

**OMBUDSMAN COMMISSION  
OF  
PAPUA NEW GUINEA**

**INVESTIGATION INTO ISSUE OF  
A PERMIT TO TURAMA FOREST  
INDUSTRIES PTY LTD BY THE  
FOREST AUTHORITY  
CF.657/95**

*FINAL REPORT IN TERMS OF SECTION 22  
OF THE ORGANIC LAW ON THE OMBUDSMAN COMMISSION*

*AUGUST 1997*

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## OMBUDSMAN COMMISSION

# **FINAL REPORT UNDER SECTION 22** **OF THE ORGANIC LAW ON THE** **OMBUDSMAN COMMISSION**

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## **CHAPTER 1 JURISDICTION AND PURPOSE OF THE INVESTIGATION**

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### **1.1 Introduction**

This is an investigation into the awarding of a Timber Extension Permit in the Turama Forest Area in the Gulf Province by the Forest Authority to Turama Forest Industries Pty Ltd as an extension to the existing project undertaken by the Company. Several articles appeared in the Newspapers alleging that the award of the permit to the company was in violation of the provisions of the Forestry Act. The main allegation was that there was no National Forest Plan, and in the absence of it, the award of the timber resource to the company was improper and wrong. It was also alleged that the members of the Forest Authority Board were not granted an opportunity to study the proposals made to the Board in depth before voting and that the proposal was submitted in haste as an urgent matter at the Board Meeting held on 30 May 1995 and passed without proper discussion.

### **1.2 Jurisdiction**

The Ombudsman Commission conducted the investigation under section 219(1)(a) of the Constitution and section 13 of the Organic Law on the Ombudsman Commission. These Constitutional Laws allow the Ombudsman Commission to investigate either on its own initiative or on complaint by a person affected, any conduct on the part of any Government body or any of its officers.



The Commission can thus investigate the conduct of any arm, department, agency or instrumentality of the National Government including a Statutory Authority such as the National Forest Authority.

### 1.3 The Scope of the Investigation

In accordance with Section 219(1)(a) of the Constitution the purpose of the investigation was:

- to determine whether any conduct under investigation was wrong; and
- to determine whether there were any defects in the laws or administrative practices.

### 1.4 Method of Inquiry

The Ombudsman Commission issued notice on 19th September 95 under section 17(1) of the Organic Law on the Ombudsman Commission to the then Managing Director National Forest Service Ms Jean Kekedo OBE, of its intention to investigate the allegation.

*Section 17(1) states:-*

*"Before investigating any matter within its jurisdiction, the commission shall inform the responsible person of its intention to make the investigation."*

The Ombudsman Commission obtained documents and other evidence from a number of different sources and used its powers under Section 18 of the Organic Law on the Ombudsman Commission to require the production of documents and information.

*Section 18 states:*

- \*(1) "Subject to the provisions of this section and Section 20, the Commission may from time to time require any person who, in its opinion, is able to give any information relating to any matter that is being investigated by the Commission to furnish to it that information and to produce any documents, papers or things that, in the opinion of the Commission, relate to any matter being investigated by it and that may be in the possession or control of that person."*

(2) *Subsection (1) applies whether or not -*

(a) *the person is an officer, employee or member of any State Service, provincial government body, local government body or statutory body, and*

(b) *the documents, papers or things referred to in that subsection are in the custody or under the control of any State Service, provincial government body, local government body or statutory body.*

(3) *The Commission may, by instrument in writing, summon any person who in its opinion is able to give any information relating to any matter that is being investigated by the Commission, to attend the Commission at a time and place specified in the summons for examination by it on oath or affirmation.*

(4) *The Commission may administer an oath or affirmation to a person appearing as a witness before the Commission whether the witness has been summoned or appears without being summoned, and may examine the witness on oath or affirmation.*

(5) *A witness attending before the Commission has the same privileges and is subject to the same penalties in relation to the giving of information, the answering of questions and the production of documents, papers and things as a witness before the National Court.*

(6) *Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Commission is admissible in evidence against any person in any court or at any inquiry or any other proceedings, and no evidence in respect of proceedings before the Commission shall be given against any person.*

(7) *Where any person is required by the Commission to attend before it for the purposes of this section, the person is entitled to the same fees, allowances and expenses as if he were a witness in the National Court."*

However, the Commission initially had difficulties in obtaining certain files and Board meeting minutes from the National Forest Authority. Although the present Chairman and Managing Director Mr Guao Zurenuoc expressed his willingness to give full co-operation to the Commission when he was interviewed on oath on 5 March 1996, the assured cooperation was initially not forthcoming when the officers of the

Commission visited his office to collect certain files. This appears to have been due to the fact that Ms Bibiana Kenatsi office manageress had informed him that certain files required by the Commission do not relate to the matter concerning the Turama investigation. The Project Lawyer, Mr Maurice Coughlan, who was consulted by the Managing Director had also informed him, (obviously without studying the Organic Law on the Ombudsman Commission), that the Commission had no authority to call for those files and documents. The situation reversed when the Project lawyer after studying the Organic Law Ombudsman Commission informed the Managing Director that the Commission has wide powers to call for information and documents. The files and documents were then released but because of this misunderstanding the investigation virtually came to a stand still for nearly three weeks. In this context we wish to quote the following from the Judgement delivered by Amet J in Jimmy T TJEONG and GARAMUT ENTERPRISES v Ombudsman Commission (July 1993):

*"It is quite clear and I accept the submissions of the Ombudsman Commission in this respect that once a matter is being investigated by the Ombudsman Commission within its jurisdiction, the Commission is entitled to require "any person who in its opinion is able to give any information relating to any matter that is being investigated by the Commission to furnish to it that information and to produce any documents, papers or things that in the opinion of the Ombudsman Commission relate to any matter being investigated by it and that may be in the possession of or control of that person" [Organic Law Section 18(1)]. The Commission can also by instrument in writing, summon "any person who in the opinion of the Ombudsman Commission is able to give any information relating to any matter that is being investigated by the Commission, to attend the Commission at a time and place specified in the summons for examination by it on oath or affirmation" [Organic Law, Section 18(3)].*

*These enabling powers to require any person to attend for examination and production of material to assist the commission either by invitation or by instrument in writing, that is by summons, do not in my view have to be confined to officers of the governmental body. As long as the investigation is within jurisdiction the commission is enabled wide powers to require any person a public employee within the organisation or governmental body of any service which is being investigated or any private individual in private enterprise that in the opinion of the Commission is able to give any information relating to any matter that is being investigated by the commission and also to furnish to the Commission any information or documents or to attend upon the Commission for examination in respect of any matters that it is investigated."*

The following persons were interviewed:

1. Mr Guao Zurenuoc Chairman and Managing Director National Forest Service
2. Ms Jean Kekedo OBE Then Chairman and Managing Director National Forest Service
3. Ms Bibiana Kenatsi Office Manageress to the Managing Director PNG Forest Service
4. Mr Chris Marlow Corporate Secretary PNG Forest Service
5. Mr Maurice Coughlan Project Lawyer PNG Forest Service
6. Mr Keith Dolman General Manager, National Forest Service
7. Mr Soiat William Acting First Assistant Secretary, Department of Personnel Management
8. Mr Gaikovina Kula First Assistant Secretary, Nature Conservation Division of the Department of Environment and Conservation
9. Mr Iamo Ila Secretary of the Department of Environment and Conservation
10. Mr Goodwill Amos Manager Projects National Forest Service
11. Mr Dike Kari Divisional Manager Policy & Planning National Forest Service
12. Mr Johnson Mantu Acting Divisional Manager Operations - National Forest Service
13. Mr Joseph Badi Supervisor, Landowner Liaison - National Forest Service
14. Mr John Painap Secretary Department of Lands and Physical Planning
15. Mr Terry Wara Director Forest Research Institute, Lae, National Forest Service.
16. Mr Keai Semesse Supervisor Technical Service Southern Region, National Forest Service
17. Mr Kanawi Pouri Acting General Manager National Forest Service
18. Mr Hakiso So-omba Manager Allocation, National Forest Service
19. Mr Dambis Kaip Forest Management Agreement Supervisor, National Forest Service
20. Ms Ruth Turia Manager Acquisition National Forest Service
21. Mr Henry Wasa Project Officer - Department of Lands and Physical Planning
22. Mr Andrew Tagamasau Divisional Manager Operations National Forest Service
23. Mr Isau Par Forest Management Officer, National Forest Service

- 24. Mr Paul Barker  
Economic Adviser - Prime Ministers  
Department
- 25. Mr Allen Ross  
Special Project Officer National Forest  
Service
- 26. Mr Lindsay Giddeon  
Registrar of Titles, Department of Lands and  
Physical Planning

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## **CHAPTER 2 - FACTS**

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### **2.1 General**

In this chapter the Commission states the facts, on which it has based its findings of wrong conduct. The events leading to the granting of Timber Permit No. TP 2-12A to Turama Forest Industries Pty Ltd have been dealt with in fair detail. Special attention has been given to incorporation of land groups, the signing of Forest Management Agreements relating to Turama, Kikori and Baimuru areas as well as the Board Meeting of 30.05.96 at which the issue of Timber Permit was taken up and passed as a resolution.

### **2.2 Timber Permit N°. 2-12A**

Timber Permit N°. 2-12 (Turama Timber Project - Gulf Province) was issued to Long Term Trading Pty Ltd in March 1988 for a period of 20 years. The company changed its name from Long Term Trading Pty Ltd' to Turama Forest Industries Pty Ltd on 21 July 1989.

### **2.3 The Forest Act 1991 N° 30 of 1991.**

In 1991 a National Forest Policy document was formulated. Subsequently the Forest Act of 1991 was introduced to give effect to these proposals. The main changes, inter alia, were:-

- 1) the establishment of the PNG National Forest Authority,
- 2) the need for the preparation of the National Forest Plan,
- 3) the need to negotiate Forest Management Agreements.

From the time the Act was implemented no new forest development project could be undertaken in any area without first negotiating and signing of the Forest Management Agreements relating to that area.

## **2.4 The Papua New Guinea Forest Authority and the National Forest Board.**

The Papua New Guinea Forest Authority officially came into existence on 1st January 1993. The National Forest Board met in February 1993 for the first time. A moratorium on new projects was strictly enforced with no new permits approved during the year 1993.

## **2.5 Forestry (Amendment) Act - 1993**

Amendments to Forest Act 1991 were approved by the Parliament in April 1993. These Amendments corrected some anomalies in the original Act and provided for the modified National Forest Board structure.

## **2.6 National Forestry Development Guidelines**

In 1993 the Honourable Tim Neville MP Minister for Forests proposed National Forestry Development Guidelines. These guidelines were endorsed by NEC in November 1993.

## **2.7 National Forest Development Programme**

According to the National Forest Board Policy document of 1991, it was the responsibility of the National Forest Board to prepare the National Forest Development Programme for approval by the National Executive Council. However, this was not done.

## **2.8 Timber Supply Agreement (TSA) Concept**

In 1993 the Honourable Tim Neville MP Minister for Forests introduced the concept of the Timber Supply Agreement (TSA) based on a decision of National Executive Council. This concept is not mentioned anywhere in the Forestry Act of 1991. According to the TSA concept the entire country was demarcated into 24 separate TSAs. The intention was to grant the Timber Supply Areas to large logging companies to ensure that they get adequate timber to carry on timber development on a sustainable basis.

In the case of Turama Project area the concept was advertised in early 1994 as TSA 5 and the Honourable Tim Neville MP Minister for Forests requested the developers who were interested in the project to submit Feasibility Study proposals. The Turama Forest Industries Pty Ltd submitted a detailed proposal giving importance to down stream processing and setting up of a Plywood factory. Proposals for

development were also submitted by other companies. However, with the change of Government in September 1994 the TSA concept was abandoned. Turama Forest Industries Ltd thus failed to get additional areas for logging under the TSA concept.

## **2.9 Baimuru/Kikori Area or TSA 5 is not for any specific company.**

On 14th November 1994 the then Managing Director, Ms Jean Kekedo, OBE informed the Chairman of Kikori Timber Investment Company Pty Ltd that the Land Group Incorporation in the Baimuru/Kikori area or TSA 5 is not for any specific timber company, but it was a requirement of the Forest Act 1991 that before the Forest Management Agreements (FMAs) were signed the resource owners must be incorporated into their land groups. *(Exhibit 1).*

## **2.10 The then Managing Director National Forest service Ms Jean Kekedo OBE, outlined the Government Policies and procedures to Goeheae Landowner Company**

On 3rd January 1995 then Managing Director National Forest Service, Ms. Jean Kekedo OBE sent a letter to Goeheae Landowner Company wherein she discussed the Government policies and the various procedures that have to be followed in terms of the Forestry Act as follows:-

*"Present Government forest policies and legislations are geared towards proper use and management of the nation's forest resources on a sustainable basis and the benefits accruing from forest developments are far reaching to especially the resource owners.*

*Among the various government policy reforms, those you need to note are:-*

- forest resources are used and managed on a sustainable basis;*
- on-shore processing and export of finish wood products;*
- phase out log export;*
- increase monetary benefit to resource owners; and*
- reviewing of all existing projects.*

*In keeping with the above stated policy reforms, there are set procedures (by legislation) for the acquisition and allocation of timber resources. To acquire and allocate the Upper Purari Timber Area therefore, the following summarised procedures shall apply:-*

**Step 1.** *The Gulf Provincial Government to recognise the potential of the Upper Purari timber area and have it listed in it's Provincial Forest Plan as required under Section 54 of the Forestry (Amended) Act 1991;*



**Step 2.** The PNG Forest Authority (PNGFA) assisting the Gulf Provincial Forest Management Committee (PFMC) and the Provincial Government to identify the true landowners and incorporate them into their respective Land Groups or Clans as required under the Land Groups Incorporation Act. This task will satisfy the legal requirements of Section 57 of the Forestry (Amended) Act 1991;

**Step 3.** The PNGFA to execute a Forest Management Agreement (FMA) with all the registered incorporated Land Groups or Clans as required under Section 58 of the Forestry (Amended) Act 1991;

**Step 4.** The National Forest Board (NFB) shall advise the landowners, the Provincial Government and the National Member of Parliament for the area it's intentions to allocate the timber resource as required under Section 59 of the Forestry (Amended) Act 1991;

**Step 5.** The NFB shall then advertise the resource area to seek expressions of interest from registered forest industry participants as required under Section 64 of the Forestry (Amended) Act 1991. However, where the resource area is an extension of an existing approved operation or project the Board may consider proposals without advertisement for open tender;

**Step 6.** After receiving and complete evaluation of development proposals by the PFMC (assisted by the PNGFA), it shall forward it's report and recommendations to the Board as to the proponents with whom further negotiation should proceed;

**Step 7.** After the PFMC (assisted by the PNGFA) has successfully negotiated a project agreement in accordance with Sections 70 and 71 of the Forestry (Amended) Act 1991, it shall submit the final draft of the project agreement to the Board for consideration;

**Step 8.** Where the Board is satisfied with the final draft of the project agreement, it shall execute the project agreement on behalf of the Authority and recommend to the Minister to grant a timber permit (Section 72 of the Forestry (Amended) Act 1991);

**Step 9.** The Minister shall then invite the person with whom the Authority had entered into a project agreement to make an application and after satisfactory completion be issued a timber permit (Section 73 of the Forestry (Amended) Act 1991);

**Step 10.** Having granted a timber permit and approval to the project's environmental plan and the forest working plans, logging operations may commence.

*I hope the above now provide you an insight to the various steps we need to consider and take in acquiring and allocating forest resources.*

*In so far as the Upper Purari timber area is concern, my staff have completed the job of incorporating the various Land Groups within the area in August, 1994. As soon as the Lands Department have completed registration, we will return to the area to execute the Forest Management Agreement with the said registered Land Groups.*

*Furthermore, in regard to the allocation of the Upper Purari Timber Area, it has been a long term intension of the Authority to see that a major forest industry development is established within the Kikori - Baimuru region of the Gulf Province. In order for this to happen in the shortest possible time, we should consider allocating the resource to an existing forest industry participant.*

*If you share this view or have any others, I will be delighted to hear them from you.*

*Yours sincerely*

**J.L. KEKEDO OBE**  
**MANAGING DIRECTOR."**

cc: *Divisional Manager - Resource Development*  
cc: *Divisional Manager - Landowner Liaison*  
cc: *Regional Manager - Southern* **(Exhibit 2A)**

## **2.11 The Forest Agreement to be drafted in consultation with TFI and landowners**

Then Managing Director, Ms J.K Kekedo, OBE in her letter dated 18 February 1995 to Turama Forest Industries Pty Ltd mentioned, inter alia, the following:

*"...given our firm view that this project meets the essential tenets of the National Forestry Development Guidelines, the NFS is pursuing project actualization with vigor.*

*To this end we anticipate the following developments:*

*Field work for Incorporated Land Groups (ILG) has been obtained. This is now written-up and awaiting gazettal by the Department of Lands and Physical Planning. Given the present Government's desire for new projects, NFS will anticipate full Gazettal of ILGs and press on with next step of seeking a Forest Management Agreement;*

NFS will travel to Gulf on or before 27 February and in association with the Provincial Government will seek a Forest Management Agreement (FMA) with landowners. It is anticipated that this will be obtained within 10 days field work and no later than 20 March 1995;

A priority action now is to draft forest regulations and we are presently debating the rightful place and format of much of the regulatory environment, essentially to determine the shape and composition of the Project Agreement and Timber Permit. At this point in time we are disposed to put as much as possible in Regulations.

Pending agreement on the above, a Project Agreement will be drafted in consultation with TFI and Landowners and this will form the basis for negotiating TFI's procurement of the said FMAs. It is envisaged that a draft Project Agreement will be available from 20 March and negotiations commencing shortly thereafter.

TFI might usefully seek a meeting with the Department of Environment and Conservation with view to ascertaining their requirements for environmental plans or similar under the Environmental Planning Act. Once this requirement is clear, TFI may wish to commence preparation;

Awarding of the Timber Permit will follow contingent on a Project Agreement. This may be a very simple document. It may be necessary to resolve an ambiguity in the adjoining East Kikori TP should the holders exercise proprietary interest in future development in blocks 1 & 2 East Kikori. NFS have applied for a legal ruling through the Courts and will in any event strongly contest this 'Right' on the basis that the State can not allocate customary land which has not been acquired.

I trust that this progress is satisfactory and our position agreeable.

Yours sincerely,

J.L. KEKEDO, OBE  
MANAGING DIRECTOR\* (Exhibit 2B)

**2.12 The then Managing Director Ms. Jean Kekedo OBE, suggested to Turama Forest Industries Pty Ltd that it will not be necessary for them to respond to the advertisement.**

Turama Forest Industries Pty Ltd in their letter dated 2 March 1995 to the Managing Director PNG Forest Authority mentioned that they were of the opinion that TP2-12 and formerly TSA5 must necessarily be linked to ensure operating costs are minimized.

On 17 March 1995 Ms. Jean Kekedo sent a reply to Turama Forest Industries Pty Ltd as follows:-

*"Thank you for your letter of 2 March, 1995 in which you respond to our earlier comments regarding the proposed plymil factory. Your points are clear and for the most part in harmony with our position, with discussion yet required on benefits, charges and incentives. These are points for detailed discussion and negotiation at the time of forming a project agreement. We accept responsibility for leading this process and will shortly open dialogue with concerned agencies to that effect.*

*The key point though is that we now have three FMAs in waiting (so as to speak) - the FMAs being conditional on gazettal of the respective land groups. You may recall that to save time, NFS agreed to anticipate land groups and pursue FMA in anticipation of land groups. We have allocated additional resources to this and have offered to second a staff member to the Department of Lands and Physical Planning to complete the requisite gazette notices."*

*I should also point out that notwithstanding any commitments made by the former Minister for Forests through the TSA process, this office is now obligated to go through the formal allocation process by virtue of being deluged by alternative claims on this resource. Accordingly our strategy will be as below:*

1. *PNGFA to draft Project Guidelines - essentially for one project covering the three FMAs with a demonstrated commitment to processing and sustainable development. Proponents will be required to present a detailed feasibility study;*
2. *Gulf Provincial Government to form PFMC - inaugural meeting is set for 22 March. PNGFA will assist in selecting the two permanent landowner representatives and advocate PFMC adoption of Project Guidelines;*

3. PNGFA to advertise the proposal according to the agreed Guidelines. We hope to lodge this advertisement by Friday 24 March, 1995 and to allow one month for response. Only registered forest industry participants need apply;
4. (in meantime) PNGFA to commence discussion with concerned Government agencies on concession and incentive environment for a bona fide downstream processing factory in Gulf Province;
5. After consulting with incorporated land groups, PFMC to evaluate proposals and select developer (prior commitments to be taken into consideration);
6. PNGFA to Negotiate a Project Agreement with selected developer;
7. Board to execute Project Agreement and recommend to Minister to grant timber permit (subject to Environmental Plan).

*I trust you will appreciate the reasons behind the above observance and that it will not be necessary for TFI to respond to the advertisement.*

*Yours faithfully.*

**MS. J.L. KEKEDO, OBE**  
**MANAGING DIRECTOR\***

*(Exhibit 2C)*

### **2.13 Awareness campaign in Gulf Province and incorporation of landowner groups**

Awareness campaign was conducted by the National Forest Service Landowner Liaison Section in August 1994 which was followed by preliminary steps being taken for land groups incorporation. The relevant forms completed by the land groups were handed over to the Department of Lands and Planning for gazettal. The gazettal was done and the certificates of recognition were expected to be issued if there were no objections.

### **2.14 Signing of Forest Management Agreements**

The Forest Management Agreements were done in February/March 1995 under the supervision of the Divisional Manager Policy and Planning. At that time the Certificates of Recognition were not issued by the Registrar of Titles to the various Landowner Groups. The Land Groups were interested to know whether the resources were ear marked for anybody when the Forest Management Agreements were signed. They were told that the process of selection would be by advertisement in the gazette.

## **2.15 National Forest Development Plan is a requirement under the new Forestry Act**

On 23rd March 1994 the then Managing Director Ms. Jean Kekedo informed Mr Geoffrey Kiwale of Kiwule Business Group Inc. who wanted to start a sawmill project as follows:-

*"Please be advised that the Minister for Forests has instructed that no work on new projects by way of a sawmilling project will take place until the following has been completed:-*

- (a) PNG Forest Authority is properly set up,
- (b) Provincial Forest Management Committees are established, in each province,
- (c) Registration of Forest Industry participants which includes your Business Group have been completed,
- (d) A National Forest Development Plan is in place.

*These are requirements of the New Forestry Act." (Exhibit 3)*

## **2.16 Forest Management Agreement report submitted in April 1995.**

According to the report on Forest Management Agreement submitted in April, 1995 by Dambis Kaip, Forest Management Supervisor, the landowners of Baina and Sawiti were told that the Forest Management Agreement exercise which PNG Forest Authority was co-ordinating was not for one particular company. It was a legislative requirement that before any forestry developments take place, Forest Management Agreements must be executed. The selection of the preferred developer would be made in accordance with the Government's established procedures.

The Forest Management Agreements in respect of Turama area were carried out during the period 27th of February 1995 to 15th of March 1995.

## **2.17A Land Owners withdraw signatures from the Forest Management Agreement relating to Kikori Forest Area.**

On 3rd April 1995 Landowners represented by Hekiko Forest Pty Ltd who earlier signed the Forest Management Agreement informed Ms Jean Kekedo OBE Managing Director that they withdraw their signatures from the documents purported to be Forest Management Agreement Block I resource area effective as from the date of the letter.

The main objections stated in that letter were:-

- "1. *By signing the document, we have given consent for Turama Forest Industries Pty Limited (TFI) to be the Developer of our forest resources in Kaiam, Siawiti and Baina areas.*

*(We must make it clear that, that was not our intention of signing the document. In fact, this was not what we were told by the officers at the time of signing in the villages. We never intended to sign for TFI. It was for this reason that, a tribal fight almost broke out between certain clans of Kaiam No. 1 village against the clans from Baina and Siawiti villages.)*

2. *The proposed Block 1 area covering our resources is the same as the TSA No. 5 concept. We understand that, for this reason, the TFI survey on TSA No. 5 that was carried out during the period of March 1994 to September 1994 was accepted by Forests Authority for the purposes of the proposed Block 1 FMA.*

*(The TFI survey was for TSA No. 5 which was abolished. The use of TSA No. 5 Survey Report for Block 1 FMA is very confusing to us. We did not understand at all on what basis were we signing the document. It was unclear to us at that time.)*

3. *The Forest officers visiting villages advised us that:-*

- (a) The FMA was for Block 1 forest area which covers part of the Hekiko forest area.*
- (b) The FMA was to be signed between the Forest Authority and the Landowners concerned.*
- (c) The FMA was not for any particular company nor for TFI.*

*The Landowners believed in good faith, it was not for TFI so they signed the FMA. We now believe that, this is not the case after signing the FMA. The Forest Authority have now collected our signatures and are pursuing for TFI to be the developer.*

*The Forest Authority by the actions of the officers concerned had misrepresented their intentions, had misguided us to believe them that they were doing Government business and had obtained our signatures by such ill conceived motives to promote TFI. The motives and actions of the officers concerned are questionable.*

4. *If the Forest Authority is recommending TFI to be the Developer of the area, this is clearly against our wishes and desire for a separate Developer to develop our forest resources. (Exhibit 8A)*

**2.17B Landowners were not given an opportunity to discuss and negotiate Forest Management Act with their Lawyers.**

On 7 April 1995 the Honourable Andrew Posai MP, Minister for Forests informed the former Managing Director Ms. Jean Kekedo OBE that the land owners were not even given the opportunity to discuss and negotiate the Forest Management Agreements with their Lawyers. He alleged that this was unacceptable business conduct. As a result they signed a document which they did not understand. Landowners deserved better treatment from the Forest Authority officers and specially when such officers were fellow country men. Further, the following were mentioned:-

"The Landowners wish for and desire a development of their Hekiko forest resources. They also desire a separate developer for their timber resources. Their reasons for a separate development were as follows:-

1. *To allow for competitiveness in provisions of benefits and participation for the local people.*
2. *To ensure immediate development impact under a separate package of investment."*
3. *To support the Government on its desire to bring PNG more foreign investments to boost our economy.*
4. *To avoid the TFI experiences of lack of infrastructural support to Kikori District, lack of support to the water way people continuous division and conflicts among the people due to political differences created by TFI in Kikori.*

*I consider that their wish and desire genuine and worthy of notice and favourable consideration. As you know our Government abolished the TSA concept for the main reason that the concept was foreign and did not recognize our people's customs, beliefs and tenurial rights over customary land on which the forest resources stand. In view of this Government policy I direct you to ensure your forest officers take all necessary actions to:-*



1. *Exclude Landowners from Kaiam No. 1, Siawiti, Baina, Kakedemaiyu, Fogomaiyu and other villages situated between these villages along the western side of the Kikori river from the FMA recently executed covering Block I including a part of Hekiko Forest area. Their letter formally withdrew their signatures to the FMA; and*
2. *Process the Hekiko Forest area as a separate timber project with a separate FMA over it to be signed by traditional Landowners from Kaima No.1, Siawiti, Baina, Kakedemaiyu, Fogomaiyu and other villages situated between these villages along the western side of Kikori River." (Exhibit 8B)*

## **2.18 Reply from Ms Jean Kekedo OBE to the Honourable Andrew Posai MP, Minister for Forests.**

On 15th April 1995 Ms. Jean Kekedo OBE, Managing Director sent a reply to the Honourable Andrew Posai MP, Minister for Forests, as follows:-

*"In the first instant be advised that I have asked my staff to do a full analysis of the background dealings concerning this project, and will not be in a position to firmly advise on allocation of the three FMAs until this is to hand. You will appreciate that whilst the TSA concept has been abandoned, certain and in this instance, significant, commitments were made by the previous government with respect to allocation of resource in the vicinity now described by the three FMAs. On the basis of this development both East Kikori and TFI have an historical claim on these forests. Hekiko is to my knowledge a new player and is without any earlier government implication as regards commitments to future resource. The point of reminding you of these is to firmly establish the reality of a substantial cost claim against the State should we get it wrong. In the case of TFI, who were invited to undertake a very expensive feasibility study we may expect this claim to be measured in the 10's of millions, hence our caution.*

*I must reiterate that our staff have in no respect made any decisions on allocation and the signing of FMAs was firmly undertaken on the basis of assignation of rights to the State and not to any given developer. I must defend this position as regards your accusation that our staff have behaved improperly. To the contrary it would have been wrong and illegal for our staff to have then engaged in discussions/negotiations on a developer. This responsibility is firmly assigned to the PFMC which regrettably has chosen to delay formation despite our protestations. I must also object to your comment that the PNGFA is unreasonably delaying development in*