

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL  
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COMMISSION OF INQUIRY INTO SABL

MR ALOIS JEREWAI

COMMISSIONER

TOP FLOOR, MURUK HAUS, WAIGANI, MONDAY 14 NOVEMBER 2011  
AT 10.00 A.M.

(Continued from Saturday 12 November 2011)

.00 am] THE COMMISSIONER: Good morning Mr Ketan, counsel assisting and good morning gentlemen and thank you for coming. We will continue from where we left off from Kokopo. If we can have the chief financial controller, counsel, Mr Wong back to the stand. Mr Wong, first of all, thank you again for reappearing this morning pursuant to the direction that was given in Kokopo last week Thursday, I believe or rather, Friday.

A: Thursday.

Q: Thursday, 10 November. Counsel, I specifically directed for Mr Wong to appear this morning to present the cost and benefit report which I had asked him in the course of the questioning in Kokopo and he had indicated that it could not have been possible for him to retrieve it in the short time that I earlier directed. And on his later submission I accepted that it would be unfair on him if I insisted on having him producing that report within the hour. And so the matter had been adjourned to today, this morning; today for him to be able to do that. Mr Wong, have you got that report with you?

A: Yes, yes, I got the report here.

Q: Would you be able to ---

A: Can I pass one ---

Q: Yes, if you could.

A: One copy to the Commissioner, one copy to the counsel.

Q: If you do not mind, we will just take a few minutes to go through it first before we proceed.

A: Okay.

Q: So, transcripts you can suspend temporarily while counsel and I go through.

SABL-02(nnb)

0.00 am] THE COMMISSIONER: Now, I am sorry there was a preliminary matter I should have identified these proceedings. These proceedings are the joint hearing of SABLs comprised in portions 196C title to which is held by Pomata Investment Limited, portion 197C, title to which is held by Ralopal Investment Limited, portion 198C title to which is held by Nakiura Investment Limited and portion 27C, title to which is held by Unung Sigite Investment Limited, all of which are located in Pomio District, East New Britain Province. That is the matter with which we are dealing with this morning in the extended hearing which ended in Kokopo on Saturday, 5 November 2011.

All right, reverting back now to Mr Wong who remains on oath from Kokopo and I have already introduced why he has been required to reappear this morning. And he had now presented a report which I have noted as response to my request for a Cost and Benefit Analysis Report. And he has had it dated 14 November 2011. Perhaps, counsel, if we can have it formally tendered first so that we can then after tendering we can then have him take us through it.

MR KETAN: We will tender this Cost and Benefit Analysis for the .....Development Project document provided by Mr Tuong Yew Wong of Gilford Limited dated 14 November 2011. I seek to tender that Commissioner.

THE COMMISSIONER: Yes. Now, let me see, the last exhibit tendered in Kokopo was exhibit A and Pomata/Ralopal/Nakiura/Unung Sigite-East New Britain Province. So this one will be received, will be accepted and marked as exhibit AO ---

MR KETAN: Yes.

THE COMMISSIONER: Exhibit AO, Pomata/Ralopal/Nakiura/Unung Sigite-East New Britain Province. That will be the Cost and Benefit Analysis Report dated 14 November 2011. Thank you, counsel. First of all, I will let you ask a few questions on this Report or would you rather get Mr Wong gets through each of the segment of the Report and explains to us what they represent.

**EXHIBIT AO –COST AND BENEFIT ANALYSIS REPORT DATED 14 NOVEMBER 2011**

MR KETAN: Yes. Mr Wong take us through the various sections and then explain what they are and then .....

A: Okay, I will do that.

THE COMMISSIONER: Thank you. Mr Wong, please.

A: Yes. We

SABL-03(nnb)

[0.14 am] - can we turn to the page where there is Benefit to the Landowner. There is a – first session is Benefit to the Landowner and the second session just below it is a Benefit to the State. I will just table the one there is Benefit to the Landowner first, yes. The first thing you will see is rent owed, there is K1 nominal. So the figures owe are all being tabulated above is a 40, you got a total register 42,400 hectare. So the figure is just owed there. And then the second one is a ..... And third one will be the levy number 2, K15 and then all these computation is shown here. Coming down is timber royalty. Timber royalty we just take the average because royalty is according to species so we just take the average 13 by 5 for computation purpose. The premium is a fixed amount is K6 per cubic meter. And so if we look here, the first here we landowner benefit we projected is 9.8 million then follow up by 10 million and 14 and then continue. The real landowner will see the real benefit only from years his own work the production; oil palm production start to pick. We got this, if we base on 5 percent royalty payment there should be on years his owned they shall be able to take around job milling and then start to increase if the fund start to come, the assurity, there is more production. I mean now, the figure will, which will increase.

So we take the average, like the first 15 years. Our, here the combination showed it on average, every year the landowner should pay around 19 million.

THE COMMISSIONER: Combine.

- A: Combine, yes. But having said that, this one, you know, these too our training and every year agreement with the landowner. I do seeing that the company is willing to take extra .....or what at a later stage, yes. So this one at this moment it is what appear in our agreement.
- Q: Basically, you are saying as you did when you I asked you in Kokopo ---
- A: Okay.
- Q: That your company or your group of companies will consider ---
- A: Yes.
- Q: If this Commission of Inquiry was to recommend ---
- A: Yes.
- Q: That we consider rectifying the imbalance in this sublease agreement as well as the related agreement as to benefits sharing.
- A: Yes.
- Q: And you may even consider possibility of equity.
- A: The equity part, can I make it a bit clear here.
- Q: Yes.
- A: The equity part is at this moment is a bit hard to give a confirmation at this moment because is – we have the incident like in Malaysia, when we had a joined partner with these .....people and then like sharing, based on profit sharing. And then when come to, you see, when come to – because CPO price we cannot expect it all the time will be, every year the economy will grow. Sometimes, some year your expects will be so strong or what, the price will drop significantly and then the company might suffer loss. And then those native people they do not want ---
- Q: They do not like making losses.
- A: They do not like loss, you know. They are fighting the company dispute, all sort of thing. It is really hard to explain to them when come to take the path.

That is why we try to make it straight forward, simple calculation, placed on production. You take how you want, you never loss any money, your income will be fit for ---

Q: Yes.

A: Yes.

Q: What if I, just for the record and for the Commission of Inquiry's consideration in terms of recommendations. If we suggest what you might call production sharing, in other words,

SABL-04(nnb)

0.18 am] THE COMMISSIONER: You actually exclude the possibility of the landowners arguing with you if you say all right. You pay 20 percent of the total production and you export it whether you make a profit or you make a loss, it is your business.

A: As to the percentages of course, I do not make the -- I know in that position to ---

Q: No, but the principle of it I am putting forth. Because I can tell you we have before us already in terms of submissions and in presentations different kinds of contracts with regards to natural resources in Papua New Guinea.

(1), is a straight out what you might call Investment Rationalization. With regard to Investment Rationalization it is very disadvantages to Papua New Guinea. Because it is all investor capital input and total investor profit taking.

Then you have a different kind of a contract which maybe Joint Venture. Now, the Joint Venture is a bit risky because in a Joint Venture all parties must take the risk. And Papua New Guineans can hardly be expected to take any risks. And it is not the preferred kind of a module.

And the third one is Production Sharing. Production Sharing actually means Papua New Guineans do not take any risk but the investor does but you balance the investor risk by giving a greater percentage to the investor in

terms of production. And less to the landowner because they did not take any risk and all they are giving up is their land.

And fourth of course is a service contract. And that involves people like consultants you engage all the time to look at things and so on. Those are, like lawyers and accountants and it is purely supportive. It is of no real value to both the investor and the landowners.

So that is why I am posing this possibility. If it is properly submitted to you in terms of production sharing you would look at it. I am not saying you would accept it but you would look at it, would you not?

A: Sure.

Q: Please go on. I wanted to pose that and see what you say to it.

A: Okay. Shall I proceed?

Q: Please, proceed.

A: I think I will not go into the second or 15 years as are from year 16 to year 30.

Q: Actually, counsel, we could understand that; those aspects.

A: I think it is just an extension of the one ---

Q: Yes, what you have explained already.

A: Yes, yes. I am not going to explain anymore. So coming up next we look at the loss projection. Here, I do a 60 year projection. I had the detail analysis that is from year 1 to 30, okay. If we looked at the first few years, of course we cannot expect any money because of the high – we need to get an overseas loan, you know. It is quite costly. So the interest portion will be very high, that is why it resulted in the loss for the few years. And the company was expected to make some money from year 6 onwards and then until the rest of the; until year 15. But of course, we – this on the assumption, think that the CPO price will not crash. Because here, we actually did some analysis of the cost here.

0.22 am] Our cost at that time when we projected this, I mean the production call for CPO, we estimate it should be around 2300 per ton. And at this moment the price here, this moment is 2008 per ton. Maybe it is due to base margin there. But let us say the CPO price in the future during economic crisis or whatever or Indonesia start to production, they might increase their production two or three fold in five year time, we do not know because they are, Kiyong burning down the forest at this moment. I think in another few year time Indonesia production, the production area will reach 5 million per ton. By that time the production will be two fold or three fold a ton it might affect CPO price.

So in Malaysia contact, our cost right now, our production CPO cost right now is around, between 1008 to 2000 depending on the area also the half a thousand land. That is Malaysia scenario but here we expect a little bit higher cost around 2003 because of the transportation, logistic, fertilizer, cost a bit higher. So our cost for prediction is around 2300 per ton.

So if we look at here, it based on my projection here. The first 15 years and if everything go in accordance to our projection we should make around 1.4 billion in 15 year, I mean, the accumulated profits for the first 15 years. Then second, from year 16 to year 30, if our projection is correct they should be make around 2.6 billion and then the rest is year 31 to year 60. You will see here I include the major costs over here, tabulator here. The major costs, I mean, there is fertilizer, weeding, weeding is also one of the major costs and then road, bridges, few ....., those are the major costs in oil palm industry. It is all tabulated here.

So you will see here if, basedon a simple calculation you will just, we can find out from this Profit And Loss that the company - because this is a long term investment for oil palm because of fruit coming up too late, we will not expect even to break even at year 9 or year 10. With our projected cubic expenditure, we are spending around between 600 to 800 million for the whole project here.

TAPE 6 – WITH AP

TAPE 7 – WITH AP



TAPE 8 – WITH AP

TAPE 9 – WITH AP

TAPE 10 – WITH AP

TAPE 11 – WITH AP

TAPE 6 SABL 49 KOKOPO – 16/11/2011 – Antonia

**XN: MR KETAN**

10:26 AM] **WITNESS:** Any question on Piong Yongbut this is just a petition based on our scenario. I think this is computable.

**MR KETAN:** On the cost of sales you got royalties, and levies and funds and land rental. Now, over in the benefits to the landowners in year one you got the total of 9 billion 8 hundred and 29 thousand 6 hundred.

**A:** Oh yes, I will explain off course you cannot calculate it accurately base on this one because in this royalty levy and fund here, this one include the government levy also as well. So, that is why there will be a small discrepancy there. All this figure here include 10 million, 10.64 million includes the government levy. If you look at this for you to look at the page in front there I calculated is knife on the egg because you see here is little bit different because here it includes the government levy.

**COMMISSIONER JEREWAI:** Yes, I follow you. So you hold up in summation when you indicating the profit and lost statement. You are indicating that at least by year 10 you should be able to break even.

**THE WITNESS:** We hope so, I note European having big crisis all this time we hope TPL price will maintain for the next two years.

**COMMISSIONER JEREWAI:** Mr Wong, make no mistake we all understand the risks anyone who wants go into business must take and we appreciate that we

cannot simply wave your way as projecting figures to justify your activities over there. That you can be assured is not our, we are not going be guarded by such misconceptions. We understand the capital investment and we understand that at some point also you must be able to make a turn around to be in profits, because otherwise you, especially you who is a big industry. Otherwise you not consider going in at all. That is why it is important to come back to what I stated earlier. We must be able to balance the landowners interests, however they may concede to themselves and at the point where you make a turn around.

TAPE 7 – SABL49 – KOKOPO-16/11/2011 – Antonia

**COMMISSION JEREWAI:** There must seem to be involving more major way then what is constituted today under the current regime of the agreements you have. And of course you will not that we have gone over all that there was a lot of yielding and screaming, the tempo is different here. We are going through the

rational and to be able to hear you properly on this and to work out something that we can balance up because the underlying fact remains that development must proceed.

**THE WITNESS:** You got a very good point there.

**COMMISSIONER JEREWAI:** Yes, development must proceed so the question that will be posed and will be posed not with you but will be post again, and again with others. Is there room for balancing up so that there is a great participation by the landowners for length of time they will be giving up their land and will be giving up their all way of life actually. You will understand and I believe it was the case in Malaysia for many, many years too, that people lived of their land. With this new forms of development we must not only look at the period of the sub-lease, we must look at the period when everything reverts back to the landowners and there are generations to come will have to sustain themselves, that is the point I have been making all along. I would like you to comment on that.

**THE WITNESS:** That is a very good point we pay back because of the initial capital investment we make, that is why at the time when we draft the agreement we have to measure that at least we reasonably we can get back in May 10, 11 years, by the time everything is – when operation become smooth the return is coming back to the company and off course we do, we can always negotiate with the landowner how to improve package, this I think is very reasonable.

**COMMISSIONER JEREWAI:** Counsel, I would like Mr Wong to take the opportunity to tell us more, as far as I am concern this figures I can look at in more detail in my own time longer time before we get to point of funding and recommendations and I really do not need you to take me through what you have here. I accept the figures as they are in evidence and based on which I will make some irritated assessment of what you have done over there and the point I have raised has been raised in Kokopo and I know you have taken note and I am sure you have taken it to your principals. So I have repeatedly in the more related fashion now that you have brought this report in and I will not dwell any further on

the report, it is in evidence now is exhibit A0 and we will definitely be looking at it in the course of the findings and report and recommendations.

TAPE 8 SABL49-KOKOPO -16/11/2011 – Antonia

**XN: MR KETAN**

**10:33am] COMMISSIONER JEREWAI:** Counsel any further matters to take through with Mr Wong?

**MR KETAN:** No, as commissioner you have said we can look into this and off course and if there are issues we can always raise with them. Just one thing on the benefits, that's something that must have been taken up in Kokopo. I was there earlier on but I had to return and was not there when you gave evidence. The benefits

how is that paid to the landowners, through their respective companies or?

**THE WITNESS:** Are you talking about this one or other? How the benefit to be distribute at that time.

**MR KETAN:** Yes.

**A:** I think at that time they need to set up their trust account and we had to.

**Q:** No, the system in place, I am really talking about the system?

**A:** No, not at this moment but we have to get a system in place, there is highly advanced computer program because this one involves K100,000 thousand or cheque to be issued might be among could be K10,000 like West New Britain so we have to install a very advance to this program so the cheque will be issued automatically, all this landowners they have to check out their account, in the trust account. So it will be automatically credit to their account.

**Q:** To the landowner companies?

**A:** Yes, at that time they have given out the account at that time. It won't be in that case anymore because the amount is too significant.

**Q:** It will be in accordance with the agreement you have reached with them?

**A:** Because we have not reached to that stage, go into that detail – how we are going to pay but work out.

**Q:** Yes, that is fine, thank you. As we said we will ask a request if there is any, we will of course be in touch with you if there is any issues in relation to analysis here.

**COMMISSIONER JEREWAI:** Yes, Mr Wong in the course of our deliberations if anything is not fully understood based on your evidence earlier and the cost and benefit analysis report which we have just tendered and if it will be okay if we should want anything explain if it would be okay for us to contact you and ask you to formally appear. But otherwise Mr Wong, thank you very much for returning this morning over here. You are excuse now thank you. I do not think we required to call the other two, it was only Mr Wong with regard to the cost and benefit analysis.

**MR KETAN:** I think Mr Ong is here as well.

**COMMISSIONER JEREWAI:** Yes, but what was he required to return with. Counsel we have already done with him Kokopo. Sorry you have some instructions?

**MR KETAN:** Yes, briefing from Peipul there were employment contracts that needed to be produced and the visas and work permits.

**COMMISSIONER JEREWAI:** Work permits, is the right Mr Ong.

**MR ONG:** Work permit, the other department is handling.

**MR KETAN:** on the record we need to know.

**COMMISSIONER JEREWAI:** Yes, sorry that is part of our terms of reference to enquire into. Could you come forward please Mr Ong, come forward so you heard on the microphone. Just go to the bar table just take a sit there.

TAPE 9 SABL49-KOKOPO – 17/11/2011 – Antonia

**[10:38 am] COMMISSIONER JEREWAI:** Okay, just take a sit there and who is responsible for the work permits?

**MR ONG:** Our Human Resources Manager.

**COMMISSIONER JEREWAI:** And who is the person in charge if you could give his name?

**MR ONG:** William Lau

**COMMISSIONER JEREWAI:** All right we will take a not and we will make arrangements for him to appear to tender the work permits. It is part of the terms of reference.

**MR ONG:** He gave copy to me this morning, it is all here the work permit, is it all right I give copy to you.

**COMMISSIONER JEREWI:** Well, then MrOng can have it tendered. Can we just receive the documents now counsel and then if necessary we can call Mr Lau to verify, but we will just receive the document we will not have it tendered yet. Advise Mr Lau we will go through it and we will contact him if we want him to formerly tender it in evidence. Is that alright counsel?

**MR KETAN:** That is fine, the only other documents which needed to be received formerlySigiteMukusintegrated rural development project development plan for the establishment of oil palm and forest plantations which on document two submitted by Gilbert and Memalo holdings. We referred to that over there in Kokopo but,

**COMMISSIONER JEREWAI:** We do not have to have it tendered through our witness because reference is made. We will just excuse them first and we will continue and have it formerly tendered as exhibit. Mr Ong and Mr Bacani, you three can go now thank you for coming in this morning.



**THE THREE WITNESSES: MR WONG, MR ONG AND MR BACANI EXUSED;**

**COMMISSIONER JEREWAI:** All right counsel, this time it is tendered from the bar table, we are not bound by strict rules of evidence. Because the material had been largely referred to and verified by various witnesses in the course of the evidence I will accept it as a material to be tendered as exhibit.

**MR KETAN:** The significance of it is, it would have been the document on which would have been submitted for the purpose of some of the permitting process.

**COMMISSIONER JEREWAI:** Right.

**MR KETAN:** Yes, so Commissioner if I can tender this document which is titled SigiteMukusintegrated rural development project development plan for the establishment of oil palm and forest plantation in the Sigite Mugas consolidated land area jointly submitted by Gilbert Limited and Memalo holdings limited Pomio district, East New Britain November 2008. It is dated the 11 November 2008. Its contains include overview of provincial agriculture sector policy and strategy objectives bio physical resources and land suitability assessment of the project area. Planation developmentand implementation strategy which section 3 and then it got the section 4 is market potential sustainability strategy.

TAPE 10 – SABL49 –KOKOPO – 16/11/2011 - Antonia

**MR KETAN:** Section 4 is market potential and sustainability strategy, section 5 antecedent risk and strategy minimizing risk. Section 6 financial funding and financing and section 7 is conclusion and recommendation. So that is the contents of this document.

**COMMISSIONER JEREWAI:** Contents of the whole lot of that document. Thank you, counsel I will accept it in evidence to be marked as exhibit

**AP POMATE/RALOPAL/NAKIURA/UNUNG SIGITE - EAST NEW BRITAIN PROVINCE**

**MR KETAN:** This document were been given, we will just accept it and then go through it and then and then – we do not have enough time to look at the employment work permit.

**COMMISSIONER JEREWAI:** No, we will look at it and then call Mr Lau, I think I am on record as saying. Just come to formally tender it in evidence.

**MR KETAN:** Yes, that is fine.

**COMMISSIONER JEREWAI:** That will be the list of all the worker holding the work permits that are accompanying visa include in relation to Gilford limited.

**MR KETAN:** Yes, that is correct.

**COMMISSIONER JEREWAI:** I am stating specifically Gilford limited so that we do not stretch ourselves too much by going into the whole RH group of companies.

**MR KETAN:** No, just Gilford.

**COMMISSIONER JEREWAI:** Just Gilford, thank you. All right hold it and form some view on it and give it to me and give it to me and we will decide on my return from Kerema, we can quickly call Mr Lau to formerly have it tendered. That is all in relation to the four Pomio SABLs, we have one more East New Britain this morning and that is Torio timbers and I have directed for Mr Samuel Yaya as well as Mr Klevin Ling to come in and they sent message which I have on my desk that Mr Ling is arriving at 10:00am this morning and we will adjourn briefly await their arrival and we will resume again.

**MR KETAN:** They rang through and said they will be here at 11:00am.

**COMMISSIONER JEREWAI:** All right very good then we will adjourn to 11:00am

**COMMISSION OF INQUIRY INTO SABL NOW ADJOURN  
UNTILL11:00 AM**

TAPE 11 SABL49 – KOKOPO – 16/11/2001 – Antonia

**[11:24am] COMMISSIONER JEREWAI:** All right good morning, counsel Mr Ketan. Good morning representatives of KK connections and for the record, the matter this morning is the continuation of the hearing into portions 903c 904c, East New Britain Province particular the Baining and title holder of the two portions being Toriu Timbers limited. The continuation was necessary with regard firstly to the requirement particularly for Mr Yaya who gave evidence in Kokopo to produce the relevant exchange rate with regard to the export of logs particularly their total log volumes through out the months for each year commencing from 2008 to 2011. Unfortunately this aspect, counsel will not addressed at this point and we will indicate to KK Connections that at the appropriate we may require them to re-appeal to go through this aspects. The second aspect importantly which we did not raised in Kokopo while hearing was conducted in respect of this two portions

was alternatives to be presented to the developer KK Connections to have their response as to whether in the even that we are minded to make recommendations for appropriate remedies where appropriate remedies ought to be put in place to enable them to continue in connection with the landowners and particular the landowner organization, landowner companies and the incorporated land groups et cetera.

Perhaps this morning we will merely spend on the questions to be put as to the willingness of KK Connection or for any re –organization should this commission of inquiry consider that we should recommend re –reorganization to enable them to continue in their involvement with those particular portions. So perhaps we could have – I know that first of all sorry that I required Mr Samuel Yaya to attend this morning and also together with Mr Kelvin Ling the principal. Is Mr Ling here also?

MR KETAN: Yes.

**COMMISSIONER JEREWAI:** Counsel, if we can have Mr, perhaps because we are passing the issue of exchange rates we can go straight to Mr Ling because I believe Mr Ling is the principal of KK Connections limited.

SABL-12(nnb)

1.28 am] **KELVIN LING; sworn**

**XN: MR KETAN**

THE COMMISSIONER: Yes, counsel.

MR KETAN: Mr, your full name is Kevin Ling.

A: Ling Koh Pieng.

Q: Sorry?

A: Ling Koh Pieng.

Q: K-o ---

A: K-i-n-g K-a-u-o-k T-i-n and g.

Q: K-o- K-u-k ---

A: K-u-o-k T-i-n and g.

Q: T-i-n and g.

A: Correct. The..... is a Kevin, Kevin Liu.

Q: Your Christian name.

A: Yes, Kevin Christian name.

Q: This is your Chinese name, is it?

A: Correct, something like that.

Q: And your Christian name is Kevin Ling.

A: Correct.

THE COMMISSIONER: Sorry, what is the last name, sorry a P?

MR KETAN: Commissioner, T-a-n-g.

THE COMMISSIONER: Okay, yes.

MR KETAN: He is saying that is his real name; Chinese name. The ---

THE COMMISSIONER: Just like us, we have our village names and we have Christian names.

MR KETAN: Yes.

THE COMMISSIONER: I understand.

MR KETAN: The name that we have used in our documentation references is Kevin Ling.

THE COMMISSIONER: The Christian name.

MR KETAN: Yes. Are you the managing director of K.K. Connections?

A: Yes.

Q: Very well. Commissioner, because I was not in Kokopo when this evidence was given, if I could ask ---

THE COMMISSIONER: Yes, and if it is a question already raised I will let you know. But please go ahead.

MR KETAN: Sorry, what I was going to suggest was in relation to the exchange rate.

THE COMMISSIONER: Yes.

MR KETAN: If you maybe ask the witness in relation to questions in relation ---

THE COMMISSIONER: No. As I have indicated I have made a request to have the relevant exchange rate for the different years through my sources at BSP. You understand. I am unable to pose this to the witness at this stage. That is why I indicated that the witnesses were required to appear this morning to address the question of different exchange rates over the years. But this information is not at hand yet and I cannot take the witnesses through those. But have you ---

MR KETAN: Very well. We ---

THE COMMISSIONER: The witness as I have indicated, will remain available to the Inquiry for that particular aspect.

MR KETAN: Yes, very well. We ---

SABL-13(nnb)

1.32 am]

summoned this witness as far as I recalled and I think what we wanted is the evidence on the sizes of the SABL issued to Toriu Timbers which I understand, some evidence was received from Lucas Kotnachi and other witnesses of Toriu Timbers. What I need now is the role that KK Connections plays as a developer in relation to the SABL; the project. The relationship between Toriu Timbers and KK Connects.

A: I am the developer. I never had a contractor. They are landowner company engaged me there to do the log. In fact, the whole thing; the project is a East New Britain Provincial Government project for the log we signed. So join with the Toriu Timber Limited, they invite me to go in there to do the logging .....called Kokombe to Malasekpak what they call a missing link.

Q: There was a previous company involved too, Kerara, I forgot what the other, there was a previous company by the name of Kerara.

A: No.



Q: There was another name. It slipped my mind. What is your connection with that other company that was there before?

A: Before I work with Kerawara and previously there into 006, the informer this company and get this project. So, before I work with Kerawara.

Q: Before you worked with Kerawara.

A: Yes.

THE COMMISSIONER: As an employee, correct?

A: Yes.

Q: As an employee.

MR KETAN: As an employee.

A: Correct.

Q: And then you yourself formed KK Connections.

A: Correct. For this special project.

Q: Under the SABL.

A: Yes, correct.

Q: And it is over the same area.

A: No, it is a – the area for the Toriu or?

Q: Yes. Is it over the same area?

A: No. In fact, Tarawara, nothing to do with this area. This area is only with KK Connect. The Toriu company, Toriu landowner company came and invite me to go and do this project for them.

Q: Are you able to give some evidence in relation to, say, the timber log exports in there?

A: Yes. We print the ---

THE COMMISSIONER: Counsel, they have given that. It is among the exhibits.

MR KETAN: Yes. I ---

THE COMMISSIONER: Have you got the exhibit there?

MR KETAN: The brief – this is from a brief from Ms Peipul that, I think, it might have been required over there and might have been provided. I could be ---

THE COMMISSIONER: Hold on and let me find the ---

MR KETAN: They were total, I think you needed information on total logs harvested.

THE COMMISSIONER: Yes, they provided that. I am trying to find the exact exhibit number. Just hold on a second.

SABL-14(nnb)

1.36 am] You got the copy of the list of the export log volume there. Ms Peipul gave you back.

MR KETAN: There was a – no, she did not. Is it information ---

THE COMMISSIONER: The year in which the logs were exported and the pricing and the amount received per shipment and the amount of export levies paid to the State.

MR KETAN: According to the briefing I had with her this morning, this is information that was required from either Yaya or Mr Ling which is total logs harvested between 2008 and end of September this year, that we needed information.

THE COMMISSIONER: That is the list I am looking for it. It was tendered in Kokopo by Mr Yaya.

MR KETAN: I was not provided with that, Commissioner. If there is one then really, there is ---

THE COMMISSIONER: I cannot find the exhibit. But there is one tendered in Kokopo. You got a copy there Mr Yaya?

MR YAYA: I have the copy of the one you required me to make.

THE COMMISSIONER: No, I am – you will recall with regard to that. No, you sit, that is all right.

MR YAYA: This one is, I wanted – I cannot have it be tendered for this guy?

THE COMMISSIONER: No, no. I will call you shortly. That is the one, yes.

MR YAYA: This one, you have.

THE COMMISSIONER: No, counsel ---

MR KETAN: Pardon me, the Toriu documents are at the back. I can just see if I can locate it.

THE COMMISSIONER: Please. Because the list is already tendered. And it reflects the volume per year starting from 2008 to September 2011. And that is the list in relation to which I said I cannot ask any sensible question at this time with regard to the exchange rate so that it is indicated both in the column, second last column on the right which says total log export per shipment for the total year that indicates at the bottom. And then the final column on the right shows the amount in PNG Kina paid as export levies.

MR KETAN: Yes, very well. It might be sensible Commissioner, if we have that document and ---

THE COMMISSIONER: Yes.

MR KETAN: Mr Ling, I understand is still on medication.

THE COMMISSIONER: Please, go ahead and locate it if it is there at the back.

MR KETAN: Yes.

THE COMMISSIONER: Perhaps, I could adjourn for 10 minutes. I could adjourn for 10 minutes and we will assist to locate it.

MR KETAN: Yes.

THE COMMISSIONER: Mr Ling, we will adjourn for 10 minutes so that we can find the document.

## **SHORT ADJOURNMENT**

SABL-15(nnb)

1.36 am] THE COMMISSIONER: Yes, counsel.

MR KETAN: This document as annexure G was tendered in Kokopo. It is not the summary of logs exported. What I have been informed Commissioner, by the Toriu Timbers guys is that, in accordance with your direction over there, they had prepared some sort of a response or submission setting out the information that you required. And they have brought that with them which is with Mr Yaya.

THE COMMISSIONER: All right, take that document. And if you want to take Mr Ling through the document ---

MR KETAN: Yes.

THE COMMISSIONER: To some aspects. But ultimately that will be tendered by Mr Yaya.

MR KETAN: Yes.

THE COMMISSIONER: If you are taking him through that document, if there is a copy for me as well.

MR KETAN: What I have submitted Commissioner, is brief letter as a cover letter, brief report on Toriu Integrated Development Project portion 903C and 904C. They submitted the Progress Report on Agriculture and Infrastructure Development and the bound document cover that updated Progress Report as of month of September 2011 Inland Laso Baining Toriu Integrated Development Projects, FCA 15204, prepared by jointly by KK Connection and Toriu Timbers. What it has is a monthly production report and then summary of logs export using TT inward rate and summary of 903C, portion 903C and portion 904C log export

using the RC rate and agriculture development for 903C and agriculture/reforestation for 904C and a report on infrastructure. List of machineries comes in the attachments and list of number of workers by department and ending with a map on portion 90C.

TAPE 16

TAPE 17

TAPE 18

TAPE 19

TAPE 20

TAPE 21

TAPE 22 – AP

TAPE 16 SABL49 – KOKOPO- 16/11/2011 - Antonia Paul

[11:47 am]**MR KETAN:** Now, I am suggesting Commissioner that because instructions come in now and with other information as you mention on the exchange rates and that we take through MrYaya or Mr Ling as the chief executive of the company. And then we review it along with on the course of the reports of that. If there is any issues that we contact them.

**COMMISSIONER JEREWAI:** Yes, I think that will be the best way to go.

**MR KETAN:** Yes, rather than making sense of this document in santaneously

**COMMISSIONER JEREWAI:** In santaneously?

**MR KETAN:** Yes.

**COMMISSIONER JEREWAI:** Which both you and I are not qualified to be a ludo.. Well, I agree with that perhaps we can take not of this and leave it because the author of this report would be Mr Samuel Yaya and when he is called in you can have him tender this document to be an exhibit in the evidence. Perhaps lets deal with Mr Ling while he is in the witness box in respect of other matters and then we can call Mr Yaya to come in for the purposes of having that tendered and then give an indication as to the most tentative available time we will continue with this matter. Does that make sense?

**MR KETAN:** Yes. It does, except that commissioner with my briefing this morning in relation to other issues ...

**COMMISSIONER:** I am surprised that Miss Peipul did not brief you earlier and you keep repeating the briefing was this morning. And what we are going to end up doing is you are, sorry counsel – you are going criss-crossing from one issue to another. And we are not going to make sense out of anything. I suggest the matters to be raised be reserved to the continuation of the hearing, we will not end this matter, continuation of the hearing after Miss Peipul returns form the Vanimu Trip. Is it Vanimu, Wewak both?

**MR KETAN:** Vanimu

**COMMISSIONER JEREWAI:** Vanimu and Wewak. They proceed to Wewak after Vanimu?

**MR KETAN:** No, they return here.

**COMMISSIONER JEREWAI:** They will return here?

**MR KETAN:** Yes.

**COMMISSIONER JEREWAI:** My concern is that we have require to be here and they have travelled in from Kokopo. If we are going to defer this matter, I would suggest we would defer it to earlier January.

**[11:50am] MR KETAN:** I can deal with the other matters in the afternoon or tomorrow if time permits that is if your...

**COMMISSIONER:** Well, I am meeting with my team for gulf this afternoon and I do not know to what extent we will be able to cover all the briefing with regard to each matter. And the schedule to travel out tomorrow may be that we will be able to do it but depending on the extending of your briefing and that is why I said at the outset, I am surprise that you got briefed only this morning counsel.

**MR KETAN:** Yes.

**COMMISSIONER JEREWAI:** And I do not want to keep this people waiting I must be mindful of their own expenses as well. And the matter was transferred from Kokopo and there was ample time for briefing. We adjourn 10 minutes for instance to look for an exhibit. My thinking is to get to understand the issues in relation to this particular SABL and take ample time and re-convene in early January and let us get it over and done with but while Mr Ling is here I would like to ask him a very pointed question which I should have done in Kokopo. Perhaps you could take your sit and I will just ask him this set of question. It will only be couple of questions. Mr Ling in the initial enquire into portion 903c and 904c during our hearings in Kokopo. We dictated quite a number of irregularities, irregularities meaning matters that affect validity of those agriculture leases. The first irregularities wasa matter, perhaps does not really concern you, it concerns the landowners themselves and those irregularities I will set out very briefly for your benefit. Many of the concerns were obtain without the knowledge of the landowners whose names were placed on the concern forms and against which they signed. Second was the landowner company and particular they are board of directors had acted without the authority of the landowners again in prior consultation and consent to be given before they entered into the sub-lease



agreement with you. And that sub-lease agreement is with you is dated, I will give you the date shortly, 30 April 2010 last year.

TAPE 18 SABL49 – KOKOPO- 16/11/2011 – Antonia

**[11:55am] COMMISSIONER JEREWAI:** The third irregularity or despite that you discovered was that it is possible that and this now involves you. It is possible the agriculture development proposal had been changed about five or six times from one kind of agriculture development to another and I will give you an example. There was a change from initial proposal for cocoa and coffee development to oil palm development to re-forest station project similar to the one in the open bay area and also now recently balsa, development of balsa farm. Balsa being the big

industry in the East New Britain Province. So that is not totally an irregularity but it may form what to be an irregularity because if suggest that the agriculture development plan was not a firm one and it kept changing without the prior consultation and approval of the agencies concern particular Department of Agriculture and Livestock and possibly Department of Environment and Conservation. That is the third irregularity possibly that we detected. The fourth one in relation to which you have now appeared there this morning relates to the proper pricing distribution of the currency in relation to the volume of logs exported, the export levy paid to government of Papua New Guinea, and the retention – one was stated in the US dollars and the other one was stated in kina. The fifth is not the matter of irregularity, the fifth is a matter of full disclosure as the possibly cost and benefit analysis but that does not involve with the developers mainly we pointed out in Kokopo that there is an aspect the government of Papua New Guinea must carried out for each project through the National Economic and Fiscal Commission. The person in charge of which is Dr. No Badu and we have said that, that is the requirement which we think should been involved the first place. Now, those are the matters we have detected.

TAPE 19 – SABL49 – KOKOPO – 16/11/2011 – Antonia

**[11:58 am] COMMISSIONER: JEREWAI:** We also said that we recognized that the people of the area wants development and that is they have chosen to progress their area in term of economic development although it may have been conducted through wrong mechanismsso having told you all this I want to oppose this question to you. If we correct all this things would you consider a total re-arrangement so that there is a very clearly defined benefits and great involvement in terms of benefits flow to the landowners of this portions. You can take your time, will you be willing to participate in correcting errors and increasing the

participation of the land owners properly with their proper consents properly obtained.

**THE WITNESS:** Your Honour, we make proposed by the department to assess to this case. If a receipt able one, in fact I did produced profit and loss import and everything here to you this morning for check, because this area only consider very rare 2008 and my concern now here with the provincial government is the infrastructure, the road from Open bay to Malacai which is 71.5 kilometers under my expenses. So that the applicant took part also but to the landowner issues in fact before this is what the company, provincial government we agree on this kind of price, everybody suffer a bit because the main thing was this government propose is to Baining people is to the infrastructure about the road. All this was we have to travel by sea, so the thing is that the estimate the cost of the road is quite cheap one. We estimate at this stage around 200 and over thousand per kilometer but the main problem there in the area is not like other area the difficulty is to find gravel. So the gravel on the front part, it will take about over 20 kilometers just to gravel it and the cost is very high.

**COMMISSIONER JEREWAI:** I understand that.

**THE WITNESS:** And with this we discuss with the landowners on this issue and their understanding but the proposal, it all depends we can effect on it, you Honour.

**COMMISSIONER JEREWAI:** Let me also explain in Kokopo I stated with hesitation that infrastructure including roads and airstrips and wharves and bridges are the primary responsibilities of the government of Papua New Guinea and also the provincial governments. But we understand that East New Britain provincial government and we have in evidence the provincial executive council policy adoption to use the people's natural resources and in that area particular forestry to

supplement the cost of construction of particular infrastructure roads and however that is we have stated very clearly that government policy must be implemented bearing above every other interest that the landowners interest. And especially if their natural resources are going to be diminished forever and so the cost of the lost forever of their natural resources must be balanced against benefits of such an infrastructure development, where especially it was the responsibility of the government of Papua New Guinea to carry it out.

TAPE 20 –SABL49 – KOKOPO – 16.11.2011 – Antonia

**[12:04pm] COMMISSIONER JEREWAI:** Yes, I can appreciate what you are saying actually, it will go back to the – it is upon all the evidence before us. We finally imbalance in the benefits directly to the people and we make this suggestions to you. Will you be able to consider?

**THE WITNESS:** In fact your Honour..

**COMMISSIONER JEREWAI:** Please go on, you must use your full opportunity to say what you have to say.

**THE WITNESS:** In fact apart from the infrastructure, the agreement signed with the landowner on this special project is the security agriculture, and the re-forest station. So in between the infrastructure the agreement with provincial government we visit earlier on this is, the landowner I short list area even we do not own the land is all by the – the landowner infact submit to their representative company called Toriu timber limited and .....me for sub-lease for 60 years but

return, like government say the – while I am still there so we have to maintain that role is consider that is part of East and West New Britain highway, so that 71.5 kilo meter should be responsible by me. In return is the landowner agree to give me that part of that plantation and then on the agriculture side like now because ....like logging has finish already in fact term for is by 201 hector, 201 figure is finish totally there so for the future plan we going for the re-forestation for balsa and other crops at the same time then land owner- all their area finish so in return we plant this balsa and I have to set up a balsa mil in that area in return for the loss of the trees.

**COMMISSIONER JEREWAI:** Yes, well you see that Is part of the part of the preliminary observation in Kokopo when the agriculture proposal was submitted in evidence. That there was a change from one agriculture type to another and that presents a problem because with SABLs there must be a specific agriculture development proposal and you must abide by, that is a requirement. You cannot go in and that is why you have to complete your physibility with regard to the suitable right from the outset. You cannot go in and you keep changing the crop as you come across soil suitability and terrain suitability all of that kind of thing. You must ensure that you have conduct physibility right from the outset, and that is the problem that I just pointed out to you which was your preliminary finding in Kokopo or rather preliminary observation in Kokopo and this must be taken seriously because very simply agriculture crop cannot be altered at will. It must be proposed right from the outset and if you cannot meet it for one reason or another you must re-submit the proposal for approval by the appropriate authorities, but the two most important ones Department of Agriculture and Livestock and Department of Environment and Conservation, but where trees are concern to that is where forestry comes in. Counsel have you any matter arising from those?

TAPE 21 –SABL49 – KOKOPO- 16/11/2011 – Antonia

**XN: KELIVIN LING**

**[12:08 pm] MR KETAN:** Yes, the sub-lease was represented in Kokopo through Toriu Timbers, I think?

**COMMISSIONER JEREWAI:** Also James Tapele, it is annexure G through James Tapele's affidavit and James Tapele's affidavit was exhibit C.

**MR KETAN:** With the employees, are they employees of your company?

**A:** We have photocopy of visa, you mean for the expatriate one?

**Q:** Yes.

**A:** Yes, it is here with me. I bring it this morning.

**Q:** You have the information?

**A:** Yes.

**Q:** We need that if we can.....

**COMMISSIONER JEREWAI:** The list of employees particularly foreign employees with work permits and visa. Sorry that is part of the terms of reference of the Inquiry and that is necessary. You have it there Mr Yaya?

**MR YAYA:** Yes.

**COMMISSINER JEREWAI:** Perhaps you call it through Mr Yaya because he is operations manager on the ground. I just want to highlight again counsel, it has been established in that evidence already in Kokopo that the sub-lease agreement maybe invalid for reason that the appropriate signatures were not place in the execution and then that is one of the matters I wanted to point out .

**MR KETAN:** Bernard Kotnaksi, he signed on behalf of a number of them.

**COMMISSIONER JEREWAI:** It is in evidence that someone else signed for another director but the evidence needs to be reviewed there. I think my blanket question has put covers those irregularities which had been found on a preliminary basis.

**MR KETAN:** Yes. With the land investigations the question were asked in Kokopo but your role, did you involve with any of the investigations, the public

raise – social mapping to identify owners of the land and that in the process did you clear with that?

**THE WITNESS:** No. Inside the executive of the company is the one come and deal with me on this issue.

**COMMISSIONER JEREWAI:** Which company, landowner company?

**THE WITNESS:** Landowner company, Toriu Timber limited and then with the government agency for this 904C. In fact the all area registered under Toriu Timber limited because to avoid the people from outside cannot dispute with them, that is why in fact it is vital land – ask them to register their land because there are lot of people from outside coming and dispute when they know there is operation there. So with that everything to the Toriu Timber limited and then after that they are talking about the maintenance of the road as I come up with this 904C which I agree. I sat with the Toriu Timber with per condition and we signed the agreement, sub-lease agreement in front of our lawyer there. So that one is so organized by the landowner company and served with all the landowner in fact. I'm not much involved in there in fact.

TAPE 22 – SABL 49 – KOKOPO – 16/11/2011 – Antonia

**XN: MR KETAN**

**[12:13pm] Q:** With the development of the project we will look at the report, the progressive report that you have presented, and the timber export and that. So we will have that information if there is any queries or questions arising from that we will of course let you know, but it is in relation to the other issues that arose was,



there were timber purchase – timber rights purchase area over where portion 903 and 904C are at the moment and there were claims by other people in relation to that. When you went in there did you face any problems with other people laying any claims to the area that you were going into?

**A:** No, at this stage, not at all.

**Q:** There were no problems?

**A:** Yes, no problems. That 904C in fact the highway is going through there, what we call the provincial highway. The West New Britain highway is going through there, the target for the provincial government is to build that one down to join the Baining people from coming down to Rabaul. So far at this stage no.

**Q:** So you work close with the provincial government?

**A:** Yes, correct.

**Q:** So project was sort of encourage or part of the policy of the provincial government?

**A:** Yes. Main aim is in fact the road, because the all East and West New Britain in fact from open to Ulamona there is only portion missing here, the main part to the Open Bay to the Malasaet, and at Malasaet to Unapalading consider it is joint so only the portion 71.5

COMMISSIONER JEREWAI: Right. Malasaet is on the other side of Unapalading?

A: Yes, correct. In fact there is a road.....

Q: On the southern side of Unapalading?

A: Correct. There is a road already from Malasaet to Unapalading just to upgrade, needs to be upgrade and I think the provincial might – when we finish the road joint to Malasaet we should believe depend, may be end of this year we should join already and from there government says next year we discuss to upgrade the all the road down to Unapalading.

**MR KETAN:** Commissioner the summons we issued to this particular witness was a general summons. To be asked on their part in relation to the development of the SABL, as I note from the copy of the summons. So I can – a lot of question on this particular witness might just be general question in relation to the other particular question about the, which are covered in the reports that is presented so once you have that opportunity to see that we may or may not need to take it up.

**COMMISSIONER JEREWAI:** I think counsel if we are really focus on question of what are wrong, what are the wrongs in relation to this two SABLs.

SABL-23(nnb)

2.18 pm] THE COMMISSIONER: Question of what are wrong, what are the wrongs in relation to these two SABLs. In Kokopo we have established those primary ---

MR KETAN: Yes.

THE COMMISSIONER: Defects, some of which I have pointed out to Mr Ling. Although, we also noted with some certainty that there were also equally a large number of people who wanted development of different types to be in there and this Inquiry really, will be about balancing up to see how we rectify the defects to balance with the cry for development. So we have put Mr Yaya through very, very intensive questioning in Kokopo.

MR KETAN: Yes, I understand, yes.

THE COMMISSIONER: Very intensive. And we have also put the landowner companies through very, very intensive questioning in Kokopo, particularly the landowner company executives. And the defects and irregularities are very, very obvious. And I understand why you are asking some of the questions which we have covered ground.

MR KETAN: Yes, I ---

THE COMMISSIONER: And mainly because of very short briefing you received only this morning. I am fully versed with what is wrong with those SABLs and in fact, I am prepared to make findings and recommendations. But I believe our inquiry is to balance up properly, not to discourage SABLs from continuing, but to improve the effectiveness of these SABLs. And among the improvements is the question of landowner benefits. So, counsel, you can consider what else you may want to raise with him because this is the opportunity, he is in the witness box. But my view is that Mr Yaya is the one I want to see up in the witness box so that he can correct these leases he gave me in Kokopo and I could not make any sense out of it.

MR KETAN: Commissioner ---

THE COMMISSIONER: Yes, go on.

MR KETAN: With this witness, as I have said, I do not – at this stage I have any questions for him. If there is any particular question of any significance then ---

THE COMMISSIONER: Of course, that is the standard instruction, if I may put it that way, that it maybe that in time to come before we wrap up, all of these inquiry, we might need him back for further verification. And if that occasion arises we will request for Mr Ling to come back.

MR KETAN: So at this stage Commissioner, if he can be excused and then we bring Mr Yaya.

THE COMMISSIONER: And we will call Mr Yaya in.

MR KETAN: Yes.

THE COMMISSIONER: Mr Ling, thank you very much for coming. But I just said to counsel and that is for your ears as well. It may be that we may require to ask you back to verify a number of other things. But like I said, main matters have now come before us and we will take these into consideration. Is there anything you want to say before you leave the witness box?

A: Not at this stage. Thank you.

Q: All right, thank you. We will be thankful if you can remain available in the future if we should require you to come back.

A: Sure.

Q: Thank you Mr Yaya, beg your pardon, Mr Ling. If you can step down.

**THE WITNESS WITHDREW**

SABL-24(nnb)

2.22 pm] THE COMMISSIONER: Take your seat. You are still on oath so you need not be sworn in again. This is Mr Samuel Yaya. He is on oath from Kokopo and he still appears on oath. Proceed counsel. Before you proceed, Mr Yaya I put a very strong stance on this report which did not guide me properly to understand. And that report was a progress report in relation to the agriculture development on portions 1903C and 904C. Counsel, perhaps I could ask him to now show me the properly paged, page numbered and appendices that may be attached to that report so that we can replace the one he presented me in Kokopo.

**SAMUEL YAYA; recalled**

**XN: MR KETAN**

MR KETAN: Yes. Have you got a ---

A: The one you ordered me to submit your Honour, it is all in there now. A brief one only. So everything is just make it short, just direct to the point and the one that I – and I have some documents to support and exporters. So if you need it, the Inquiry's need it ---

THE COMMISSIONER: I think we should take them in, counsel.

MR KETAN: Yes.

A: This will be the payment that we made from .....duties, everything stated in here.

Q: Mr, before we get to that, the Commission was referring to that document you were to update it, I think it would be right to use that word.

A: So I make it a brief report and that .....that is the one that I have to change with that one, same point will come.

THE COMMISSIONER: It is the one that was presented ---

A: Presented to, the first presentation .....

MR KETAN: The one that you have just presented is to supplement the one you --  
-

A: To supplement the one to make it direct and easy to get the points.

Q: Very well.

THE COMMISSIONER: I think what he is saying in fact is this is to replace this.

A: Yes, to replace the .....to make them ---

Q: Let us put this away and forget about it.

A: Yes.

MR KETAN: A Vuivui?

THE COMMISSIONER: That was not tendered by the way. That was not tendered in Kokopo, is that right Mr Yaya?

A: Yes, .....

MR KETAN: It is in our possession, we can ---

THE COMMISSIONER: Take note of it.

MR KETAN: Take note ---

THE COMMISSIONER: Yes.

MR KETAN: And consider to for whatever it is worth for comparison purposes.

THE COMMISSIONER: Counsel, should we not have this tendered together with this?

MR KETAN: We should, we should.

THE COMMISSIONER: Yes, I think we will have them both tendered. Can we do that first to clear this outstanding matter from Kokopo.

MR KETAN: Yes.

THE COMMISSIONER: Show him both together for identification.

MR KETAN: Sorry Commissioner, just ---

THE COMMISSIONER: I will pass mine down.

MR KETAN: Rather than taking, if I can start back to ---

THE COMMISSIONER: Counsel, are you feeling a bit hot in here? The air cond does not seem to be working. But you are okay.

MR KETAN: It is on but, you need a fan or?

THE COMMISSIONER: No, I am just going to suggest that we remove our jackets. Is that all right?

MR KETAN: Yes, I am ---

THE COMMISSIONER: You are okay?

MR KETAN: I am all right.

THE COMMISSIONER: I am going to remove my jacket. Counsel please, proceed.

MR KETAN: Mr Yaya, this first document is the one you presented to us in Kokopo, again it is dated the, well, we assume because Toriu Timbers .....name your company's name KK Connections name is both on the document. It is titled Outdated Progress Report as of month of September 2011 Inland Lasul/Baining Toriu Integrated Development Project (FCA 15204). I seek to tender that which will be tendered with your other report that you presented today. You identify that is your document.

A: Yes, yes.

Q: Which you prepared to present it to us in Kokopo.

A: Yes.

Q: This other document, Commissioner

SABL-25(nnb)

2.28 pm] MR KETAN: I suggest we do it separately.

THE COMMISSIONER: All right.

MR KETAN: I tender that.

THE COMMISSIONER: I will go along with your suggestion, counsel. So the first one is Progress Report presented in Kokopo dated 31 October, correct or received?

MR KETAN: Received on 31 October. It is titled Outdated Progress Report as of month of September 2011.

THE COMMISSIONER: Outdated Progress Report as of ---

MR KETAN: Month of September 2011.

THE COMMISSIONER: Right.

MR KETAN: Integrated Lasul/Baining - (Toriu) Integrated Development Projects (FCA) which is the Forest Clearance Authority number, I think, (15-04).

THE COMMISSIONER: Well, that become, those are exhibits ---

MR KETAN: The last exhibit according to Ms Peipul over there was exhibit F.

THE COMMISSIONER: Exhibit?

MR KETAN: Last exhibit in Kokopo was according to Ms Peipul, exhibit F.

THE COMMISSIONER: And what document is that?

MR KETAN: I am not sure. It is ---

THE COMMISSIONER: Never mind, it is exhibit F.



## **EXHIBIT G – OUTDATED PROGRESS REPORT AS OF MONTH OF SEPTEMBER 2011**

MR KETAN: This one will be exhibit G.

THE COMMISSIONER: G, all right. There are two missing from my records. We will receive it. I will accept it as tendered and it will be marked as exhibit F.

MR KETAN: Yes.

THE COMMISSIONER: Toriu Timbers, East New Britain Province.

MR KETAN: Mr Yaya, the next document I will show is the Outdated Progress Report as of month of September 2011 same title, but according to you is simplified report to the one that we have just tendered. It comes – Commissioner, what they have done is they have used the same title and the same headings and the only except of course, is the contents. And it comes under cover of a letter dated 16 November 2011 which is today under the hand of Yaya Madouran, this witness, project manager, Integrated Development Project, KK Connections.

THE COMMISSIONER: He is also known as Mr Samuel Yaya. Just for the records I am just stating it, who is also known as Mr Samuel Yaya.

A: Yes.

MR KETAN: Is your – your name is ---

A: Yaya, I already – I declared it in Kokopo last time before, when I was queried about this report then I have to make another report. That is why I correct my name because I have to put my real name in. Because I am known as Samuel but my real name is Siaiya Madoura.

Q: Madouran.

A: But I am known as Samuel Yaya to everybody so ---

Q: And you are the same person.

A: Yes, same person.

THE COMMISSIONER: We took note of that in Kokopo. Thank you. So that will be tendered ---

MR KETAN: Yes.

THE COMMISSIONER: As exhibit G.

MR KETAN: Exhibit H, Commissioner.

**EXHIBIT H – SIMPLIFIED VERSION OF OUTDATED PROGRESS REPORT AS OF MONTH OF SEPTEMBER 2011 ON INTEGRATED LASUL/BAINING – (TORIU) INTEGRATED DEVELOPMENT PROJECTS (FCA 15-04) UNDERCOVER OF LETTER DATED 16 NOVEMBER 2011**

SABL-26(nnb)

2.32 pm] THE COMMISSIONER: I thought the previous one, the one immediately ---

MR KETAN: There was a, according to Ms Peipual there was a – the last exhibit in Kokopo on this matter, Toriu Timbers was exhibit F.

THE COMMISSIONER: Then the last exhibit should have been G. All right, that will be the Updated Progress Report as of 9 September, I beg your pardon, as of September 2011 presented in Kokopo.

MR KETAN: On the ---

THE COMMISSIONER: On the 31 October 2011.

MR KETAN: Yes.

THE COMMISSIONER: Now, that will be tendered and accepted as exhibit G.

MR KETAN: G, yes.

THE COMMISSIONER: So transcripts records will be amended accordingly, that is exhibit G. Now, Outline of Progress Report also as of September 2011 under cover letter of 16 November 2011 is now tendered and will be accepted in evidence as exhibit H.

MR KETAN: H, yes.

THE COMMISSIONER: These are all tendered through Mr Yaya.

MR KETAN: Yes.

THE COMMISSIONER: All right.

A: Plus some supporting documents also if needed.

MR KETAN: Sorry?

A: There are some supporting documents for the .....if needed.

Q: I think it should go with that. Okay, what are those?

A: This is the documents for the levies payment to the forestry then also the per shipment, payment for duties to the Customs, some 2008, 2011. And also the documents for the workers that I have been showing to .....to all the work permits photocopy.

Q: How many copies? You got one copy each or you got ---

A: Yes, one copy each I provide. We have our own also left in there. So if the Inquiry needed so just in case, because this was not actually part of the requirement. They only asked for this one when we left in Kokopo. So if needed then we will produce it.

THE COMMISSIONER: Well, we will take all the documents as prepared. Counsel, if you can ---

MR KETAN: I will just receive them. If we can put them together as a batch of documents to exhibit H.

THE COMMISSIONER: Yes, for a single exhibit allocation.

MR KETAN: Yes. The first one Commissioner is titled KK Connections Limited Reforestation And Forest Management Levies, Year 2008 to 2011.

THE COMMISSIONER: Sorry?

MR KETAN: Sorry, Reforestation and Forest Management ---

THE COMMISSIONER: Levies.

MR KETAN: Levies.

THE COMMISSIONER: All right, just hold on. Yes, dated ---

MR KETAN: For year 2008 to 2011.

THE COMMISSIONER: All right, 2008 to 2011.

MR KETAN: The next document they have submitted is KK Connections Summary of Logs Exported As Per US Dollar Rate Conversion used by PNG Customs for cubic charge on export duty for the year 2008.

TAPE 27

TAPE 28

TAPE 29

TAPE 30

TAPE 27 – SABL 49 – KOKOPO – 16/11/2011 – Antonia

**[12:36pm] MR KETAN:** The next is the similar...

**COMMISSIONER JEREWAI:** Hang one, from 2008 to 2011 is that it, summary of log exported?

**MR KETAN:** That is just for the year 2008. The next one is or bound document is for 2009, I think it is summary of logs exported and then the next one is for 2010 but that is KK connection limited total revenue for the year 2010. Is that the same as this other this other two documents or different?

**THE WITNESS:** No, different. Every what is different..

**MR KETAN:** This total revenue for the year 2010 of the logs exported using US dollar inward TT rate in converting the sales to Papua New Guinea kina.

**COMMISSIONER JEREWAI:** Sorry you will have to repeat the title of the fourth one.

**MR KETAN:** It is the document presented to us by the KK Connections limited.

**COMMISSIONER JEREWAI:** And the title of the document is?

**MR KETAN:** Total revenue for the year 2010 of the logs exported using US dollar inward TT rate in converting the sales to PNG kina.

**COMMISSIONER JEREWAI:** Yes?

**MR KETAN:** The next document is a KK Connections limited document, summary of logs exported as per US dollar rate conversion used by PNG customs for cubication of export duty for year 2011.

**COMMISSIONER JEREWAI:** Sorry repeat that?

**MR KETAN:** The summary of logs exported as US\$ rate conversation is by PNG Customs for cubitation of export duty for the year 2011.

**COMMISSIONER JEREWAI:** Yes?

**MR KETAN:** And the next document is titled, I think is to do with the employment work permits and that, government of Papua New Guinea Department of Labour and Industrial Relations. There is a letter from the office of the Secretary to the Personnel Manager – KK Connections Limited dated 5 April 2011. It is a volume of documents submitted to us by KK Connections with letters from the Department Labour and Industrial Relations with work permit information numbers and.....

**COMMISSIONER JEREWAI:** Yes, comprising work permits.

**MR KETAN:** Yes, comprising of work permits.

**COMMISSIONER JEREWAI:** That is sufficient to identity.

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[12:41 pm]      **MR KETAN:**      Of the expatriate employees.

**COMMISSIONER JEREWAI:**      That is from the evidence, work permits for expatriate employees.

**MR KETAN:**      And the dates of the letters are varying as well that for identification purposes, it is a bulk document with the first letter dated the 5 April 2011 from the Secretary of the Department of Labour and Industrial Relations to the Personnel Manager of KK Connections Limited. Commissioner, the next document is the KK Connection Limited document titled financial statements for year ended 31 December 2008

**COMMISSIONER JEREWAI:**      For the year ended December 2008?

**MR KETAN:**      Yes. For the year ended 31 December 2008. It appears to be prepared for KK Connections Limited by an Accounting firm Lee Partners Public Accountants.

**COMMISSIONER JEREWAI:**      That will not be necessary, just financial statements for the KK Connections, financial statements for the year ended 31 December 2008 is sufficient to identify the document.

**MR KETAN:** Yes. The next one is for the financial statements for the year ended 31 December 2009 and then the next document is financial statement for the year ended 31 December 2010. The last volume of documents that this witnesses given to us is KK Connections Limited – list of machineries purchase from year 2008 to year 2011. MrYaya this should use on Toriu Timber Project?

**THE WITNESS:** Yes.

**MR KETAN:** Commissioner, those are the documents I'll sort them out and then..

**COMMISSIONER JEREWAI:** No, we will have them sorted out now so that they are clearly marked as exhibits.

**MR KETAN:** You want them separately marked or we take them.

**COMMISSIONER JEREWAI:** No, we will have them mark now. All right all of the documents counsel as you have mentioned are to be tendered, I take it they are now tendered and I receive them in evidence as exhibit

**I 1-10 for identification purposes these documents comprise firstly:**

**I 1KK CONNECTIONS LIMITED REFORESTATION AND FOREST MANAGEMENT LEVIES FOR 2008 TO 2011 – TORIU TIMBER, EAST NEW BRITIAN PROVINCE.**

**EXHIBIT I-2 SUMMARY OF LOGS EXPORTED AS PER US\$ RATE CONVERSATION USED BY PNG CUSTOMS**



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[12:47 pm] **COMMISSIONER JEREWAI:** Conversation used by PNG Custom for 2008 – exhibit I 2. Exhibit I - 3 similar summary of logs exported as per US \$ rate calculations at the rate used by PNG Customs for 209 that is exhibit I- 3. You are marking them?

**MR KETAN:** Yes.

**COMMISSIONER JEREWAI:** Thank you counsel and then exhibit I - 4, will be total revenue for 1010 or total log...

**MR KETAN:** Commissioner, sorry if we can sort them in their proper sequence, if we can mark the next document which similar document to the other two.

**COMMISSIONER JEREWAI:** Thank you. So No. 4 will be similarly summary of logs exported at US\$ rate used by PNG Customs for 2011, is that right?

**MR KETAN:** Yes.

**COMMISSIONER JEREWAI:** That will be exhibit I - 4, EXHIBIT I - 5 with total revenue for 2010 which comprises of logs exported using US\$ inward telegraph transfer rate and calculating.

**MR KETAN:** Yes, in converting cents.

**COMMISSIONER JEREWAI:** In conversion of the cents, yes. Of sales revenue to PNG kina, that will be exhibit I 5. Exhibit I – 6 will be employment work permit with the respect cover letter from the Department of Labour comprising work permits for all the workers. The first letter having being dated 5 April 2011, that will be exhibit I- 6. Exhibit I – 7 will be KK Connections Limited financial statements for the year ended 31 December 2008. Exhibit I-8 will be KK Connections Limited financial statements for the year ended 31 December 2009. Exhibit I- 9 will be KK Connections Limited financial statements for the year ended 31 December 2010. And lastly Exhibit I – 10 will be KK Connections Limited list of machineries purchased between the year 2008 and 2011. Those are all the exhibits excepted as tendered through Mr Yaya.

**MR KETAN:** Mr Yaya, I think we also require the contract of employment, the employment contracts – I have not seen the but it appears to be just the work permit.

**THE WITNESS:** Because that was the only thing asked last time when we were in Kokopo so...

**MR KETAN:** Very, if that was the only thing...

**COMMISSIONER JEREWAI:** Counsel that was not the only thing, I need to look through all the contract. I am sure the Department of Labour would have been satisfied with this contracts prior to the issue of the work permits. I will leave that with the Secretary George Vaso to sort out.

**MR KETAN:** Yes, that is fine. Apart from that Commissioner obviously again we need to go through.

**COMMISSIONER:** You need not elaborate, let me – Mr Yaya I want to again say that quite a number of material tendered which counsel is indicating, will need to be looked at. Should anything arise from those material we would like you to be available at our request if anything needs to be verified but otherwise compared to Kokopo the matters have been proceeded with more completeness including also the documents and we also would like to take this opportunity to thank you for providing extra material on top of what you were requested to provide this morning. Is it right, counsel?

**MR KETAN:** Yes. Voluntarily.

**COMMISSIONER JEREWAI:** Yes, voluntarily and we really appreciate that

**THE WITNESS:** Thank you, your Honour.

**COMMISSIONER JEREWI:** And while you are in the witness box once again and I do that all the time with other SABLs I have been delegated enquire into and I think this is the opportunity as I did in Kokopo and as I did in the preliminary terms of reference, the first two terms of reference that Special Agriculture Business Leases was enacted into law to enable Papua New Guineans to enter their market economy.

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**[12:53pm] COMMISSIONER JEREWAI:** Because the ordinary public programs in terms of development did not reach the people sufficiently so that they can improve their own lives. And this inquiry is not intended to abolish this system.

This inquiry is to improve on the integrity of the processes engaged by the public officials and then also improve and set out with more clarity the business ethics involved and those business ethics will be as between the government of Papua New Guinea, the investor and the landowners. So that there is a little bit more trust established far more so because the ethics are set according to what we will recommend. That is why it has been very important then I know trying times for many of you who came before me especially, because I am not an easy Commissioner to deal with but with that I want to thank you and also Mr Ling for having travel so far to come and complete this particular inquiry into those particular SABLs. Thank you very much Mr Yaya, you may step down now.  
Thank you.

**WITNESS: MR SAMUEL YAYA withdrawn;**

**COMMISSIONER JEREWAI:** Counsel, is there any further matter or this is it for today?

**MR KETAN:** This is for today

**COMMISSIONER JEREWAI:** We will discuss that when we adjourn straight so that we can determine the cost, it may be that with all the movements we may not be able to conclude that, besides they need to receive the advanced notification and there is tomorrow and Friday. I think it will be unfair on them to require them to appear promptly and those would be Department of Lands and Physical Planning, Department of Agriculture and Livestock, Department of Environment and Conservation and PNG Forest Authority.

**MR KETAN:** Yes, well as far as this matter is concern those will be the only outstanding issues once we review this documents that we might need to take it up with this witnesses, but other than that is the evidence.

**COMMISSIONER JEREWAI:** Well, that concludes for this morning,  
matters we need to deal with.

**AT 12:58PM THE COMMISSION OF INQUIRY INTO SABL ADJOURN  
INDEFINITELY**