pools of stagnant water in numerous pits created from gravel excavation along roadside (e.g. Aiyang Road).

(b) The Log Ponds

- The project currently has three established log ponds. They are Silovuti, Cape Ruge and Kandoka. Key observed non-compliance issues were:
 - Lack of containment bund for fuel tanks; and
 - Lack of proper septic toilets.

(c) The Logging Camps

The main logging camp is located at Silivuti, which has been gazetted by Government as part of a satellite township development plan for the area. This means that the provincial government has responsibility for maintaining the township as a public asset. The township is in a generally poor state of repair and there is little evidence of any government contribution to its maintenance or development.

The township is generally maintained by the permit holder/logging company using a Township Maintenance Levy of K0.50 per m³ of log harvest. The majority of town residents are permit holder/logging company employees, 90% of whom are from the Kapuluk TRP Area. Public servants, including police, a business development officer, a fisheries officer, an agriculture officer and a medical officer, also reside here. There is also a sawmill, a mechanical maintenance workshop and the log pond.

Concerns expressed by logging company and public servants residing permanently in Silovuti are:

- Employees on cubic metre rates claimed that there are discrepancies between measurements made in the bush and what they eventually get paid.
- They further claimed that their pay is excessively taxed and that the basis of the tax deduction has not been explained to them.
- Employees were concerned that their wages are paid under the rural wages rate and that this does not reflect the status of the category of Silovuti as a township. Bismark Industries Ltd notes that it is not aware that Silovuti has been gazetted as a Town or Urban Area.
- A major concern raised by employees is the application of the Standby rates paid to employees during the rainy season. Employees claimed that this has not been fully explained to them.
- Employees were concerned about what they claim as false classification of expatriate employees employed in the project.

- Employees were concerned that they were not being provided with safety gear most appropriate to their respective line of operation (a day after this particular issue was raised a chainsaw operator was hit on the head by a falling tree and seriously injured).
- Key Standard (LCOP) requirements observed as not being met were:
 - Lack of containment bund around the fuel tanks at the workshop and power generator shed;
 - The power generator shed is located too close to a stream and waste fuel/ oil was observed leaking into the stream. The stream currently is not useable by the local inhabitants;
 - Workshop wastes indiscriminately disposed around workshop area and its surroundings (see photos 11 &12);
 - Workshop located near a creek (different creek from the power generator shed creek mentioned above) with wastes (oil and general workshop wastes) visibly observed draining into the creek;
 - Many old trucks, tractors, bulldozers and scrap metal/ steel disposed around workshop area and into the creek; and
 - Sewage system leaking from expatriate accommodation.
- Camp 1/ A

This transit camp was established to facilitate logging operation in the western part of the project area. It has a workshop and houses to accommodate company employees. Key requirements observed as not being met were:

- Lack of proper toilets for the local employees;
- Lack of containment bunds for fuel tanks;
- Workshop wastes (solid/ oil) indiscriminately disposed around immediate vicinity;
- Lack of containment bund around the power generator shed; and
- Lack of Water Use Permits. Water observed abstracted from nearby stream for use (domestic/ workshop).

- Balave Camp

Key requirements observed as not being met were:

- Lack of containment bunds for fuel tanks;
- A pit was dug 10 metres from the Balave River to store wastes or used oil within the minimum buffer zone;
- Trucks and other machines driven into Balave River for cleaning;
- Fuel and oil spilled within and around workshop area;
- Lack of Water Use Permits. Water for camp's use abstracted from the Balave River;
- Camp located very close (10 – 20m) to the river (within the minimum buffer zone);
- Lack of proper toilets for the national employees; and
- Lack of proper domestic waste disposal facilities.

Bismark Industries Ltd notes that the breaches have already been identified by the PNGFA project Supervisor, and that appropriate remedial action has been imposed by the company.

(d) Landowner Financial Benefits

This is one of the longest running logging projects in PNG and landowners have negotiated many intriguing payments over the years as well as two variations to the original Project Agreement. In addition, there have been two “Deeds of Variation” to the Project Agreement, the most significant being in 1996 when a new revenue system was negotiated by landowner representatives and the then Permit Holder, Nam Yang Timbers (PNG) Ltd. A summary of these payments is given in the two tables below and includes:

- A royalty payment of K10.00/cubic meter of logs harvested;
- Log Export Premium of 3% of FOB;
- Reforestation Levy of K1.00/cubic metre of logs harvested²; and
- Town Maintenance Levy of K0.50/cubic meter of logs harvested.

In addition to the above, the following payments are being made:

- Stevedoring fees of K1.40/cubic metre of logs loaded to the ship;
- Incentive payments of K0.45/cubic metre if 1000 cubic metres of logs are loaded on to the ship daily and if there is no demurrage charged to the company as a result of negligence, an additional K0.10/cubic meter as management fee and a further K0.35/cubic meter to be paid to the stevedoring group;
- A death contribution which is not fixed to any specific amount. It is limited to the amount being requested or what the company considers reasonable; and
- General Assistance Levy of K0.80/cubic metre based on export grade logs plus K0.10/cubic metre levy for sawmill logs transferred by pontoon to Silovuti.

A summary of landowner benefits presented to the Review Team by Meda Assets (PNG) Ltd is tabulated below:

² Although included in this section, this is not an actual direct financial benefit to landowners as it is paid into a trust fund held by the PNGFA in Port Moresby.

Benefits	97/98	98/99	99/00	00/01	01/02	02/03	Total
Royalty	1,182,000		572,851	307,189	339,000	577,101	2,978,141
Export Premium	287,064		203,943	152,233	138,300	315,488	1,097,028
Reforestation Levy	69,000		70,783	30,719	33,900	57,710	262,112
Sawn Timber Levy	89,684		26,851	20,252	10,750		147,537
Town Maintenance Levy	59,102		28,643	15,359	16,950	28,855	148,909
General Assistance Levy	77,888		12,745	21,363	24,190	51,961	188,147
Export Site Levy	14,708		20,940	15,508	10,490	32,798	94,444
Stevedore Fees	67,810		42,908	37,355	36,126	69,855	254,084
Boundary Levy			4,722	6,144	6,050	3,781	20,697
Security Contract Fees				133,220	114,800	124,800	372,820
Death contribution							17,850
Total							5,581,769

The Review Team was not in a position to verify the above data but have included them to show a comparison of the figures for royalty collection and distribution provided by the PNGFA (see later) which suggests some discrepancies.

(e) Landowner Infrastructural Benefits

Although the TRP in the Kapuluk area started more than 20 years ago a substantial number of key infrastructures are yet to be implemented or completed to the Department of Works approved standards. Most recently Meda Assets (PNG) Ltd, Bismark Industries Ltd, the West New Britain Provincial Government and New Britain Palm Oil Ltd discussed a proposal to work together to construct and upgrade the Kimbe/Silovuti Road.

The Review Team was able to observe that the roads constructed by the company were generally in good condition. Outstanding infrastructure requirements and commitments of permanent culverts, roads and bridges include the following:

- Kapuluk Road (19km);
- Namo Road (20.3km);

- Cape Rouge (4.9km);
- Upgrading of 10.1km of Cape Ruge road to DOW standard;
- Upgrading and maintenance of Via Bridge. The construction of this bridge was rescheduled in the 1996 Deed of Variation and has been rescheduled to be completed by December 2003;
- Permanent bridges at Sovi, Lagiu and Balave; and
- An estimated 100 Permanent Culverts to be installed between Balave and Silovuti.

Bismark Industries Ltd made reference to the need for coordination for infrastructure development, and the desire to avoid wasted expenditure such as that represented by the K3-5 million Kapuluk bridge constructed by Nam Yang Timbers Ltd, which is now known as the “bridge to nowhere”. It also stated its understanding that the permit holder is only responsible to maintain the roads used for logging operations, and that once the roads are no longer required for logging, that ongoing maintenance becomes the responsibility of the provincial and local level government.

Bismark Industries Ltd also questions the accuracy of the list of outstanding infrastructure requirements as set out above.

(f) Royalty Payments

Records of royalty collection and payments provided by the PNGFA are given in the table below:

**TIMBER ROYALTY COLLECTION & PAYMENT REPORT 1993 TO JUNE 2003
PROJECT: TP14-50 KAPULUK & KAPULUK EXTENSION**

Year	Permit Holder	Contractor	Volume Harvest (m3)	Total Timber Royalty	
				Collected (K)	Paid to L/owners (K)
1993	Nam Yang Timbers	Nil	80,293.383	380,646.71	285,485.03
1994	Nam Yang Timbers	Nil	98,169.628	467,364.03	350,523.02
1995	Nam Yang Timbers	Nil	19,557.912	167,491.39	125,618.54
1996	Nam Yang Timbers	Nil	94,435.734	677,508.94*	508,131.71
1997	Nam Yang Timbers	Nil	95,535.629	953,356.29	905,688.48
1998	Nam Yang Timbers	Nil	8,304.055	83,040.55	78,888.52
1999	Meda Assets	Sunshine Investment	42,541.200	425,412.00	404,141.40
2000	Meda Assets	Sunshine Investment	44,648.460	446,484.60	424,160.37
2001	Meda Assets	Bismark Industries	33,423.686	334,236.86	317,525.02
2002	Meda Assets	Bismark Industries	59,183.402	591,834.02	562,242.32
2003 (Jan-June)	Meda Assets	Bismark Industries	30,502.944	305,029.44	289,777.97
TOTAL			606,396.033	K4,832,404.83	K4,252,182.38

Source – PNGFA Dami Office.

Note: Up to 1996 landowners were paid 25% of royalty collections, the balance being paid to the Provincial Government. Currently they are paid 95%, the balance being paid to the Inland Revenue Commission as a with-holding tax.

Bismark Industries Ltd is of the opinion that any royalty payment discrepancies should be sorted out by the PNGFA.

Clause 1(a) of the 1996 Deed of Variation states that “In accordance with a Memorandum of Understanding reached between the Landowners and the Company during February 1995, the above revenue schedule shall be applicable from 1 January, 1995. However, these revenue payment rates shall be superseded by the introduction of any new national forest revenue system.” The new revenue system introduced throughout PNG in 1996 included a Project Development Benefit Levy to replace direct infrastructure development requirements.

It does not appear that this has been implemented.

(g) Environmental Monitoring & Management Plan and the Waste Management Plan.

Compliance issues observed were that:

- There is no Environmental Management Officer (EMO) employed on site by the company to expedite the above documents. Condition 6 of the Environmental Plan Approval requires the Company to employ an EMO; and
- There have been no annual progress reports to-date as required by Environmental Plan Approval condition number 17 (refer to Section 4.4).

(h) Other Compliance Issues Observations

The Forestry Regulations require the lodgement of a Performance Bond, and delivery of an original copy to the PNGFA Managing Director. There is no evidence within the PNGFA files that Meda Assets Ltd has complied with this requirement.

Meda Assets (PNG) Ltd noted that there used to be a performance bond in place for K460,000. The Review Team was promised a copy, but this was not received.

(g) Company Searches

A company search shows that Meda Assets (PNG) Ltd has current IPA registration. The company is situated at Unit No. 2, Section 440, Lot 440, Stage 2, Islander Village, Waigani, (PO Box 2576) Boroko. It has a share capital of 10,000 issued shares held by Meda Assets Sendirian Berhad (5,100) and Yeng Teck Khoo of Malaysia (4,900). Its Directors are Joshua Kalinoe, Seng Foo Tech, Seng Kian Tech and Idrus Ibrahim. Its last annual return was lodged in May 2002 for the year up to April 2002.

The company is currently registered as a Forest Industry Participant under the Forestry Act 1991 (first listed in Jul 1998 – Registration Number FI 951).

A company search shows that the landowner company Kove Holdings Ltd has current IPA registration. The company’s registered address is Michael Mayberry Chartered Accountants, 1st Floor, Kimbe Super Market Building, Section 19, Lot 17, PO Box 532, Kimbe, WNBP. It has a total issued share capital of K10,000 held by Joseph Gori (1); Peter Dau (1); Cape Rage Development Corporation Pty Ltd (1,999); Poma Mumay Pty Ltd (2,000); Talasea Development Corporation Pty Ltd (1,999); Kakota Pty Ltd (2,000); and Kove Logging Pty Ltd (2,000).

The company directors are John Dako of Sapulo clan, Kimbe; Joseph Gori of Kimbe; Peter Dau of Kimbe; Joel Aka of Sisili clan, Talasea; Pati Kaumu of Kandoka Clan, Talasea; Simon Kandiko of Talasea; Gas Dau of Poi clan, Talasea; Bernard Kava of Mongmonga clan, Talasea; Lawrence Kaumu of Kalimaruli clan, Talasea; James Dau of Saikou clan, Kimbe; and Steven Moses of Tarawa clan, Talasea.

The company is currently registered as a Forest Industry Participant (FI 609) under the Forestry Act 1991 (as amended) as of May 1995.

A company search on Bismarck Industries Ltd shows that the company has current IPA registration and is situated at Level 3, shop 2A, Garden City, section 18, Lot 4, Angau Drive (PO Box 1872) Boroko. It has a share capital of K300,000 held by James Shindo of Boroko (74,998), Chee Ming Yaw of Malaysia (200,000), Teck Seng Hiew of Malaysia (25,000) and Anton Tokinga of Kokopo (2). Its directors are Fujino Tatsuo of Japan; James Shindo of Unit 4, Garden City, Section 18, Lot 4, Angau Drive; Chee Ming Yaw of Malaysia; Teck Seng Hiew of Malaysia; Kiu Kiong Law of Malaysia and Anton Tokinga of Rapolo Village, Kokopo.

The company has current Forest Industry Participant registration (FI 003) as of August 1993.

4.3 PNG FOREST AUTHORITY (PNGFA)

The PNGFA is responsible for ensuring that the requirements of the project Planning, Monitoring and Control Procedures are followed. This includes the 5 Year Logging Plan, the Annual Logging Plan, and the approval and clearance of individual logging set-ups. The approval and clearance of set-ups requires the completion of a set-up logbook by the PNGFA Project Supervisor.

The observations of the Review Team are that:

- There are three PNGFA officers on site, based at Silovuti Township. One is the Project Supervisor and the other two are forest monitors;
- They are putting in a considerable effort into ensuring that logging is carried out according to the Key Standards;
- Set-ups are marked correctly including painting desirable residual trees (see photo 5);
- Once logging commences monitoring is hampered by the geographic location of the active set-ups, which extend throughout the project area. The PNGFA Officers have so far been unable to control the destructive logging practices, which are evident in the photos mentioned below;
- The Project Supervisor has suspended a number of chainsaw operators and skidder drivers due to unacceptable felling and skidding techniques (see photos 6,7,9 & 10); and

- In addition, the officers have stopped carrying out post logging waste assessment because of the ongoing disagreement over waste assessment procedures between PNGFA and the Forest Industries Association. The last payment of waste assessment royalty was made in October 2001.

4.4 DEPARTMENT OF ENVIRONMENT AND CONSERVATION

DEC is responsible for monitoring logging company compliance with the Environmental Plan and the Environmental Plan Approval Conditions.

The observations of the Review Team are that:

- There has been little monitoring by DEC in the Kapuluk Project Area, and no actions have been taken to ensure compliance with the EP Approval Conditions. Key company non-compliance issues are:
 - Condition number 3 – “*Any proposed variation from the approved EP will require the prior written approval of the Secretary, DEC.....*”. Examples of non-compliance are the construction of additional logging camps and log ponds (apart from Silovuti);
 - Condition number 4 – “*In the case that there is a change in the Company ownership or company name, the Secretary DEC should be informed immediately. Additionally all operations at the site must cease forthwith until such time as the Secretary authorises.....*”. The change from Nam Yang (PNG) P/L to Meda Assets (PNG) Ltd has not been advised to DEC;
 - Condition number 5 – This follows on from Condition number 4. It states here that if a change of company does eventuate then the new company must formally advise DEC that it will adopt whatever approvals or requirements imposed upon the former company. If not then a new Environmental Plan is required from the new company. DEC does not have any records on file pertaining to this;
 - Condition number 6 – “*The company shall employ an Environmental Management Officer within three (3) months of this EP approval date.....*”. The company to date is yet to comply with this condition. DEC has not taken any action to date;
 - Condition number 17 – *The company shall submit a detailed progress report on its EMMP activities to the Secretary on an annual basis.....*. This is an obligation on the part of the company and equally DEC to ensure compliance. There is no record on DEC’s file to confirm compliance from the company, or any DEC requests for compliance; and
 - Condition number 19 – “*The Company shall submit a Rehabilitation Programme for the project area within 12 months from the date of this approval.*” There is no record on DEC’s file to confirm compliance from the company.
- The Deed of Variation of April 2003 to the Project Agreement requires that the company must submit a detailed Environmental Plan to conform to the *Environmental Planning Act* requirements.
- Whilst the project is active, the Environmental Plan has been archived.

- DEC was unable to locate a copy of the Environmental Plan Approval Conditions.
- DEC has not visited the project site for monitoring purposes since 4th March 1994.

4.5 LANDOWNER COMPANY

The “umbrella” Landowner Company is Kove Holdings Ltd. In theory the Landowner Company represents the landowners, and on their behalf collects the log export premium and distributes the benefits to various smaller clan-based landowner companies.

Meda Assets/Bismark Industries Ltd have expressed concerns that Kove Holdings is experiencing serious difficulties managing the operation of the sawmill. It is running behind in its payments to creditors, the major being Bismark Industries Ltd. Incorporated Land Group agents are also putting pressure on Kove Holdings Ltd to meet its obligation to pay K20/cubic metre to the smaller clan based landowner companies from each cubic metre of sawn timber sold. Since taking over the sawmill Kove Holdings Ltd is yet to make such payments.

There was concern expressed to the Review Team that Kove Holdings Ltd is allowed to operate despite its failure to hold Annual General Meetings and present audited accounts to the shareholders. Landowners claimed that Kove Holdings Ltd no longer represents the interest of resource owners except those that have been on the Board of Directors since the formation of the company.

The view of the PNGFA is that the landowners should resolve their own problems.

5. LANDOWNER VOICED CONCERNS

The Kapuluk TRP has been in operation for more than 20 years and the concerns expressed by landowners reflect their feelings of unfulfilled expectations in terms of social and infrastructure development. The changes made to the permit holder and logging contractors and the increase in demands by landowners and their agents for additional cash benefits during this period is claimed by the current permit holder, Meda Assets (PNG) Ltd, as being a contributory factor to the lack of development.

Landowners were consulted mostly in groups but also as individuals. Groups consulted included:

- Landowners Moputu village;
- Landowners Somalani village;
- Landowners Maiko village;
- Landowners Kandoka West, Kaliai Parish;
- Landowners Kandoka East; and
- Landowners Pressure Group living in Kimbe.

The observations of the Review Team with respect to the relationship between the landowners, their forests, the logging company, and concerns expressed by the landowners are:

- Landowners were very concerned about the lack of performance and accountability by the various landowner companies, particularly Kove Holdings Ltd. Suggestions were made that the benefits currently being paid to Kove Holdings Ltd be paid directly to resource owners or to the smaller individual landowner companies.
- Despite 20 years of operation in the area, landowners expressed concern about the lack of sustainable economic and social development taking place.
- In addition to the above they were particularly concerned about the lack of specific financial allocation of funds out of the log export premium for education, health and church infrastructures.
- Landowners were concerned about the lack of contribution by the National Government to the area despite the 35%³ in Log Export Tax collected on each cubic metre exported from the project area.
- Landowners were concerned about the lack of consultation with the general community by those signatory to the recent Deed of Variation (April 2003) to the Project Agreement relating to the Kapuluk Timber Area.
- In addition to the above concern, landowners expressed the need to develop a practical "Land-use Plan" towards achieving some meaningful long term economic and social development outcomes before the resource is exhausted.
- They also expressed concern about the failure of successive Timber Permit holders to meet their commitments under the Project Agreement to construct roads and bridges within the agreed timeframe.
- With less than 8 years of the timber resource remaining landowners are concerned that Meda Assets/Bismark Industries will not be able to complete the planned roads and bridges stipulated in the agreement.
- Landowners expressed concern about the lack of commitment from the Provincial Government towards the completion of the Kimbe to Silovuti road.
- There were concerns about the landowner company's failure to pay the K20/cubic metre levy on sawn timber to the various landowners in the TRP Area since it took over the operation of the sawmill from Meda Assets/Bismark Industries Ltd.
- Landowners were concerned about the absence of a Meda Assets (PNG) Ltd office in Kimbe or the Logging Camp. It is also not clear to landowners who represents the permit holder on site.

³ The exact percentage has varied over time, and currently varies with the FOB price.

- Landowners raised concern about the upkeep and maintenance of the township after the logging operation has ceased.
- The recent arrival of bulldozers and other machines belonging to Concord Pacific Ltd has caused anxiety amongst landowners who expressed the fear that Meda Assets (PNG) Ltd intended to log the remaining resource over a couple of years using these machines.
- Landowners at Somalani raised the issue of non-payment of waste assessment royalties and lack of compensation for damage to non-wood forest products incurred during the logging operation.
- The rates for contract payment for regeneration treatments were considered too low for the amount of work required.
- Spin-off opportunities.

Initially, landowners were given a lot of opportunities to participate in the spin-off activities from the logging operation. Activities such as packing and strapping, building maintenance and construction and transportation contracts used to be run by landowners. However the logging contractor had to withdraw these contracts when the price and cost tendered by landowners became too expensive.

The spin-off activities that are currently being run by landowners include the following:

- The sawmilling operation that has been recently transferred from Meda Assets (PNG) Ltd to the landowner company Kove Holdings Ltd;
- A security contract run by a landowner company to provide security services to the Contractor;
- Stevedoring Contracts for the various clans located next to the three log ponds; and
- All trade stores and canteens located at the main Logging Camp are currently owned and operated by landowners.

6. PROVINCIAL GOVERNMENT DISTRICT OFFICE

An initial briefing was held between the Review Team and the deputy administrator, West New Britain Province, prior to commencement of the fieldwork. During the period that the Review Team was in the field some meetings were held in the presence of the President of the Kaliae/Kove Local Level Government who accompanied the team to the far west of the project area.

There was a further debriefing with the West New Britain provincial administration after the field trip. Relevant comments offered by the Provincial/District Office representatives were as follows:

- There is concern about the unannounced arrival of the Concord Pacific machines at Silovuti. The acting administrator announced that an investigatory team would be sent to the township to investigate.
- The decision making process regarding forestry operations in general was raised as an issue of concern for the West New Britain Provincial Government and administration. A particular issue was the provincial view on large-scale industrial logging of the two remaining concession areas in the province, Rottok Bay Consolidated and Asengseng Consolidated was at variance with the national governments views and actions.
- The failure of logging companies to meet the required standards of infrastructure requirements contained in various project agreements.

7. OBSERVATIONS REGARDING SILVICULTURE

The quality of the logging operation (in particular observation of the 24 Key Standards) has a significant impact on the ability of the forest to produce a second yield of logs (from the current residual trees), and to produce logs in the longer term (from regeneration after logging). The Review Team observations in this regard are:

- The Kapuluk project is in the Islands Region which is the only region that follows the principal of marking of desirable residual trees during set-up preparation as outlined in the Planning Management and Control Procedures. The marking of desirable residual trees is aimed at their protection during felling and extraction and minimising canopy disturbance during the logging operation.
- Although the residuals are clearly marked many are destroyed during the logging operation and the resulting canopy gaps are excessive, especially where merchantable trees occur in dense stands. There is no consequence for the logging company when it damages marked residuals.
- Large canopy gaps increase the risk of invasion of weed species after logging, and also increases the need for some form of regeneration treatment.
- There is also evidence that excessive canopy opening, combined with the presence of logging debris on the forest floor and in particular “el nino” (severe and prolonged dry spells) events has contributed to extensive fires throughout the Kapuluk project area. This is evident whilst driving through the area and when analysing satellite imagery of the project area.
- The Review Team observed many instances of complete canopy removal by fire, including in some areas that had been treated by the “Reforestation Naturally” technique.

- It was also evident that the quality of the application of regeneration treatment⁴ varied from area to area (clan to clan) and that some clans were not taking the work seriously. For example in one treated area labula (*Anthocephalus chinensis*) had been transplanted into gaps. This is clearly not recommended in the manual on the technique as this species is renowned for dying before it reaches a merchantable size.

The view of the permit holder is that by paying the reforestation levy, it is absolved from any responsibility in this regard.

8. BROAD RECOMMENDATIONS FOR TP 14-50

The Kapuluk Project is one of the longest running logging projects in Papua New Guinea and was initially based on a “Land-use Plan”. The Land-use plan identified areas for clear felling and reforestation and areas for conservation.

The plan was never followed and the current situation is that the resource is expected to be exhausted within the next 8 years, with no meaningful resource replacement having been achieved, except for the areas of regeneration treated, much of which has been degraded by fires.

Landowners are aware of their situation, are considering the pros and cons of oil palm planting, and would appreciate assistance in the preparation of an integrated land-use plan to be implemented during the final life of the project.

Given the above findings of the Review Team it is recommended:

- That the Provincial Government and Administration take the lead role in assisting the landowners of the Kapuluk Project area in the study relating to and the preparation of an integrated land-use plan for the project area as a matter of urgency (the PNGFA asks where the funds to pay for this will come from).
- That an independent audit is carried out on the royalty, levies and premiums collected and payments made for the Kapuluk Project Area dating back to 1993 (the PNGFA asks where the funds to pay for this will come from).
- That the PNGFA clarify the amount of outstanding royalty due to the landowners of the project area and either pay the outstanding amount to the rightful owners or enter into an agreement whereby some of the outstanding royalties could be used towards the funding of the land-use study.
- That the PNGFA meet with the permit holder Meda Assets (PNG) Ltd and landowners to discuss, clarify and negotiate in reference to the revenue system applicable to the project.

⁴ This is confirmed in a recent report by the a/senior Natural Forest Management Officer who visited the Kapuluk project area after the Review Team’s visit.

- That Meda Assets (PNG) Ltd and Bismark Industries (PNG) Ltd provide an explanation to the landowners of the Kapuluk Timber area and the West New Britain Provincial Authorities about the arrival of the Concord Pacific logging equipment at Silovuti.
- That the Meda Assets (PNG) Ltd and Bismark Industries (PNG) Ltd take note of the breaches of the Code of Logging Practice noted in this report and take immediate steps to fully comply with the code.
- That the PNGFA liaise with the Forest Industry Association with the aim of setting a timetable for the licensing of chainsaw operators and skidders and a timetable for the introduction of penalties for breaches of the Key Standards.
- That the Lands and Labour and Industrial Relations Departments clarify the status of Silovuti with respect to minimum wages and conditions of employees.
- That there is close monitoring on the implementation of the planned construction and completion of the roads, including permanent culverts and bridges in the project area by the West New Britain Provincial Works Department.
- That the management capability of Kove Holdings Ltd in managing the sawmill be reviewed immediately to save further losses.
- That the Natural Forest Management Branch of the PNGFA implement the recommendations made in the 'Report on Area West Audit Trip' (10th October 2003).
- That the Natural Forest Management Branch review the rates for payments for the treatment of regeneration, which were set in 1995, when the Kina had far greater purchasing power.

9. BROADER FORESTRY SECTOR ISSUES FOR PAPUA NEW GUINEA

The following is a list of issues identified by the Review Team during its work on TP 14 - 50 Kapuluk and Kapuluk Extension, which are of broader concern than this specific project. These will be addressed as forestry and conservation sector issues in the Observations and Recommendations Report to be produced by the Review Team towards the completion of the Review.

- The lack of understanding and feeling of mistrust amongst landowners of logging projects where the developer pays reforestation levies needs to be addressed and people made aware of the reason for the introduction of the levy and the rules for its use.
- The need for an independent audit into the collection, whereabouts, interest accrual and use of all reforestation levies collected and disbursed throughout the country since the reforestation levy was imposed.

- The issue of Occupational Health and Safety in the forestry sector and the consistent failure of logging companies to comply with the relevant legislation concerning the welfare of their employees.
- The lack of compliance by developers, with legally binding agreements with regard to infrastructure delivery contained in the Timber Permits and Project Agreements relating to forestry projects, in particular the downstream processing schedules and infrastructure construction schedules.
- The performance by landowner companies with respect to the use and misuse of monies obtained through the various levies and premiums pertaining to logging operations.
- The absence of an identifiable permanent office for permit holders, either in the Provincial Headquarters or the main Camp Site so that landowner enquiries and grievances can be addressed in a timely manner.
- The absence of penalties for breaches of the Code of Logging Practice.
- The lack of a system to ensure continuity when permit holders and contractors change hands during the life of a Project.

APPENDIX 1 : SELECTION OF PERTINENT PHOTOGRAPHS