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# Illegal logging in Papua New Guinea

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## SUMMARY

### Context

This paper presents an assessment of levels of illegal logging and related trade in Papua New Guinea (PNG), the state of forest governance, and the response from the government and private sector to the issue of illegal logging. Using both primary research and secondary sources, the study assesses the situation using a set of standardized indicators previously developed by Chatham House, including: an assessment of the country's policy framework and enforcement; an experts' perception survey; wood balance analysis; trade data analysis; assessment of media coverage; and an assessment of levels of certification and legality verification.

Most of PNG's commercially accessible forests have been designated for logging. Industrial logging has been shown to be the main driver of forest degradation, while forest loss due to conversion for agriculture has become a significant issue in recent years. Log production reached a record high in 2011 as a result of large volumes being sourced from the clear-felling of forests under 'Special Agricultural and Business Leases'.

### Levels of illegal logging

Illegal practices are widespread, and the weight of available information (including independent reviews commissioned by the government, and the views of private sector experts surveyed by Chatham House) suggests that the majority of timber production in PNG is illegal in some way.

The types of illegality recorded include: licences being issued or extended in breach of regulations (especially those relating to consultation with indigenous landowners); extensive breaches of harvesting regulations by concessionaires; and, most recently, the abuse of licences for clear-felling forest for commercial agricultural plantations. However, there is relatively little completely unlicensed logging in PNG, and little or no smuggling of timber abroad. Logging-related tax payment is better than in many other countries.

Illegal small-scale sawmilling to supply urban markets in PNG is thought to be a significant problem: wood balance analysis suggests that this may account for 10% of all harvesting in PNG. However, further research is needed on the nature and extent of this.

Most of PNG's timber is exported as logs to China. A very small percentage of PNG's exports are for Europe or the US, and this share is declining in response to increased concerns about illegal logging and import controls. This reduces the likelihood that legislation in these latter markets will provide an incentive for producers to improve practices.

### Response to the issue

The legal framework for forestry is quite strong in many respects. It includes strong checks and balances, including limits to discretionary powers and the involvement of non-government stakeholders in decision-making. Customary rights are uniquely strong. However, this strong framework has been fundamentally undermined by major failures in implementation and enforcement.

There is almost non-existent enforcement of the law: penalties are low and never fully applied; resources for monitoring are woefully insufficient; and no best-practice methods are used to detect illegality remotely. There is also an extreme lack of transparency in the sector.

The PNG government has been less engaged in international efforts to tackle illegal logging and associated trade than have the authorities in most other major tropical forest nations. Deep-rooted problems with corruption and poor forest governance in PNG have been documented in detail on multiple occasions over the past 25 years, yet successive administrations have failed to address

them. However, some recent initiatives provide opportunities for making progress. These include the piloting of a new chain of custody and information management system, and a multi-stakeholder legality standard.

## **Conclusions and recommendations**

Finalizing the chain of custody and information management systems and rolling them out nationwide should be a priority. PNG must also finalize the new draft legality standard and make auditing and compliance with it mandatory for all timber harvesting in the country.

The government also needs to increase resources for those agencies with responsibility for monitoring and enforcement, and to make significant improvements on transparency in the forest sector, with mandatory publishing of key documents and data. The government must also cancel all agricultural licences issued illegally.

PNG should also begin negotiations with the EU for a Voluntary Partnership Agreement (VPA) on Forest Law Enforcement, Governance and Trade (FLEGT).

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## GLOSSARY OF TERMS

CoC	Chain of Custody
EU FLEGT	European Union Forest Law Enforcement, Governance and Trade (EU programme on FLEGT)
FCA	Forest Clearing Authority
FIA	PNG Forest Industries Association
FMA	Forest Management Agreement
FSC	Forest Stewardship Council (a certification system and standard for ensuring legality and sustainability of timber and wood products)
GFTN	Global Forest & Trade Network (a WWF initiative, assisting timber companies)
ITTO	International Tropical Timber Organization
NFB	National Forest Board
PFMC	Provincial Forest Management Committee
PNG	Papua New Guinea
PNGFA	Papua New Guinea Forestry Authority
REDD+	Reducing Emissions from Deforestation and Forest Degradation (the plus referring to the role of conservation, sustainable management of forests and enhancement of forest carbon stocks)
RWE	Roundwood equivalent volume (the volume of logs estimated to have been required to produce a given amount of a wood product)
SABL	Special Agricultural and Business Lease
TA	Timber Authority
VPA	Voluntary Partnership Agreement (bilateral agreement with the EU)

## BACKGROUND TO THE STUDY

Chatham House has developed a methodology and a series of standardized indicators for assessing illegal logging and related trade, and associated forest governance, in countries that produce, trade and consume illegally sourced timber. The indicators look at the nature and extent of the problem, the attention it receives, and the response by both the government and the private sector.

Twelve countries were assessed in 2008–09, including five producer countries (Brazil, Cameroon, Ghana, Indonesia and Malaysia). The results showed that illegal logging had declined in three of these countries (Brazil, Cameroon and Indonesia), but that it remained a serious problem in all of them. The results, published in 2010, have helped drive and target further efforts to tackle the problem.

During 2012–13 Chatham House extended the assessment to three new producer countries: the Republic of Congo, the Democratic Republic of the Congo (DRC) and Papua New Guinea (PNG). The indicators used to measure the situation in these countries include: a survey of experts; reviews of relevant media coverage; wood balance analysis to estimate illegal harvest volumes; analysis of discrepancies in trade data between exporter and importer countries; collection and analysis of enforcement and forestry tax data; collection and analysis of data on voluntary verification and certification by timber companies; and a detailed and structured assessment of the response of government, both in terms of policy and implementation. This report presents the findings for PNG.

## PAPUA NEW GUINEA'S FORESTS AND TIMBER

Papua New Guinea is one of the world's 10 largest tropical rainforest nations. In 2002 PNG had 33 million hectares of forests, more than any other country in Southeast Asia/Pacific except Indonesia. More than 70% of PNG remains forested.<sup>1</sup> The tropical forests of the island of New Guinea (of which PNG represents the eastern half) have been ranked among the world's 10 most ecologically distinctive forest regions. New Guinea's forests are home to 191 species of mammals and 750 species of birds, with the majority of these found nowhere else. PNG's forests provide subsistence food and building materials for a large proportion of the population, which remains predominantly rural. There are more than 800 local languages spoken, and most people retain a close spiritual and cultural association with the forest.<sup>2</sup> Unlike most other tropical forest nations, almost all of PNG's forests are under the customary ownership of local people.

Some 15% of PNG's primary rainforests were lost in the 30 years to 2002, while a further 9% were degraded.<sup>3</sup> Rates of deforestation and degradation in the early 2000s were higher than those seen in the Brazilian Amazon and in most Congo Basin countries, but lower than in Indonesia or Malaysia. The rate of deforestation and degradation is increasing. Commercial logging is the most important driver of forest degradation in PNG.<sup>4</sup> Subsistence agriculture has traditionally been the main driver of deforestation, but this is likely to have changed in recent years as very large areas have been licensed for conversion to commercial agricultural plantations (see pages 24-25).

PNG is a mountainous country, and the majority of the country's forests are judged to be commercially inaccessible. Most of PNG's commercially accessible rainforests have been allocated for logging, but many concessions are inactive. As of 2006 there were 33 active logging concessions, covering a total of 5.25 million hectares;<sup>5</sup> more recent information from the Papua

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1 Shearman, P.L., *et al.*, (2008): *The State of the Forests of Papua New Guinea: Mapping the extent and condition of forest cover and measuring the drivers of forest change in the period 1972–2002*, Port Moresby: University of Papua New Guinea. It should be noted that the methodology and results of this study have been the subject of debate between academics. For further information see Filer, C. *et al.*, (2009): 'Deforestation and forest degradation in Papua New Guinea', *Ann. For. Sci.* 66, 813 and Shearman, P., *et al.*, (2010): 'Deforestation and degradation in Papua New Guinea: a response to Filer and colleagues, 2009', *Ann. For. Sci.* 67, 300.

2 *Ibid.*

3 *Ibid.*

4 *Ibid.*

5 *Ibid.*

New Guinea Forestry Authority (PNGFA) for 2011 shows ‘current’ logging concessions covering 5.8 million hectares.<sup>6</sup> A handful of Malaysian multinational logging firms dominate the timber industry, with just one – Rimbunan Hijau – responsible for about a third of all log exports.<sup>7</sup> Around a third of PNG’s commercially accessible forests have already been logged.<sup>8</sup>

PNG is the second largest exporter of tropical timber in the world, after Malaysia.<sup>9</sup> More than 90% of timber exports are raw logs.<sup>10</sup> Annual export volumes increased gradually during the 1970s and 1980s, expanded rapidly in the 1990s to a peak of 3 million cubic metres, dropped back to an average of 2 million cubic metres a year during the late 1990s and early 2000s, before rapidly increasing again in the last 10 years (2002 to 2012).<sup>11</sup> Log exports in 2011, at 3.5 million cubic metres,<sup>12</sup> were the highest ever recorded. Most of the recent increase has been driven by forest conversion (see pp. 25-26). Before 2000 Japan was the largest buyer of PNG logs, but 80% of PNG’s logs are now destined for China. A very wide range of timber species are harvested in PNG, with no single species representing more than 5% of production in 2009.<sup>13</sup> Some of the more important species are kwila (*Intsia bijuga* – also known as merbau – representing 11% of natural forest log exports in 2012),<sup>14</sup> taun (*Pometia spp.*; 16%), terminalia (*Terminalia spp.*) and bintangor (*Calophyllum spp.*). An uncertain, but most likely significant, proportion of PNG’s timber exports to China are re-exported as processed products, especially in the form of plywood.

In 1989 the government-commissioned Barnett Inquiry concluded that the logging industry in PNG was ‘out of control’, documenting pervasive corruption, bribery, non-compliance with regulations, extensive violations of landholders’ rights and extreme environmental devastation.<sup>15</sup> A major effort at reform followed: a moratorium was placed on new logging licences; a new forest policy and forestry law was promulgated; and a number of politicians and civil servants were removed from office. A decade later, however, a series of independent reviews found that illegality and poor forest governance remained the norm (see p. 22-23). Some 75% of log exports from selective harvesting still come from concessions issued before stricter rules on concession allocation were implemented in 1991.<sup>16</sup>

## MEDIA ATTENTION

In the international English-language media, illegal logging in Papua New Guinea receives slightly more attention than does illegal logging in Ghana, Cameroon or the Republic of Congo, but far less than illegal logging in Brazil or Indonesia (see Figure 1). The level of attention has been closely linked to the activities of international NGOs. Attention peaked in 2006, at which time Greenpeace published an investigative exposé of illegal PNG timber in Chinese plywood used in a UK government project<sup>17</sup>, while the NGO Forest Trends published a damning summary of the various independent reviews of the forest sector in PNG that had been undertaken in the previous few years.<sup>18</sup> The level of attention was maintained into the following year, in large part as a result of

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6 Net area of all concessions annotated as ‘current’ (as opposed to expired or under dispute) as listed in PNGFA, (2013): *Draft National Forest Plan*, Port Moresby: PNGFA, Appendix 4 (which lists the data as being as of December 2011); data analysed by the author.

7 SGS, (2011): *Log export monitoring report, 2011*. Elasmere Port: SGS. Though the PNG government has promised since 1991 to increase domestic processing, so far little has changed and there is very limited processing capacity in the country. The proportion of logs processed has actually declined in recent years.

8 Shearman *et al.*, (2008): *The State of the Forests of Papua New Guinea*.

9 Based on statistics reported in ITTO, (2011): *Annual Assessment of the World Timber Situation*, Yokohama: ITTO.

10 Based on analysis of mirror statistics from destination countries.

11 Shearman *et al.*, (2008): *The State of the Forests of Papua New Guinea*.

12 SGS, (2011): *Log Export Monitoring data*.

13 PNGFA, (2009): *Papua New Guinea Forestry Outlook Study*. Bangkok: FAO.

14 Calculated from data in SGS (2012): *Log Export Monitoring Report, 2012*.

15 FAO, (2004): *Note on National Forest Policy process*, <http://www.fao.org/forestry/14878-0a11fcc9fb23d06b1bb586fc398ffb7.pdf>

16 Analysis by the author of SGS Log export monitoring data, 2012 cross-referenced against list of logging concessions from PNGFA (2013) *National Forest Plan*, Appendix 4.

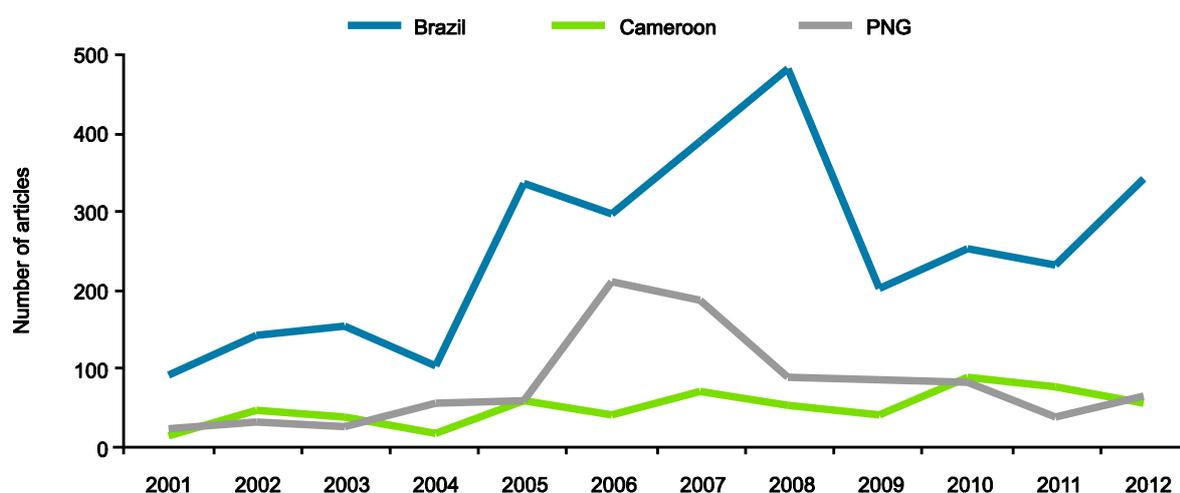
17 Greenpeace, (2006): *Repeat Offender: How Tony Blair’s Government continues to trash the world’s ancient forests*, <http://www.greenpeace.org.uk/MultimediaFiles/Live/FullReport/7828.pdf>

18 Forest Trends, (2006): *Logging, legality and livelihoods in Papua New Guinea: Synthesis of Official Assessments of the Large-Scale Logging Industry*, Washington DC: Forest Trends.

NGO campaigning about illegal timber imports in the United States and Australia, and the subsequent government response.

Attention has declined in the years since, as international NGOs have moved their focus to other issues and other countries. A slight rise was recorded in 2012, with attention stemming from a new law to prohibit imports of illegal wood under development in Australia – an important market for PNG processed wood exports. Although the exposure in 2011 and 2012 of the widespread dubious issuance of licences to clear-fell forests (see pp. 25-26) received a great deal of attention within PNG (see pp. 9-16), it has attracted very little attention internationally, perhaps because none of the timber has been traced to Western markets.

**Figure 1: Coverage of illegal logging in Brazil, Cameroon and PNG in global English-language media, 2001–12**



Source: Factiva.

Chatham House examined coverage of the issue in PNG’s two daily newspapers, the *Papua New Guinea Post-Courier* and *The National*, for the two years from April 2010 to March 2012. It is important to note that *The National* is owned by the Malaysian company Rimbunan Hijau, the largest logging company in PNG, and this is strongly reflected in its coverage of the matter. During the period in question, for instance, many relevant articles were in defence of a Rimbunan Hijau logging project that was being criticized by Greenpeace. Many more stories about illegal logging were published by the *Post-Courier* than by *The National* during the period in question.

While very few stories about illegal logging were included in either newspaper in April 2010–March 2011, during the second year under review the numbers increased dramatically (see Table 1). The main reason was the increasing attention given to potential illegalities relating to large numbers of new licences recently issued to clear-fell forest under Special Agricultural Business Leases (SABLS – see pp. 25-26). Court cases, NGO campaigning and media investigations brought this issue to the fore during the year.

**Table 1: Coverage of illegal logging in PNG’s two daily newspapers (number of relevant articles)**

Category	April 2010– March 2011	April 2011– March 2012
Extent, nature and impacts of illegal logging	0	46
Focus country government response (policies)	0	2
Enforcement	0	6
Focus country private sector response	0	3
Others/none of the above	2	1
<b>Total</b>	<b>2</b>	<b>58</b>

Source: Review of hard copy archives of PNG *Post-Courier* and *The National* by Chatham House consultant.

## GOVERNMENT RESPONSE

### Policy assessment

Chatham House uses a structured system for assessing the existence, design and implementation of those laws, policies and regulations generally considered necessary to minimize illegal logging and ensure good forest governance in high-risk countries. Around 50 policy areas are assessed and scored, gathered under 12 major headings. The assessment provides a baseline against which future progress can be measured. The results for each major heading are summarized below.

#### *High-level arrangements*

Papua New Guinea has commissioned a number of independent studies into the scale and nature of illegality of various aspects of forestry over the years, usually with the encouragement of international donors. The Barnett Inquiry reported in 1989; another major assessment of industrial selective logging was conducted in 2003–05 (see pp. 22-23); and in 2012 an inquiry was launched into the legality of forest clearance for industrial agricultural plantations (see pp. 25-26). No formal plan was ever developed for tackling the illegalities exposed by past reviews, however, and no multi-agency task force or other coordination mechanism has been established. Although PNG does have multi-stakeholder processes in place related to forestry decision-making, these have not been used in relation to any specific government planning on tackling illegal logging. No systems to monitor 'safeguards' (including forest governance) in relation to activities under the Reducing Emissions from Deforestation and Degradation (REDD+) initiative have yet been implemented.

#### *Legislative framework*

PNG's forestry regulations were comprehensively overhauled in the early 1990s, in response to the damning findings of the Barnett Inquiry (see p. 7). The resultant legal framework is relatively robust and coherent. The independent reviews of the early 2000s and a subsequent technical mission by the International Tropical Timber Organization (ITTO) both concluded that PNG's laws and regulations were generally good, and that the problem lay with implementation and enforcement.<sup>19</sup> However, the regulations have been made more ambiguous over time by numerous amendments, and PNG's forestry policies, laws and regulations are also not harmonized with other legislation affecting forests, including agriculture and mining policies and regulations.

#### *Checks and balances*

PNG's Forestry Act of 1991 incorporated a series of checks and balances that were designed to prevent the corruption and mismanagement seen previously. The law sets clear limits on the discretionary powers of the forests minister and other high-level officials, and includes the multi-stakeholder National Forest Board (NFB) and Provincial Forest Management Committees (PFMCs) as key elements of the forest governance structure. However, independent reviews and various legal cases have demonstrated that the operation of this system has failed to function effectively.<sup>20</sup>

The country's national constitution enshrines the rights of the public to mount legal challenges against government decisions. NGOs and local customary landowners have successfully used this right in a number of court cases over the last 10–15 years, in which logging companies have been granted harvesting licences without due process having been followed, particularly in relation to rights of customary landowners.<sup>21</sup>

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19 Friends of the Earth Japan (FoE)/Global Environment Forum (GEF), (2011): *Evaluation of social and environmental risks accompanying the procurement of timber from Papua New Guinea*, Tokyo: FoE; GEF.

20 Overseas Development Institute (ODI), (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea: Papua New Guinea Forest Studies 2*, London: ODI.

21 Ibid.

Penalties for corruption do exist in PNG, but no formal cases related to forest governance appear ever to have been brought.<sup>22</sup> Official independent reviews in the late 1980s and early 2000s uncovered evidence of corruption and recommended further investigations, but none followed – although in some cases individual officials were removed from their posts. There is no official internal inspectorate within the PNGFA: while the NFB and PFMCs have a role in providing oversight of the actions of the forest service, this role is not clearly defined, and the ability of these bodies to fulfil it is hampered by their dependence on the forest service for information and transport (which is in turn often dependent on the logging companies for the latter).<sup>23</sup> The NFB has been weakened by changes to its membership structure since its foundation, and has itself been the subject of investigations into abuse of powers.

PNG's Ombudsman Commission – which operates independent of the national legislature and executive – has provided some element of external oversight in individual cases brought to its attention by NGOs and customary landowners. However, the Ombudsman Commission investigates the forest sector only on an ad hoc basis; it is not empowered to enforce the reports of its investigations by litigation; and it is constrained from providing routine oversight of the forest sector by limited capacity.<sup>24</sup> The country's auditor-general carries out regular audits of the PNGFA's finances, but not of its activities (see p. 15). Various additional oversight bodies have been proposed in the past, but none has yet been implemented.<sup>25</sup>

### *International engagement*

PNG is one of the only large tropical timber exporting countries in the world that is not negotiating, implementing or in preliminary informal discussions regarding a Voluntary Partnership Agreement (VPA) on Forest Law Enforcement, Governance and Trade (FLEGT) with the EU, and to date the government has shown no interest in doing so. One reason may be that PNG's exports to the EU are very small, although it is possible that the impact of the new EU Timber Regulation (EUTR) on access to EU markets for Chinese timber products made with PNG logs may encourage closer cooperation in future.

In 2009 PNG signed a memorandum of understanding on forestry with Australia. This was promoted by the Australian government as being principally about working together to tackle illegal logging.<sup>26</sup> The agreement was very vague, however, and did not include any specific relevant commitments. Most provisions – such as those on 'promoting improved trade' and 'identifying ways to support future growth of forest industries' – have no relation to illegal logging and forest governance. The most relevant and specific provision was to 'promote' the verification of legal origin of timber and wood products.<sup>27</sup>

### *Supply and demand*

PNG does not require evidence of sufficient supplies of legal timber as part of the licensing process for timber mills in the country. According to one 2007 study, the NFS has not shown much interest in the monitoring of throughput and recovery rates from processing plants, as log exports are responsible for most revenues.<sup>28</sup> However, excess production capacity is unlikely to be an important driver of illegality in PNG in the foreseeable future. Total processing capacity is a tiny fraction of the country's legal log production, and has actually declined in recent years as some mills have shut down.

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22 Transparency International (TI), (2011): *Forest Integrity Baseline Report: Papua New Guinea*. Port Moresby: TI.

23 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

24 Ibid.

25 Ibid.

26 DAFF, 15 June 2009, 'Agreement with PNG another step forward in fight against illegal logging'

27 DAFF, (2009): *Australia-PNG Memorandum of Understanding*.

<http://www.daff.gov.au/forestry/international/regional/australia-png-memorandum-of-understanding>

28 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

### *Tenure and use rights*

Unusually among major tropical forest nations (where forests are normally owned by the state), 99% of PNG's forests are under customary ownership by local indigenous people.<sup>29</sup> Customary ownership is not well documented and mapped, and even the information that does exist is not readily accessible to the customary owners themselves. Currently, there are no effective mechanisms for resolving conflicting or overlapping property rights. Given that all land is under customary ownership, such conflicts are normally between neighbouring clans or villages. There are tribunal hearings and village magistrates' courts, but these are under-resourced and not supported by government. The government is now working to implement new and more effective mechanisms.

While customary ownership over forests is clear in legislation and regulations, the systems whereby rights to selectively log and clear-fell customary owned forests are obtained have been found to be seriously deficient. Although prior, informed consent of customary landowners is required, and some form of written consent is normally obtained, very often the process by which consent is given is seriously flawed, with local people not sufficiently informed or with individuals signing off who do not represent the views of the community as a whole. (See pp. 22-26 for more details.)

### *Chain of custody*

In 1994 an independent monitor (the international verification services company Société Générale de Surveillance SGS) was appointed to verify exports of logs from PNG, and this mechanism remains in place. The objective of the system is to ensure that taxes are levied on all exports; it was not designed to verify the legality of harvesting at source.<sup>30</sup> Barcoded tags are handed to licensees for them to attach to logs at landing points within logging concessions. These tags provide information on the concession, logging block and species. At the port, SGS ensures that all logs exported are properly declared and that relevant taxes have been paid. The SGS system only enables logs to be traced back to logging blocks, and not back to individual stumps. The system does not involve any checks on the legality of licence issuance, harvesting practices or most other forest-related regulations. It is not even clear whether the monitoring is able to guarantee what it is designed to: only a 10% sample of logs is actually required to be checked;<sup>31</sup> and there is evidence that log values may be being under-declared (see pp. 23-24).

The fact that the SGS log monitoring does not provide proof of legality has been amply demonstrated. Exports from the logging concessions found to be in breach of regulations by independent reviews in the early 2000s (see pp. 22-23) continued to be signed off by SGS, as are all log exports from SABL conversion licences, despite a parliamentary inquiry having found that 90% of such licences were issued illegally (see pp. 25-26). SGS also continued to sign off on exports of logs from the highly controversial Kiunga-Aiambak road project long after it had been exposed as highly illegal and been condemned even by the PNG Forest Industries Association (see pp. 24-25).

A two-year project to support improved forest law enforcement in PNG, funded by ITTO and approved in 2010, included (*inter alia*) a plan to develop and pilot test a sophisticated new timber products tracking and chain of custody verification system in one or two concessions. The status of this pilot system is unclear, however, and as yet there is no firm plan to roll out any new system nationwide.

### *Transparency*

Transparency of forest-related information is poor in PNG, and among the worst of any producer country assessed by Chatham House.

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<sup>29</sup> FoE/GEF, (2011): *Evaluation of social and environmental risks accompanying the procurement of timber from Papua New Guinea*.

<sup>30</sup> *Ibid.*

<sup>31</sup> TI, (2011): *Forest Integrity Baseline Report: Papua New Guinea*.

The PNG constitution guarantees every citizen ‘the right of reasonable access to official documents, subject only to the need for such secrecy as is reasonably justifiable in a democratic society’, but protocols are not yet in place to see this guarantee made effective.<sup>32</sup> The 1991 Forestry Act states that the PNGFA must maintain a public register, to include (*inter alia*) maps relating to forests, results of decisions regarding issuance of logging licences, details of the holders of all logging and processing licences issued, and copies of Forest Management Agreements (FMAs).<sup>33</sup> The law also requires the issuance of notices and the holding of public hearings as part of the procedures for the granting of logging permits. However, it is unclear to what extent the public register is properly kept, or how easy it is to access. Certainly, FMAs and other basic documentation have allegedly not been made available in cases where landowners have requested these, requiring legal action to force disclosure.<sup>34</sup>

There are no specific regulatory requirements for transparency of official documents governing harvesting (five-year plans, annual logging plans and set-up plans). There are also no requirements for transparency regarding data on harvesting, processing and trade, or regarding enforcement. The PNGFA produces annual reports, but there is no specific legal requirement for these to be made public, and they do not in any case include very much information. The most recent annual report available for this study was from 2009.

Following the recent controversy regarding the issuance of licences to clear-fell natural forests (see pp. 25-26), the managing director of the PNGFA issued a directive to staff not to give out any information to outsiders except through his office. Despite a formal request to the managing director, the PNGFA has failed to provide information for this study, including data on enforcement and on licensed harvest volumes.

#### *Allocation of rights to harvest*

In 1991 detailed new rules were enacted regarding issuance of logging concessions (FMAs). To obtain an FMA, a complex, 34-step process is required. This includes most forms of best practice, including broad consultation, open, competitive bidding and the exclusion of companies with poor records. The consent of customary landowners (who own 99% of PNG’s forests) is required in all cases, and the law is designed with safeguards, among them provisions whereby no single government official – not even the forests minister – has the power to decide unilaterally on the issuance of a logging licence. All too often, however, these resource allocation procedures have been circumvented or simply not implemented, and some important provisions have also been watered down since 1991 through legislative amendments.

The vast majority of selective logging in PNG continues to be conducted under concessions issued prior to 1991 (see p. 7). An independent review in 2003–05 found that many of these concessions had been illegally renewed and extended by the PNG authorities (see pp. 22-23). The renewals were retroactively legalized by an amendment to the law in 2005.<sup>35</sup> The 2003–05 review, along with a number of legal cases, also exposed a systematic failure properly to implement the free, prior, informed consent requirements in the legislation (see pp. 22-23). These requirements were also later watered down. A 2007 technical mission by ITTO concluded that ‘the current acquisition process as executed by the PNGFA appears to give only superficial attention to the rights and choices of customary landowners’, while ‘processes for community resource mapping, setting shared goals, identification of conservation areas, ancestral areas, resolving boundary issues, etc are seriously absent under the current mechanism of resources acquisition’.<sup>36</sup> Most logging permits include contractual requirements for providing infrastructure and other assistance with socio-

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32 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

33 PNGFA, (1991): *PNG Forestry Act, 1991, Article 103A*. Port Moresby: PNGFA

34 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

35 Ibid.

36 ITTO, (2007): *Achieving the ITTO Objective 2000 and Sustainable Forest Management in Papua New Guinea: Report of the Diagnostic Mission*, Yokohama: ITTO.

economic development to local people, but compliance with these requirements is often very poor, and enforcement largely non-existent.<sup>37</sup>

In the past, there has been abuse in the form of the improper issuance of Timber Authorities (TAs) for large-scale logging. These licences are meant for small harvesting operations to supply domestic markets and do not include the same safeguards as FMAs. (TAs were used in the Kiunga-Aiambak case, for instance – see pp. 24-25) Oversight of TAs was strengthened in 2005,<sup>38</sup> but a new means of circumventing strict resource allocation rules has subsequently emerged. Since 2006 most new harvesting has been clear-felling, carried out under SABLs (issued by the Ministry of Lands and Physical Planning) and associated Forest Clearing Authorities (FCAs – issued by the PNGFA). Changes to the Forestry Act in 2007 significantly lowered the barriers for forest clearance projects to be approved, sidestepped previous requirements for harvesting rights over conversion areas to be subject to competitive tender, and led to a boom in the number of licences issued.<sup>39</sup> In 2011 the government declared a moratorium on further issuance of these licences and a commission of inquiry was established to investigate past abuses. The inquiry found that 90% of the licences examined had been issued illegally. (See pp. 25-26 for more on the SABL issue.)

### *Law enforcement*

Many independent studies have noted the inability of the PNG authorities effectively to monitor logging activity and enforce the law. The PNGFA has itself admitted that insufficient resources mean that it 'cannot adequately monitor the activities of logging companies'.<sup>40</sup> A 2007 mission by a team of experts from ITTO recorded that 'in almost every consultation concern was raised about the capacity of PNG to monitor and enforce its own laws'.<sup>41</sup> Concessions ranging in size up to three-quarters of a million hectares have a maximum of two forestry officers responsible for monitoring them, and these officials are often without any independent means of transport. The Department for Environment and Conservation (responsible for monitoring compliance with environmental controls on logging) has no enforcement capacity at all. The ITTO mission concluded that 'satisfactory monitoring of logging operations and development projects is next to impossible'; and, based on field visits, declared that it was 'obvious that monitoring and enforcement was seriously inadequate, especially with respect to the adverse impacts of logging on the forest ecosystem and the communities living in them'.<sup>42</sup> Subsequent studies have confirmed that these capacity constraints continue to exist.<sup>43</sup> In its 2013 REDD+ Readiness Preparation Proposal (R-PP) to international donors, the PNG government claims that the PNGFA is aware of the capacity issues and 'has complemented efforts to improve policy to enhance the capacity to monitor and enforce government regulations'.<sup>44</sup> What this means in practice is not yet clear. The PNGFA is pushing for greater financial autonomy from central government, which may allow it to retain a greater proportion of the revenues that it generates and pay for better enforcement.

The lack of capacity for fieldwork is exacerbated by the fact that PNG does not currently use any remote tools for detecting illegality, such as satellite imagery, confidential diagnostic surveys, wood flow analyses (see pp. 19-20), or analysis of data from chain of custody or checkpoint systems. There is no specific training provided to either judges or customs officials in forest-related regulations, although the former are assisted by lawyers from the PNGFA in relevant cases, while the importance of customs officials is reduced in relation to the export of logs since SGS carries out systematic checks at ports.

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37 Review Team (RT), (2004): *Towards Sustainable Timber Production - A Review of Existing Projects*, Final report prepared for the Government of Papua New Guinea and its Inter-Agency Forestry Review Committee, 2 vols.

38 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

39 McCrea, P., (2009): *Oil palm sector situation and perception assessment, PNG*, prepared for the World Bank and Oil Palm Industry Corporation; Greenpeace, (2012): *Up for grabs: millions of hectares of customary land in PNG stolen for logging*, Ultimo: Greenpeace.

40 PNGFA, (2009): *Annual Report, 2009*. Port Moresby: PNGFA.

41 ITTO, (2007): *Achieving the ITTO Objective 2000 and Sustainable Forest Management in Papua New Guinea*.

42 Ibid.

43 PNGFA, (2009): *Papua New Guinea Forestry Outlook Study*; FoE/GEF, (2011): *Evaluation of social and environmental risks accompanying the procurement of timber from Papua New Guinea*.

44 FCPF& UN-REDD, (2013): *PNG REDD Readiness Preparation Proposal*.

Maximum fines allowed for by law for various forestry offences are not sufficiently dissuasive, and are almost never actually applied in practice. The fines defined in the 1991 Forestry Act, which were already low, have never been amended to keep pace with inflation and changes in log prices. The maximum fine for handling illegal timber, for instance, is just \$850;<sup>45</sup> the maximum penalty for smuggling logs is a fine of \$20,000,<sup>46</sup> but the average log shipment is worth more than 10 times that sum.<sup>47</sup> The law does also allow for potential prison sentences for many offences, but these do not appear ever to have been applied. Many PNGFA forest officers have reported that on the rare occasions when breaches of regulations by logging companies are exposed, prosecution never ensues. A 2007 study suggested that one possible reason was 'external influence' on the operations of the forest service.<sup>48</sup> The only financial penalties that are ever levied are 'compounded' (whereby the offender agrees to pay a certain amount and the authorities avoid the need to mount a prosecution), even though it is unclear whether the law actually allows this. As a result, the penalties involved are most probably so small that they can simply be written off as a business expense.<sup>49</sup> As far as Chatham House was able to ascertain, all of the handful of significant enforcement actions taken by the PNGFA in the recent past have stemmed from complaints from NGOs or from local landowners, often coupled with court action. None has resulted from the PNGFA's own monitoring.

### *Information management*

A 2007 study found that gaps in forestry-related information systems constituted a 'significant constraint on effective oversight' of the forest sector in PNG. Funding was provided by the Australian Agency for International Development (AusAID) to develop a computerized information system linking the provinces, regions and national headquarters in the late 1990s. However, the system never materialized, partly because of problems with PNG's telecommunications infrastructure.<sup>50</sup> A lot of information is still transmitted and stored on handwritten paper forms; and the computerized information that is collected is not organized or accessible. The lack of a functioning information management system means that, *inter alia*, it is not possible to reconcile data on timber production, mill throughput, and recovery rates and exports of processed material in order to identify discrepancies resulting from illegal activity. Even where systems for collating information are relatively sophisticated, the quality of the information input is often poor. PNG's Forest Inventory Mapping System (FIMS) database, for instance, was criticized by ITTO in 2007 for being based on 'guesstimates' rather than actual field work.<sup>51</sup> The independent monitoring of log exports by SGS does involve a computerized system that includes volumes exported and taxes paid by individual logging concessionaires, but the database only captures a part of the timber administration system. The problems with data collection and management are demonstrated by apparent confusion over one of the most fundamental factors – the amount of timber officially harvested. Research by Chatham House for the wood balance analysis in this report exposed large differences in data for licensed harvests reported by the PNGFA's Field Services Division (as cited in the country's REDD+ R-PP) and that reported in PNGFA annual reports.<sup>52</sup>

A recent ITTO-funded project included the development of a broader computerized information system for managing data on harvesting, transport and export of timber and associated royalty payments, linked to a new chain of custody system (see p. 11). The current status of the mechanism is unclear, but as yet there are no clear plans from the PNGFA to roll it out nationwide.

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45 PNGFA, (1991): *PNG Forestry Act, 1991, Articles 124 & 125* (kina value converted to US\$).

46 PNGFA, (1998): *PNG Forestry Regulations, 1998, Article 234(2)*, Port Moresby: PNGFA, (kina value converted to US\$).

47 Calculated from SGS log export monitoring data for 2011.

48 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

49 Ibid.

50 Ibid.

51 FoE/GEF, (2011): *Evaluation of social and environmental risks accompanying the procurement of timber from Papua New Guinea*.

52 For instance, the figure for total harvest reported in 2009 reported in the PNG Annual Report for that year was 2,090,000 cubic metres, while the PNG REDD Readiness Preparation Proposal of 2013 (citing data from the Field Services Division) gives a figure of 2,802,277 cubic metres – a difference of more than 700,000 cubic metres. This was not the only year for which the data differed substantially.

### *Financial management*

PNG's auditor-general does audit the finances of the PNGFA, but a 2007 study noted that it is 'thought to be too under-resourced to act proactively in a sector such as forestry'.<sup>53</sup> The ability of the auditor-general to examine the PNGFA effectively is also severely constrained by the fact (uncovered during the most recent audit) that the PNGFA does not maintain proper accounting records.<sup>54</sup> When the PNGFA failed to provide such records for 1999–2005 during an earlier audit, one PNG legislator asked during a subsequent hearing in 2008, 'If the authority cannot manage its own internal budgets and cannot keep even basic accounting records, how can it be expected to manage our forests?'<sup>55</sup> On the basis of information available, this question remains as pertinent now as it was then. The SGS independent monitoring of log exports provides a method by which to check if export taxes are paid on all logs exported, but it does not capture payments to landowners or timber that is processed prior to export.

There are no systems in place within the PNGFA for checking actual harvest volumes against revenues and investigating discrepancies. The office of the auditor-general sought to carry out such checks during its last audit in 2009, but found that to do so properly would have required it to examine direct log scaling sheets kept by each individual provincial forest office, which was beyond its capabilities. Using available collated data stored at headquarters, it was nevertheless able to demonstrate significant discrepancies that had apparently gone unnoticed. It compared harvesting records against amounts of royalties collected for January 2001–August 2008, finding that almost \$4 million was missing.<sup>56</sup>

The new information management system being developed under an ITTO project (see p. 14) may help to improve financial management, if it is completed and rolled out nationwide.

### **Perceptions survey**

In order to inform its assessment of the extent of illegal logging and the response of both the private sector and government in producer countries, Chatham House carries out confidential perceptions surveys of a sample of relevant experts. A general survey is targeted at a mix of around 30 government, private sector, NGO and other respondents, while separate special surveys obtain information from the private sector and industry associations. The survey was carried out in PNG in late 2012 and early 2013.

Chatham House encountered much greater difficulties in obtaining sufficient responses to the survey in PNG than it did in most other countries assessed. The majority of government officials approached refused to complete the survey, or would only answer questions about the government response. Many private sector representatives who were approached also refused to take part. Representatives of the most engaged NGOs also failed to complete the survey. For these reasons, the numbers of responses obtained from each of the major groups fell short of the minimum normally required.<sup>57</sup>

In addition, different groups also appear to have interpreted the survey questions very differently, confusing the results. The government respondents – especially those from the PNGFA – consider that only unauthorized logging (i.e. logging without any licence) constitutes illegal logging, and answered the questions in this light. Most other respondents understood the term (as is now standard in international discourse) to be defined more broadly.

For the reasons above, the survey results for PNG must be interpreted with particular caution.

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53 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

54 Auditor-General's Office, (2010): *Report of the Auditor-General, 2009, Part IV*, Port Moresby: Auditor-General's Office, pp. 150–158.

55 *PNG Post-Courier*, 23 September 2008, '\$41 million missing at PNG Forest Authority'.

56 Auditor-General's Office, (2010): *Report of the Auditor-General, 2009, Part IV*.

57 A minimum of 10 responses is normally sought from each of the three major groups. In PNG there were a total of eight government responses, nine private sector responses and 10 NGO/other responses. Three of the government respondents only answered four of the 18 questions, however.

The only respondents who judged the response of the government to be above average were from the PNGFA. In all, 16 of the 27 respondents judged the response of the government to illegal logging to have been poor. Corruption and lack of political will were reckoned by a large majority of respondents to be the most important impediments to an effective response. Few respondents believed poor laws were an important problem. Just five respondents believed that the government's response had improved in the most recent year, and three of those were from the PNGFA. A large majority of respondents believed that little had changed. One positive note was that among non-government respondents, a larger number considered that political will had improved slightly than believed it had worsened.

### Enforcement data

Very few data on enforcement are available for PNG, and the PNGFA did not respond to requests from Chatham House for data for use in this study. The 2008 PNGFA annual report notes just one seizure that year, of 7,000 cubic metres of logs valued at approximately \$1 million. The 2009 annual report does not mention any seizures that year. Annual reports for subsequent years have not yet been published. There do not appear to have been any prosecutions or fines for illegal logging in 2008 or 2009; and there are no third-party or media reports of any prosecutions or fines in subsequent years, with the exception of a very large fine of \$100 million issued by the National Court in 2011 for illegal logging by Concord Pacific during 1996–2003 (see pp. 24-25). According to media reports, the operations of one logging company found to be operating illegally in early 2012 were shut down,<sup>58</sup> but it is unclear if timber was seized or if any fines were issued.

### Revenue collection rates

In many countries that suffer from poor forest governance, one of the commonest forms of illegality is the failure of logging companies to pay all due taxes on timber harvested and exported. In PNG, however, this does not appear to be a major problem. When a sample of 14 of the largest concessions were examined by an officially mandated independent review in 2003–05, the only aspect of the regulations that was found to be being fully complied with was the payment of taxes on timber harvested (see pp. 22-23). Available data for 2008–10 suggest that this continues to be the case.

Payment of taxes for log exports has been independently monitored since 1994 (see p. 11); and this has effectively ensured that all export taxes charged have been paid – although questions have been repeatedly raised about whether the full amounts due are in fact being charged, since there is evidence that log values may be being deliberately under-declared (see pp. 23-24).

## PRIVATE SECTOR RESPONSE

### Voluntary verification and certification

In order to demonstrate that they are harvesting legally, logging companies in high-risk producer countries can seek to obtain independent third-party verification of legality, or certification of both legality and sustainability, under one of a number of established schemes. Data on successful voluntary verification and certification are used by Chatham House as an indicator of the response of the private sector to illegal logging. Data are collected and calculated on the areas verified and certified to different standards over time under different schemes; the proportion this represents of total logging area; and (where this can be estimated from other sources) the proportion of total log

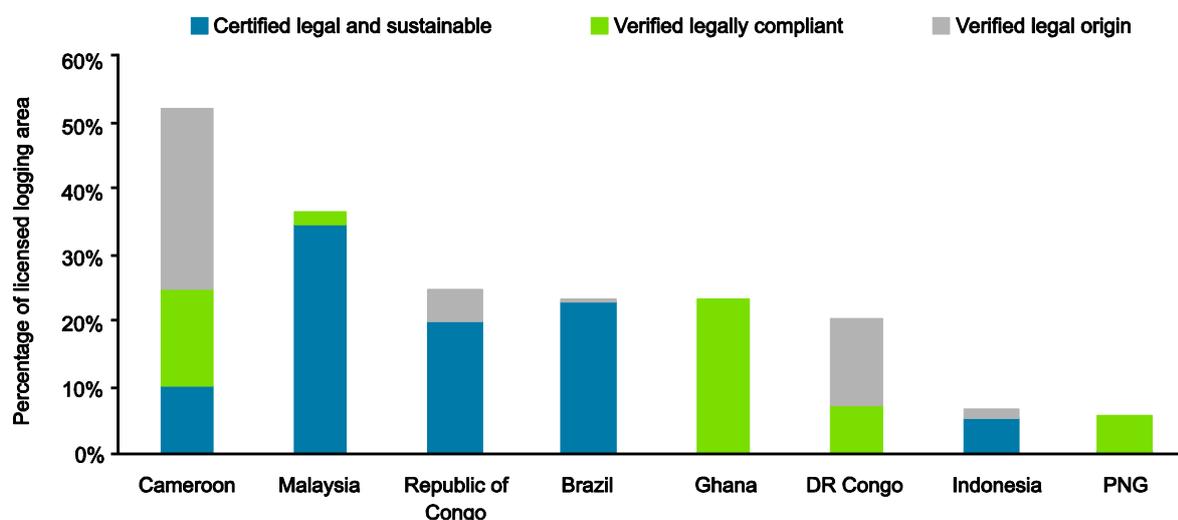
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<sup>58</sup> PNG *Post Courier*, 8 May 2012, 'Illegal logging shut-down'.

production verified or certified. For further information on the various systems, please see Chatham House's 2010 illegal logging indicators report.<sup>59</sup>

The government of Papua New Guinea has not provided any active support for forest certification, and there has been little interest shown by industry.<sup>60</sup> As a result, as of late 2012 less than 6% of PNG's area of active selective tropical logging was independently verified or certified. This is the lowest proportion of any of the eight tropical producer countries that Chatham House has studied; and is much lower than some of the best performers, where between a quarter and a half of production forest is now verified or certified (see Figure 2). Analysis by Chatham House suggests that the total verified or certified log production from natural forest is 150,000–200,000 cubic metres per year, or around 4–5% of the total log harvest.<sup>61</sup>

**Figure 2: Comparison of selective natural forest log production areas independently verified and certified in studied countries, 2012**



Source: Chatham House analysis of data from FSC, MTCS, SGS TLTV, Smartwood, BV OLB.

Notes: Verified legally compliant (VLC) is a higher standard than verified legal origin (VLO), which essentially only checks that a company has a licence to harvest. For a full description and discussion of these terms, see Chatham House (2010). For the DR Congo, since a majority of licensed concessions have not been active for some years, the proportion relates to active logging concession area, instead of total licensed area. FSC Controlled Wood verification is classified as VLC.

Although this figure has gradually increased since the first small area was certified in 2005, by the end of 2013 the percentage will most probably have declined, since one Forest Stewardship Council (FSC)-certified area has been suspended<sup>62</sup> and another area verified legal by SGS will by then have expired.<sup>63</sup> Two areas previously verified to the lower, verified legal origin (VLO) standard under the SGS system were unable to obtain verification to the higher, verified legally compliant

59 Chatham House, (2010): *Illegal logging and Related Trade: Indicators of the Global Response*, London: Chatham House, Section 4.2, pp. 70–78.

60 FoE/GEF, (2011): *Evaluation of social and environmental risks accompanying the procurement of timber from Papua New Guinea*.

61 Calculation based on data from various sources, including: production figures in public summaries of verifications/certifications; data on log exports for specific companies collected by SGS; estimates of log production by companies based on harvest area and typical logging rates of other companies; and figures for total national production from PNGFA or estimated.

62 The group FSC FM/COC certificate issued to Forcert for 20,844 hectares was listed as suspended on the FSC certificate database as of May 2013.

63 SGS is phasing out its system of legality verification, so the VLC issued to Saban Enterprises in 2008 cannot be extended when it expires in October 2013.

(VLC) standard within the required two years.<sup>64</sup> The one successful VLC verification has been criticized by local NGOs as providing insufficient proof of legality.<sup>65</sup>

Unlike most other producer countries examined, PNG also does not have a local WWF Forest & Trade Network, part of the Global Forest & Trade Network (GFTN), a membership initiative that provides assistance to logging companies in verifying and ultimately certifying their production. One possible reason may be a lack of interest among potential members.

The failure of independent verification and certification of logging in PNG is largely due to a lack of interest among the major companies. This in turn is most probably because the vast majority of PNG's exports are to Asian markets that are relatively unconcerned about legality and sustainability (see pp. 18-19). It may also be because of the widespread illegalities relating to most industrial logging in PNG that have been documented in the past (see pp. 22-23), which timber companies would need to address if they were to obtain third-party verification.

### Perceptions survey

Additional questions related to the response of the private sector were asked only of private sector respondents to the survey. Of the six private sector respondents who answered these additional questions, five said that concerns had been expressed by customers in the past about legality of timber supplies, and four of these said that such expressions of concern had increased in the last year. The answers are not representative of the industry as a whole, however, as those responding to the survey were disproportionately likely to be from companies selling timber to sensitive markets and which have been more engaged in independent certification and verification. While four of the private sector respondents ranked legality demands as being likely to be among the most important drivers of competitiveness of the timber industry worldwide over the next five years, only one considered that the same was true of PNG's timber industry. Presumably this is because so few of PNG's exports are to sensitive markets.

### Sensitive market share

There is a danger that the potential impact of efforts to prevent imports of illegally sourced wood in some consumer countries may be undermined by 'leakage', whereby the wood is simply diverted to less sensitive markets. Equally, shifts in trade towards less sensitive markets (even if driven by other factors) can serve to undermine the influence that more sensitive markets have. For these reasons, Chatham House tracks the proportion of exports from producer and processing countries that are destined for sensitive markets, examines the extent to which any changes may be due to increased sensitivities over legality, and analyses what changes in sensitive market share may mean in terms of the response to the problem.

Just 1% of PNG's wood exports (by roundwood equivalent volume – RWE) are currently destined for sensitive markets, a much lower proportion than for any other producer country that Chatham House has studied. By comparison, more than half of the DRC's timber exports are destined for sensitive markets, as are around a third of those from the Republic of Congo and about 30% of those from Indonesia. The share of PNG's exports destined for sensitive markets has declined from a peak of just under 3% in 2004. Six of the seven respondents to the Chatham House survey who correctly identified that trade was shifting further away from sensitive markets believed that legality sensitivities were at least a minor factor driving this change.

The vast majority of PNG's timber is exported as logs, and 90% of these are destined for China, with the rest consumed in other Asian countries. The only exports to sensitive markets are small volumes of sawn timber and other products exported to the United States, Europe and Australia.

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<sup>64</sup> Stettin Bay's Ania Kapiura and Mosa Leim TRPs were verified VLO in June 2009, while 6,100 ha under PNG Tropical Hardwoods was also verified VLO in Feb 2011. Both have now expired (although Ania Kapiura still has FSC Controlled Wood certification).

<sup>65</sup> *Radio New Zealand*, 2 December 2008, 'PNG timber scheme's integrity doubted'.

Exports to Australia fell dramatically in 2012,<sup>66</sup> possibly as a result of new legislation prohibiting imports of illegally sourced wood. The lack of significant exports to sensitive markets is almost certainly an important factor in the poor response of both the government and the private sector documented on pp. 9-18.

It is likely that a significant proportion of the logs that PNG exports to China do reach sensitive markets indirectly in the form of processed products (especially plywood), although this is currently impossible to quantify. It is possible that these sensitivities may soon begin to trickle down to suppliers in PNG via Chinese manufacturers as a result of new import controls in the United States, the EU and Australia; these prohibit imports of wood sourced illegally, regardless of whether it has been processed in a third country. Some PNG logging companies believe this represents a serious threat, and the issue has already received attention in the local media.

## LEVELS OF ILLEGAL LOGGING

### Wood balance analysis

One of the most commonly used methods by which to estimate illegal logging is wood balance analysis, whereby the difference between total wood consumption and legal supply is calculated in order to measure the extent of unlicensed logging, in both volume and percentage terms. Chatham House has sought to carry out the first such analysis for PNG, using source data collected for the purpose. Unfortunately, as a result of the poor transparency in the country (see pp. 11-12), very few of the necessary data are in the public domain. The PNGFA refused a request from Chatham House for information on official legal log production and exports, and the most recent PNGFA annual reports published are from 2009.

The most recent years for which official legal log production data (covering all legal sources) are available are 2008 and 2009. In those years, RWE exports matched or slightly exceeded the official legal production. Given that industrial production in PNG is heavily export-oriented, this suggests that the entire industrial harvest in each of those years was exported and that real industrial production did not exceed the official licensed production. This is perhaps partly a result of the existence of an independent monitor of log exports. However, this also implies that most domestic timber consumption in PNG (aside from a very small volume of imports) may be being met from illegal – or at least unrecorded – harvesting. The Forestry Act does allow for each landowner to extract up to 500 cubic metres per year, apparently without any permits or documentation,<sup>67</sup> and it is possible that some of the unrecorded harvesting falls under this exemption; however, the PNGFA states that this exemption is for landowners' 'own consumption',<sup>68</sup> in which case it would still be illegal if it is being sold and used to supply urban markets.

As in most producer countries, there are no official government data on domestic timber consumption, and this is the most challenging part of the wood balance equation. Most urban lumber consumption in PNG is supplied by small-scale portable sawmills or by chainsaw milling. This type of harvesting is reportedly largely 'ignored' by the PNG authorities in terms of policy and supervision, except where producers wish to export.<sup>69</sup> A special type of logging licence, the TA, is issued for selective logging of small areas to supply the domestic market,<sup>70</sup> but at least some of these logs are instead being diverted for export.<sup>71</sup>

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66 Australian import data, collated by James Hewitt for Chatham House.

67 All of the licensing requirements in the PNG Forestry Act 1991 apply to 'forest industry participants', defined as excluding those harvesting less than 500 cubic metres (PNG Forestry Act, 1991, Part 1, Section 2).

68 PNGFA, (2007): *Information for landowners*, <http://www.forestry.gov.pg/site/page.php?id=44>

69 Keenan, R.J, Grigoriou, J & Yosi, C., (2010): *Financial analysis of small-scale harvesting in Papua New Guinea*, Newsletter No.52, Wageningen: ETRN.

70 FoE/GEF, (2011). *Evaluation of social and environmental risks accompanying the procurement of timber from Papua New Guinea*.

71 SGS log export data show exports of logs originating from TAs in most years. It is unclear whether such exports represent a breach of the law.

In other recently assessed producer countries where the domestic consumption structure is similar, Chatham House was able to draw on relatively recent surveys of urban consumption of such lumber in order to estimate domestic timber consumption, and then to extrapolate over time based on changes in population and on economic growth. For PNG, however, no recent studies exist. One study from 1993 estimated that there were some 1,500 portable sawmills operating in the country, each consuming three to four trees per week.<sup>72</sup> This suggests a possible roundwood consumption (urban and rural) of up to 1 million cubic metres annually.<sup>73</sup> Typical per capita consumption rates for urban areas in other countries provide more recent comparisons. For example, a 2006 survey of consumption in the city of Merauke, in Indonesia’s Papua province, found consumption of 0.15 cubic metres RWE of lumber per person per year.<sup>74</sup> Such a rate would imply a consumption of sawnwood among PNG’s urban population of around 150,000 cubic metres RWE. The PNG authorities do report data to ITTO on domestic consumption of logs, sawn timber, veneer and plywood, but it is not clear if the data include consumption by local mills for products for export. The figures for sawn, veneer and plywood were around 290,000 cubic metres RWE in 2010.<sup>75</sup> In that year only around 80,000 cubic metres RWE of these products were exported,<sup>76</sup> suggesting domestic consumption of at least 200,000 cubic metres.

Using the domestic consumption figures reported to ITTO in a wood balance analysis for 2009 (the most recent year for which all necessary input data are available) suggests that between 300,000 and 350,000 cubic metres more timber was actually harvested in PNG in that year than was officially recorded as legally produced. This implies that around 14% of total harvesting is unlicensed (see Table 2) – a lower estimate of logging in excess of recorded harvests than wood balance analysis suggests for many other producer countries.

**Table 2: Wood balance estimate of unlicensed logging in Papua New Guinea, 2009 (all figures in cubic metres, unless otherwise stated)**

Annual allowable cut (1)	Legal Supply			Total Consumption			B minus A (=Unlicensed logging)	Un-licensed %
	Actual legal harvest (1)	Imports RWE (2)	Total (A)	Exports RWE(3)	Domestic use RWE (4)	Total (B)		
3,194,220	2,090,000	12,000	2,102,000	2,161,335	286,768	2,448,102	346,102	14

Sources: (1) PNGFA Annual Report 2009; (2) UNCOMTRADE export data from source countries for logs, sawn timber, veneer, plywood and MDF; weights and values converted to volume; (3) Log export figure from independent monitor of log exports (SGS); exports of other products based on import data from destination countries; (4) Figure for sawn, veneer and plywood consumed domestically reported by PNGFA to ITTO (ITTO Annual Review 2011), converted to RWE.

### Trade data discrepancies

In some cases, differences between volumes of timber reported as legally exported by a producer country and ‘mirror’ import statistics from destination countries can be used to detect and track changes in illegal exports. A detailed analysis was not possible for PNG because no timber export data broken down by destination country are published by the PNG authorities. Some official data (collected by the independent monitor, SGS) was found for log exports to China in 2008, 2009 and 2010; these showed no significant discrepancies with Chinese mirror import data. Overall log export data also match reasonably closely with combined mirror data from importing countries. An

72 Hunt, C., (2000): *Marketing Eco-Timber in Papua New Guinea*. Paper presented to the IUFRO Working Group 3.08 Symposium “Developing Policies to Encourage Small-scale Forestry,” Kuranda, Australia, 9–13 January 2000.

73 Chatham House estimate, assuming 4 cubic metres per tree and three trees per week.

74 Figure calculated by Chatham House using Merauke population data and typical conversion rates from raw lumber consumption estimate in WWF, (2007): *Reducing the Loss of Forests and Minimizing Conflicts over Forests in the South Papua Region*, WWF: Merauke.

75 ITTO, (2011): *Annual Review and Assessment of the World Timber Situation*, Table 1-1c; figures converted to RWE.

76 Based on trade data from destination countries, converted to RWE, collected by James Hewitt for Chatham House.

earlier study by ITTO also found no major discrepancies in data for log trade between PNG and China.<sup>77</sup> The presence of the independent monitor of log exports in PNG (see p. 11), the absence of any log export ban to flout (as in neighbouring Indonesia), low taxes and the relatively cheap and easy access to licensed log supplies appear to be combining to make illegal export rare.

## Expert perceptions

### *Nature and extent of the problem*

The findings from the PNG expert perceptions survey suggest that slightly more than half of log production in the country is in some way illegal (the average perceived extent of illegal logging being 55%). This is a higher figure than was produced by surveys in Cameroon, Malaysia and the Republic of Congo; it is, however, lower than the average figures for Indonesia, Brazil, Ghana and the DRC. The overall average masks a wide range of opinions among the major stakeholder groups: government respondents reckoned the proportion to be 40%; private sector respondents 50%; and NGO/other respondents 70%. Judging from comments made, it appears that some of the differences may be due to variations in how respondents were defining illegal logging.

Some 90% of respondents judged illegal logging to be either a major or the main cause of both deforestation and forest degradation in PNG. A majority believed it to be more important than either legal selective logging or legal forest conversion for agriculture, although the latter was also ranked as important.

Corruption was felt, on average, to be the most important type of illegality in the forest sector in PNG, including corruption within the forest service and among the police and judiciary. Illegal issuance of logging licences was also judged to be especially important, as was illegal activity by licensed loggers. Illegal artisanal logging was scored the lowest, on average, on a scale of importance of different types of illegality, together with other unlicensed illegal logging and log smuggling.

All of the different possible types of illegal activity by licensed logging companies were considered to be present to some extent, but the most prevalent were judged, on average, by respondents to be logging under-size trees and breaches of obligations to local communities. Logging in protected areas or of prohibited species were felt to be less prevalent. The former may be partly because there are relatively few protected areas,<sup>78</sup> while those that do exist are very inaccessible.

### *Recent changes*

A majority of respondents believed the situation was largely unchanged over the last year (i.e. since late 2011); among those who considered that things had changed, more than twice as many (32%) thought the situation had worsened than believed it had improved (14%). Over a longer, five-year time span, opinion was roughly evenly split, with a third believing there had been no change, a third a slight improvement, and a third that the situation had worsened. The survey results in terms of opinions on trends in the extent of the problem were the most negative of the three producer countries recently surveyed, and among the most negative of any producer country yet surveyed. The most important factor judged to be driving the limited improvements that had been seen was the effect of campaigning and advocacy by local and international NGOs. Other factors judged among the most important were demand from international timber buyers and exhaustion of timber resources.

Regarding the extent to which different aspects of the problem had improved or worsened recently, the results were most positive in relation to illegal issuance of logging licences and illegal activity by licensed logging companies. The former is likely to be related to the moratorium put in place in 2011 on the issuance of licences to clear-fell for large-scale agricultural plantations (see pp. 25-26).

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<sup>77</sup> ITTO, (2005): *Annual review and assessment of the world timber situation 2005*, Yokohama: ITTO.

<sup>78</sup> Shearman, P., & Bryan, J., (2011): *A bioregional analysis of the distribution of rainforest cover, deforestation and degradation in Papua New Guinea*, *Austral Ecology*, 36: 1, 9–24

## Other measures of illegality

### *Review of current logging projects, 2003–05*

During 2003–04, at the request of the PNG government and the World Bank, an independent team visited 14 major logging concessions in PNG and examined all aspects of legal compliance. The concessions assessed covered 3.2 million hectares, and together were responsible for 65% of log exports in 2004.<sup>79</sup>

The review examined, *inter alia*: whether the concessions had been legally issued; whether the free, prior informed consent of local landowners had been obtained; whether harvesting regulations (the Logging Code of Practice) were being complied with; whether all necessary taxes were being paid; whether valid Environmental Plans were in place; and whether contractually required infrastructure and processing facilities had been built. None of the 14 concessions was found to be in compliance with all of the key legality criteria assessed, and only one met more than half of the criteria. The only factor with which all of the concessions complied was the requirement to pay proper taxes to the government. Findings in relation to some other key elements included that:

- **Licence issuance:** Nine of the 14 concessions had had their terms extended without following proper procedures.
- **Sustainability:** None of the concessions had logging plans based on a certified national forest inventory, as required by law (since the previous inventory had expired and no new one had been carried out).
- **Environmental plans:** While all but one had an Environmental Plan, eight of the 14 concessions had Environmental Plans that had expired.
- **Landowner consent:** While all of the concessions had FMAs with signed consent from landowners, in all cases such consent did not appear to have been properly obtained with full understanding of the implications.
- **Harvesting practices:** In six of eight concessions where this was assessed, the team found breaches of key elements of the Logging Code of Practice.
- **Contractual obligations:** Only three of the 14 concessions had implemented all downstream processing commitments.

A study undertaken by Forest Trends in 2006 examined the review, together with a number of other independent analyses of the forestry sector in PNG carried out in the preceding few years at the behest of the government. The study concluded that while virtually all timber harvested from natural forest areas has official sanction in the form of a permit or licence issued by the relevant authority, there were nevertheless ‘serious issues of legal non-compliance at almost every stage in the development and management’ and ‘the majority of forestry operations cannot credibly be characterized as complying with national laws and regulations and are therefore “unlawful”’. Forest Trends found that ‘current commercial forest management [in PNG] is ecologically and economically unsustainable and illegal’.<sup>80</sup>

No further in-depth independent reviews have been carried out into logging in PNG since the 2003–05 study. It is therefore impossible to state for certain how much might have changed since then. In 2005 a law was passed that retroactively legalized the renewals and extensions of logging permits that had been permitted in contravention of the 1991 Forestry Act.<sup>81</sup> This might arguably have addressed – in strictly legal terms – some of the permit process issues identified in past

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<sup>79</sup> Summary details provided here are drawn from Forest Trends, (2006): *Logging, legality and livelihoods in Papua New Guinea: Synthesis of Official Assessments of the Large-Scale Logging Industry*.

<sup>80</sup> *Ibid.*

<sup>81</sup> ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

reviews. There is no information available by which to assess the extent to which the other illegalities continue. Certainly, there have been no improvements in the quality or extent of monitoring by the forest authorities (see pp. 13-14). Most of the concessions that were examined in 2003–05 and found then to be in breach of various regulations continue to exist; all remain controlled by the same companies; and together they produce more than 0.75 million cubic metres of logs for export each year, representing 34% of all exports (excluding conversion timber) in 2012.<sup>82</sup> If legal compliance in these concessions had improved, one might expect that the companies concerned would seek to demonstrate this by undergoing independent verification under one of the many voluntary schemes now available. Two of the concessions reviewed in 2003–05 have since obtained independent verification; however, one of these is a small area of plantation forest that was already one of the best performers in 2003–05,<sup>83</sup> while the other is only verified to a relatively low standard.<sup>84</sup>

The PNG Forest Industries Association (FIA, which represents most of the companies involved) has criticized the findings of the independent reviews of a decade ago and the implications drawn from them with regard to the legality of logging in PNG.<sup>85</sup> The FIA does not counter any specific findings, but instead insists that the description of the regulatory breaches uncovered as ‘illegal logging’ is inappropriate since it involves the use of an unreasonably broad definition, including such matters as landowner consent, health and safety, and labour rights.<sup>86</sup> However, most of the breaches uncovered do fall within definitions of illegal logging in current international use, including all of the national legality definitions agreed under EU FLEGT VPAs with other countries; the definition included in the EUTR; and the criteria and indicators used to verify legality by various independent bodies. They are also encompassed by the draft legality standard recently developed by the PNGFA with input from local industry.<sup>87</sup> The other defences offered by the FIA have been to emphasize that the legality of all log exports is independently monitored by SGS, and that many concessions have now obtained independent verification. However (as noted on p. 11), the existing SGS monitoring is of limited scope and cannot therefore guarantee legality, while (as noted on pp. 16-18) very few concessions have so far obtained independent verification.

### *Transfer pricing*

The Barnett Inquiry into forestry in PNG in 1989 identified widespread illegal evasion of taxes by logging companies through false declarations of volumes and values of log exports. It was partly in response to this that the PNG government hired SGS to independently monitor log exports. Although the SGS monitoring certainly appears to have ensured that log export volumes are properly declared (see p. 20), questions marks have continued to be raised in relation to declared log export values. Official independent reviews into log export taxes in 2000,<sup>88</sup> 2002,<sup>89</sup> and 2004<sup>90</sup> all found evidence suggesting that declared log export values may be being fraudulently understated in order to avoid taxes, and recommended further investigation. No such investigation was ever carried out, however. The 2002 review examined prices declared at export from PNG and at import in China, Japan and Korea, and found that the differences were too large to be explained by the costs of insurance and freight. It was estimated that at the end of the 1990s the PNG

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82 SGS log export monitoring data, broken down by concession, analysed by Chatham House.

83 Open Bay has 11,770 ha of plantation forest FSC certified (issued 2011) and a further 8150 ha of plantation forest issued with an FSC Controlled Wood certificate (issued 2008). These areas are not included in the assessment of independent verification and certification in this report, since this only examines natural forest.

84 Stettin Bay's Ania Kapiura concession, which held SGS VLO from June 2009 to June 2011, and also currently has a valid FSC Controlled Wood certificate.

85 Bob Tate, (2011): *Navigating a Way Forward for PNG's Timber Industry – Responding to Market Perceptions and Diverse Markets*; presentation to Chatham House Illegal Logging Update Meeting 2011.

86 Ibid.

87 PNGFA, (2012): *PNG's Timber Legality Standard (1st draft), Version 1.1*, Port Moresby: PNGFA.

88 Bogan *et al.*, (2000): *Report of the taxation review: refining the tax system, Presented to the National Parliament by the taxation review*, Port Moresby.

89 Forest Revenue Review Team (FRRT), (2000): *Review of the Forest Revenue System in Papua New Guinea, Report Commissioned by the Government of Papua New Guinea*. Port Moresby: FRRT.

90 Review Team (RT), (2004): *Towards Sustainable Timber Production – A Review of Existing Projects*, Final report prepared for the Government of Papua New Guinea and its Inter-Agency Forestry Review Committee, 2 vols.

government may have been losing as much as \$20 million per year in revenues as a result of transfer pricing.<sup>91</sup>

Interestingly, the 2002 review identified the largest Chinese importer of PNG logs in 2000 as a company called Wayne Wood (HK) Ltd.<sup>92</sup> In 2003 the same company was exposed as being one of the largest buyers of illegal, smuggled merbau logs from Indonesian Papua. The company's owner, Ngo Cheng Long, was named as the most powerful member of a major international syndicate that had arranged the illegal export of 50 massive cargo ships full of logs between 2001 and 2003. The logs were being illegally harvested and illegally exported in contravention of a log export ban; bribes were allegedly paid in order to ensure safe passage.<sup>93</sup> In addition, one of the PNG companies from which Wayne Wood was buying in the early 2000s was Concord Pacific,<sup>94</sup> which was later ordered to pay \$100 million in damages for illegal logging (see pp. 24-25).

Chatham House analysis also found a large difference between average log prices declared at export from PNG (\$92 per cubic metre)<sup>95</sup> and on arrival in China (\$208 per cubic metre) in 2011.<sup>96</sup> Information on current freight and insurance costs was not available, so it was not possible to state for certain the extent to which these might explain the difference. However, the difference between average export prices and average import values for logs shipped from neighbouring Solomon Islands to China in the same year was around \$20 per cubic metre less than the difference between export and import prices for logs from PNG to China, despite freight costs being likely to be very similar.<sup>97</sup> Notably, this difference (\$20) is about the same amount by which a 2002 study concluded that PNG logs were being under-declared.<sup>98</sup> If PNG logs are indeed being under-declared by this amount, this would be resulting in revenue losses of \$20 million per year<sup>99</sup> – the same amount as was estimated at the end of the 1990s.

In an effort to prevent fraudulent pricing, SGS reportedly now requests copies of commercial invoices for each log shipment, in order to check whether the prices match those officially declared.<sup>100</sup> Nevertheless, a recent ITTO project on forest law enforcement in PNG once again recommended further efforts by the PNGFA to address transfer pricing issues in PNG.<sup>101</sup>

### *Major illegal logging cases*

As well as documenting widespread illegalities in permitting and logging practices in most of the largest nominally 'legal' logging concessions in Papua New Guinea, the independent reviews of the sector in the early 2000s also documented three particularly egregious illegal logging cases.

In the largest case, beginning in 1995, a series of licences were granted for clearing forest to construct a road through an area of pristine forest in PNG between the towns of Kiunga and Aiambak. The company involved – Concord Pacific, a subsidiary of the Malaysian logging giant Samling – was illegally given rights to log a 3 kilometre-wide strip of forest to make way for the road, although the regulatory limit was just 40 metres. No proper road was ever built. An official review of the project in 2001 found that the permits for successive phases had all been illegally

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91 Hunt, C, (2002): *Production, privatisation and preservation in Papua New Guinea forestry*, London: IIED. (PNG Kina value converted to US\$ at prevailing rates).

92 FRRT, (2002): *Review of the Forest Revenue System in Papua New Guinea*.

93 Trust, 'Sindikatu Kayu Sampai ke China', 1-7 October 2003, cited in EIA/Telapak, (2005): *The Last Frontier: Illegal logging in Papua and China's Massive Timber Theft*. London: EIA.

94 Greenpeace, (2002): *Partners in Crime: Malaysian loggers, timber markets and the politics of self-interest in Papua New Guinea*, Amsterdam: Greenpeace.

95 Calculated from PNG kina values in SGS log export monitoring reports.

96 Average export values calculated from SGS log export monitoring report (kina converted to US\$ at prevailing rates); average import values calculated from Chinese Customs data.

97 Calculated from Solomon Islands and Chinese customs data reported to UN COMTRADE, which show average log values of \$101/cu m at export and \$193/cu m at import.

98 Hunt, C, (2002): *Production, privatisation and preservation in Papua New Guinea forestry*, p. 43.

99 Calculation by the author, using data from SGS log export monitoring report 2012. Total export taxes (duties and levies) on log exports are around 31% of FOB values, and there were 3.1 million cu m exported in 2012. 3.1 million cu m x \$20/cu m x 31% = \$20 million.

100 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

101 Technical Committee to ITTO, (2012): *Project PD-449-07: Enhancing Forest Law Enforcement in PNG; Recommended Actions-to-be-Taken after the Project*, Yokohama: ITTO.

issued by the forests ministers responsible at the time, in blatant contravention of all relevant regulations.<sup>102</sup> Among other breaches, no consent was obtained from local landowners.<sup>103</sup> The project was finally halted in 2003, by which time the forest was mostly logged out, and more than 600,000 cubic metres of logs had been cut and exported.<sup>104</sup> In 2011 Concord Pacific was ordered by PNG's National Court to pay \$100 million in damages.<sup>105</sup> The local company was wound up, however, and the fine was never actually paid.

In a second case, the Simbali project, a TA was issued for the development of a cocoa farm. Although the approval was only for a 40-hectare development, the company involved logged an area of approximately 11,700 hectares. More than 34,000 cubic metres of logs had been exported, whereas the approval was for only 1,000 cubic metres. The logging operator in the project was known to have been involved in another major illegal logging case at the time when the TA was issued.<sup>106</sup> The Simbali project was logged out before it could be shut down.

The third case involved a concession (Bonua Magarida) of 60,000 hectares that was found to have been illegally issued and to involve 'highly suspicious paperwork' and 'illegal amendments' to official documents. Although the Bonua Magarida concession was reported to have been cancelled,<sup>107</sup> log exports from it were continuing in 2012.<sup>108</sup>

### *Special Agricultural and Business Leases (SABLs)*

In the last five years large swathes of PNG's remaining forests have been licensed for clear-felling and conversion into agricultural plantations, principally oil palm. The licences involved are known as SABLs. The number of these licences increased dramatically after 2007, when amendments to the Forestry Act made it easier to exploit them as a means of gaining access to timber. The expansion was given further impetus in 2010, when the government announced that all new selective logging concessions would be required to process 100% of production prior to export. This meant that the only scope for expanding log exports was through clear-felling. By 2011 SABLs covering more than 5 million hectares of customary owned land had been issued, representing 11% of the country's total land area and 16% of its commercially accessible forests. According to analysis by Greenpeace, the licences cover 14% of PNG's remaining intact forest landscape, and even encompass 130,000 hectares of protected areas.<sup>109</sup> By 2012 31% of all of PNG's log exports from natural forests were originating from forest conversion under SABLs.<sup>110</sup> As a result of the boom in conversion timber, total log exports expanded by a quarter between 2007 and 2011. Almost 2.5 million cubic metres of logs from SABL land clearance, worth \$215 million, had been exported by the end of 2012.<sup>111</sup>

Evidence suggests that many or most of the SABLs were veils for accessing valuable timber, and that there was never any real intent to develop the areas concerned into plantations. Some areas do not have suitable soils, and most of the companies issued with the leases have no previous experience in developing plantations.<sup>112</sup> A peer-reviewed academic study published in 2013 examined the plausibility of 36 oil palm plantation projects covering almost 1 million hectares, based on land suitability, developer experience, and capacity and socio-legal constraints. It found that only five of these projects (covering 20% of the total area studied) were actually likely to be

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102 Independent Forestry Review Team. (2001): *Review of Forest Harvesting Projects Being Processed Towards a Timber Permit or A Timber Authority*, Individual Project Review Report No. 31 – Aiambak–Kiunga Road.

103 ODI, (2007): *The current legal and institutional framework of the forest sector in Papua New Guinea*.

104 Greenpeace, (2002): *Partners in Crime: Malaysian loggers, timber markets and the politics of self-interest in Papua New Guinea*.

105 Mongabay, 28 June 2011, 'Logging company fined \$100 million for illegal logging in Papua New Guinea'.

106 Independent Review of disputed Timber Permits and Permit Extensions (2003): *Review Team Final Report on Kiunga/Aiambak, Simbali and Bonua Magarida*.

107 Forest Trends, (2006): *Logging, legality and livelihoods in Papua New Guinea: Synthesis of Official Assessments of the Large-Scale Logging Industry*.

108 SGS, (2012): *Log export monitoring report*, Elasmere Port: SGS.

109 Greenpeace, (2012): *Up for grabs: millions of hectares of customary land in PNG stolen for logging*.

110 Calculated from data in SGS log export monitoring report 2012; exports of plantation timber excluded.

111 Chatham House analysis of SGS log export monitoring data, 2005–12.

112 Greenpeace, (2012): *Up for grabs: millions of hectares of customary land in PNG stolen for logging*.

planted, and concluded that 'most of the developers are clearing forest with no intention of cultivating oil palm'.<sup>113</sup>

In May 2011, responding to international outrage and expressing serious concerns regarding the legality of many SABLs, PNG's acting prime minister announced a moratorium on their issuance and on the granting of new FCAs for existing SABLs. The moratorium and suspension were to remain in place while a parliamentary commission of inquiry explored whether the existing SABLs and FCAs had been issued legally and were being used for the declared purposes.<sup>114</sup> The commission of inquiry finished collecting evidence in early 2012.

The principal illegality in relation to the SABLs is the alleged failure in most cases to obtain the legally required prior, informed consent of the local customary landowners.<sup>115</sup> Some form of signed document was usually obtained, but those signing the documents were either not properly empowered or did not appreciate the implications of what was being agreed. The first that many communities would know about a project was when the bulldozers arrived.<sup>116</sup> This failure to obtain consent has led to large numbers of conflicts between developers and local people. In addition to failing to gain proper consent, numerous breaches of procedures and regulations by the various government agencies involved during the licence approval and issuance process have been documented.<sup>117</sup> The Department of Lands and Physical Planning (DLPP), the agency responsible for evaluating and granting SABL applications, has been described by PNG judicial authorities as 'entirely corrupt'.<sup>118</sup> It also appears that some active SABLs began clear-felling without obtaining the required Environmental Permit.<sup>119</sup>

Summary results of the commission of inquiry were tabled in parliament in September 2013. The inquiry found that of 42 SABLs examined, only four had proper landowner consent and viable agricultural projects, whereas the remainder (more than 90%) were obtained through fraudulent or corrupt means.<sup>120</sup> The commissioners uncovered 'widespread abuse, fraud, lack of coordination and incompetence' in the issuance of SABL licences. Legal requirements were 'deliberately breached and proper processes either by-passed or simply ignored'.<sup>121</sup>

The prime minister promised changes in the regulatory framework and to establish a ministerial committee to decide on next steps, but has so far stopped short of cancelling any of the SABLs involved, despite calls to do so from numerous NGOs. Although new SABLs and associated FCAs are not currently permitted, clear-felling under FCAs already issued before May 2011 has been allowed to continue. A large percentage of PNG's log production therefore continues to be sourced from these areas, in spite of the widespread evidence of illegalities.

## Summary

Evidence from wood balance analysis suggests that (at least until 2009) industrial logging in PNG does not exceed officially recorded harvests, that completely unlicensed logging represents only around a 10th of production, and that this illegal wood is mostly consumed domestically. Trade data discrepancy analysis suggests that there is also little or no smuggling of wood abroad.

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113 Nelson, P., *et al.*, (2012): 'Oil palm and deforestation in Papua New Guinea', *Conservation Letters*, Early View published online 27 August 2013.

114 *PNG Post Courier*, 6 May 11, 'Abal orders inquiry'.

115 In addition to allegations heard by the commission of inquiry and evidence collected by NGOs, there has been at least one official court judgment to this effect (2002 National Court decision regarding Collingwood Bay SABL – see Moore, E., June 1011, 'The Administration of Special Purpose Agricultural Business Leases: Customary Land and the Lease-Lease-Back System', National Research Institute of Papua New Guinea, Discussion Paper 118).

116 Greenpeace, (2012): *Up for grabs: millions of hectares of customary land in PNG stolen for logging*.

117 *Ibid.*

118 Ilya Gridneff, November 11 2010, 'PNG Lands Department 'corrupt': bureaucrat' *AAP Papua New Guinea*.

119 Greenpeace, (2012): *Up for grabs: millions of hectares of customary land in PNG stolen for logging*.

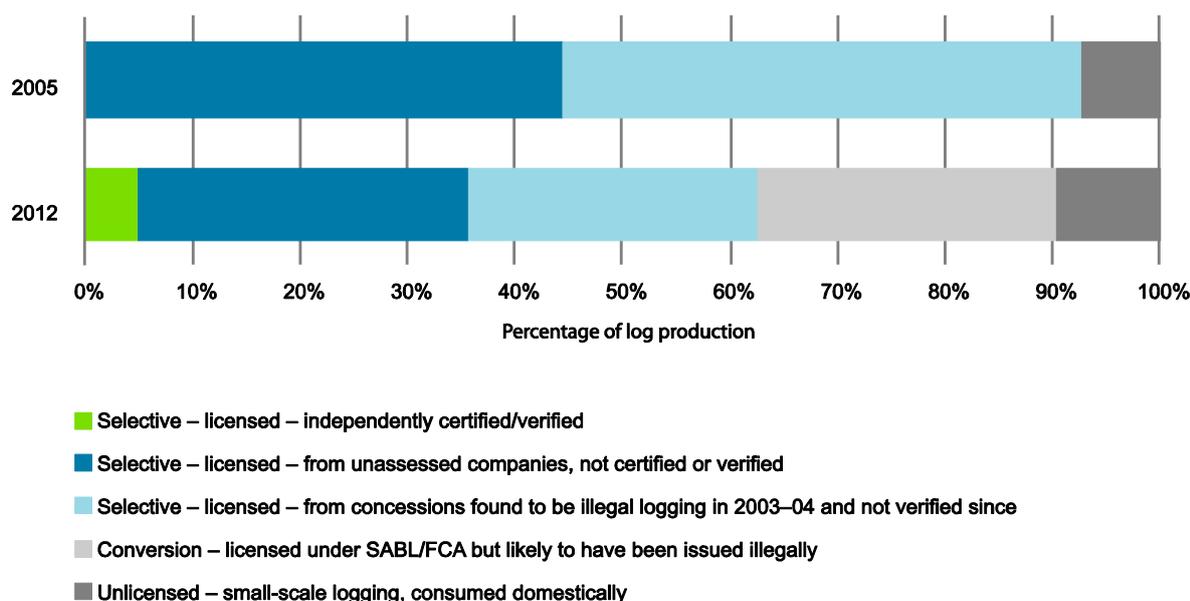
120 *Pacific News Agency*, 20 September 2013, 'Reports on land leases reveal corruption: PM O'Neill'.

121 Summary of the Final SABL report as presented by Chief Commissioner, John Numapo; brief sourced from the executive summary and recommendations of the report dated 24 June 2013, <http://www.actnowpng.org/content/summary-final-sabl-report-presented-chief-commissioner-john-numapo>.

However, logging in excess of licensed volumes or without a logging licence, and smuggling of timber are only two forms of illegal logging. The independent reviews of industrial logging in PNG carried out a decade ago, which examined logging practices in far more detail than is possible for this study, found that the vast majority of logging, while nominally licensed, was occurring in breach of regulations. More recently, serious doubts have been raised regarding the legality of production from forest clearance for large-scale agro-projects, which by 2012 represented almost a third of licensed harvesting in the country. Chatham House’s expert perceptions survey supports the contention that illegal logging remains more prevalent than the wood balance analysis suggests. If all the production from SABLs is assumed to be illegal (because of breaches of laws regarding issuance of permits) and a further 10% of production is illegal small-scale harvesting that supplies the domestic market, then just these factors, when combined, would suggest that 40% of harvesting in 2012 was illegal. Of the remaining 60% of harvesting (from licensed selective logging concessions), around half was sourced from concessions found to be breaching numerous regulations in 2004 and that have not obtained independent legality verification since. Adding this to the total results in an overall figure of 70%.

Using data from the wood balance analysis, SGS log export data, private sector verification/certification data and information from the 2003–05 review of major logging operations, it is possible to summarize PNG log production in 2005 and 2012 under a number of major ‘risk categories’ (see Figure 3).

**Figure 3: Summary analysis of PNG log production in 2005 and 2012, by risk categories (green = low risk; red = highest risk)**



Source: Unlicensed small-scale timber production from Chatham House wood balance assessment (see pp. 19-20); all other production volumes based on export volumes reported by SGS (SGS log export monitoring annual reports for 2005 and 2012), based on the fact that almost all timber is exported; proportions based on volumes recorded exported from specific license areas (as broken down by SGS), cross-matched against information on certification/verification (see pp. 16-18) and data from the 2003-05 independent reviews (see pp. 22-23).

## CONCLUSIONS AND RECOMMENDATIONS

Although almost all harvesting in Papua New Guinea has some form of license and exports are all signed off, the weight of available information suggests that the majority of the country's timber production is nevertheless illegal in some way. Improper licence issuance and failure to follow guidelines meant to minimize environmental impacts of selective logging are among the most common problems. Deep-rooted problems of corruption and poor forest governance in PNG have been documented in detail on multiple occasions over the past 25 years, yet successive administrations have failed to address them. While PNG has one of the best legal frameworks governing forests and forestry of any major developing country, these laws have failed to protect forests and forest-dependent people because they have not been effectively implemented and enforced. There is little or no evidence to suggest that logging practices have improved in the decade since the last detailed independent reviews exposed widespread illegalities; it is entirely possible that the situation has actually worsened. At present, all timber exports from PNG must be considered 'high-risk', with the possible exception of the small volumes of plantation species and the even smaller volumes of natural forest timber that are independently verified legal or independently certified legal and sustainable by FSC.

Major improvements are needed in forest governance in PNG. First, the authorities must increase resources to a level that will enable meaningful oversight of the forestry sector. Once real enforcement begins, dissuasive penalties must be applied where serious breaches are exposed, including the cancellation of logging licences. The authorities must also radically overhaul and improve transparency of forest-related information, thereby making it easier for third parties to assist in monitoring the sector and making corruption more difficult to get away with. Regulations must be enacted that make the publication of key documents and data mandatory.

PNG's new government must seize the opportunity for forest governance improvements provided by the new systems recently developed under the ITTO project. Specifically, it must finalize the new draft legality standard (with full multi-stakeholder engagement and support) and make auditing and compliance with it mandatory for all timber harvesting in the country. It must also finalize the new pilot chain of custody and information management system, and roll it out nationwide on a mandatory basis – including third-party checks. Further research is needed as regards the nature and extent of small-scale logging for domestic markets. Once better understood, the government must seek to formalize and monitor this activity.

Taking the above steps would put PNG in a strong position rapidly to implement a possible FLEGT VPA with the EU. Such a VPA, with a licensing system encompassing all harvesting, exports and domestic consumption, would ensure that PNG can continue to sell its timber abroad. Without these steps and a VPA, PNG may find its access to markets – including its main existing markets in Asia – increasingly curtailed. The government should begin informal negotiations with the EU as a matter of urgency.

In addition to the above steps, the PNG government should publish the full reports of the parliamentary commission of inquiry into SABLs, and take urgent action on the findings, including cancelling all SABLs and associated FCAs found to have been issued illegally or in unsuitable areas.

## **ABOUT THE AUTHOR**

Sam Lawson is an independent researcher and founding director of Earthsight, an organization that specializes in researching and investigating environmental and social crime and injustice. He has been researching and investigating illegal logging and associated trade for 15 years, for various international NGOs and development agencies, and is the author of a number of influential reports on the subject. He has researched illegal logging in many countries across Asia, Latin America and Africa, and has been actively engaged with international initiatives to tackle the problem. In his role as Associate Fellow within the Energy, Environment and Resources Programme at Chatham House, he led the organization's work on illegal logging indicators between 2006 and 2013.