

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL  
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## COMMISSION OF INQUIRY INTO SABL

MR ALOIS JEREWAI

COMMISSIONER

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TOP FLOOR, MURUK HAUS, WAIGANI, WEDNESDAY 16 NOVEMBER  
2011 AT 10.00 A.M.  
(Continued from Saturday 12 November 2011)

[10.00 am] COMMISSIONER JEREWAI: 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.

**TUONG YEW WONG, Continuing:**

**XN: MR KETAN**

10 COMMISSIONER JEREWAI: 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.

20 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 would 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, 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.

0.00 am]

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

COMMISSIONER JEREWAI: Yes. Now, let me see, the last exhibit tendered in Kokopo was exhibit AN, 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.

COMMISSIONER JEREWAI: 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.

**[EXHIBIT AO – COST AND BENEFIT ANALYSIS REPORT DATED 14 NOVEMBER 2011 – POMATA/RALOPAL/NAKIURA/UNUNG SIGITE – ENBP]**

COMMISSIONER JEREWAI: First of all, I will let you ask a few questions on this Report or would you rather that Mr Wong takes us through each of the segment of the Report and explains to us what they represent.

MR KETAN: Yes. Mr Wong takes us through the various sections and then explain what they are and then we can, yes.

10 A: Okay, I will do that.

COMMISSIONER JEREWAI: Thank you. Mr Wong, please.

10.14 am]A: Yes. We can we turn to the page where there is Benefit to the Landowner. So the first section is Benefit to the Landowner and the second section, 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 rental, there is K1 nominal. So the pay figure is all been tabulated above, it is a 40 – because the total area is 42,400 hectare. So the figure is just over there. And then the second one is the development levy, K3, and the third one will be the levy number 2, K15 and then all these computation is shown here. Coming down is timber royalty. Timber  
20 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, it is a K6 per cubic meter. And so if we look here, the first here we, landowner benefit that 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. Because if we base on 5 percent royalty payment there should be on years his owned they shall be able to take around 12 million and then start to increase if the fund start to comes in,  
30 so within three days more production coming up. The figure will, which will increase.

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

COMMISSIONER JEREWAI: Combined?

A: Combined, 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 rental or what at a later stage, yes. So this one at this moment it is what appear in our agreement.

Q: Yes. 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.

10 Q: If this Commission of Inquiry was to recommend ---

A: Yes.

Q: That you 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 liklik people and then like sharing, based on profit sharing and then when you come to, you see, because CPO price we cannot expect it all the time will be, every year the economy will be good. 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 are native people they do not want ---

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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 I 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.

[10.18 am]

10 In other words, you actually exclude the possibility of the landowners arguing with you if you say all right, you take 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 cannot make the – I am not in that position to make---

20 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. One is a straight out what you might call investment rationalization. With regard to investment rationalization it is very disadvantageous 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 may be 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. The third one is production sharing. Production sharing actually means Papua New Guineans do not take any risks 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. Fourth of course is service contract. That involves people like  
30 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; the second of 15 years is from year 16 to year 30.

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

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

Q: Yes, what you have explained already.

A: 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 based from year 1 to year 30. If we looked at the first few year, of course we cannot expect any money because of the high – we need to get a overseas loan, you know. It is quite costly. So the interest portion will be very high, that is why it will result in a loss for the few years. And the company is expected to make some money from year 6 onwards  
20 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. We actually did some analysis of the cost here.

0.22 am] Our cost at the time when we projected this, I mean the production call for CPO, we estimated it should be around 2,300 per tonne. And at this moment the price here, this moment is 2,008 per tonne. It may be due to that there is 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, burning down the forest at this moment. I think in another few year time  
30 Indonesia production - the production area will reach 5 million per tonne. By the time the production will be two fold or three fold and might affect the CPO price.

So in Malaysia contact, our cost right now, our production CPO cost right now is around, between 1,008 to 2,000 depending on the area and also the how fertile is the land. That is Malaysia scenario because here we expect a little bit higher cost around 2,003 because of the transportation, logistic, fertilizer, cost a bit higher. So our cost prediction is around 2,300 per tonne.

So if we look at here, it is placed 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  
10 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, here it 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 based on a simple calculation, we can find out from this Profit and Loss stuff 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 capital expenditure, we are  
20 expected to spend around between 600 to 800 million for the whole project here.

10:26a.m] Any question on the thing here? This one is just a projection based on our scenario. I think this should be compatible.

MR KETAN: Yes, here on the cost of sales, you have got royalties, levies, funds and land rental. Now, over in the benefits to the landowners, in year one you have got a total of 9, 829,600.

A: Yes, I will explain, of course you cannot calculate it accurately based on this one here because in this royalty levy and fund here, this one include the  
30 government levy also as well. So, that is why there will be a small discrepancy there. All this figure here include 10.64 million includes the government levy. If you look at this here, the one that the page in front there I tabulated is 9.8, as you see there is little bit different because here it includes the government levy.

MR KETAN: Okay.



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

A: We hope so. I note with this Italian, European having big crisis all this time we hope the CPL price will maintain for the next two years.

10 Q: Yes. 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 player, otherwise you would 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 constitute themselves and at the point where you make a turn around, 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 note that we have gone over all that, there was a lot of yielding and screaming, the tempo is different here.

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[10.29 am] We are now going through the rationales 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.

A: You got a very good point there.

30 Q: Yes, development must proceed. So the question that will be posed and will be posed not only with you but will be posed again and again with others is, is there room for balancing up so that there is a greater participation by the landowners for the length of time they will be giving up their land and will be giving up their whole way of life actually. You will understand and I believe it was the case in Malaysia for many, many years too, that people lived off their land. With these 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 their 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.

10 A: That is a very good point. We do agree with that 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 maybe 10, 11 years. By the time everything is – when operation becomes smooth, when the return is coming back to the company and of course we do, we can always negotiate with the landowner see how to improve the package so this I think is very reasonable.

20 Q: Counsel, I would like Mr Wong to take the opportunity to tell us more, as far as I am concerned these figures I can look at in more detail in my own time longer time before we get to the point of fundings 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 educated assessment of what you have done over there and the point I have raised as 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 a 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. It is exhibit A0 and we will definitely be looking at it in the course of the findings and report and recommendations.

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

30 MR KETAN: No. As, Commissioner, you have said we can look into this and of course and if there are issues we can always raise with him later. Just one thing on the benefits. That is something that might have been taken up in Kokopo. I was there earlier on but I had to return and was not there when you gave evidence.

COMMISSIONER JEREWAI: When Mr Wong appeared, yes.

MR KETAN: The benefits, how is that paid to the landowners, through their respective companies or?

A: Are you talking about this one or other?

Q: No, the other---

A: How they benefited the distributor at that time?

Q: Yes.

A: I think at that time they need to check up their trust account and we had to---

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

10 A: No, not at this moment but we had to get a system in place, there is a highly, quick an advanced computer program. Because this one it involves K100,000 or cheque to be issued might be mind you, could be K10,000 like West New Britain so we have to install a very advanced, this program so the cheque will be issued automatically and all these landowners they have to check out their account, in the trust account. So it will be automatically credited to their account.

Q: To the landowner companies?

A: Yes, it depends or at that time they had to check out they had to give out the account at that time. It would not be in cash anymore because the amount is too significant. There is not possible---

20 Q: Yes, that is fine. And 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 yet, how we are going to pay them but we will work out one.

Q: Yes, that is fine, thank you. As we said we will ask other questions. We will of course be in touch with you if there are any issues in relation to the analysis.

30 COMMISSIONER JEREWAI: Yes, Mr Wong in the course of our deliberations, if anything is not fully understood, based on your evidence earlier and also the cost and benefit analysis report which you have just tendered and if it will be okay, if we should want anything explained, if it would be okay for us to contact you and ask you to formally appear?

A: Sure, no worry.

Q: But otherwise Mr Wong, thank you very much for returning this morning over here. You are excused now thank you.

## **THE WITNESS WITHDREW**

COMMISSIONER JEREWAI: I do not think we required to call the other two, it was only Mr Wong with regard to the cost and benefit analysis.

10 MR KETAN: Before that I think Mr Ong is here as well.

COMMISSIONER JEREWAI: Yes, but what was he required to return with?

MR WONG: No, he is just accompanying me.

COMMISSIONER JEREWAI: No, Counsel, we have already done with him in Kokopo.

MR KETAN: I was---

COMMISSIONER JEREWAI: Sorry you have some instructions?

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

20 COMMISSIONER JEREWAI: Work permits?

MR KETAN: Yes.

COMMISSIONER JEREWAI: Is that right Mr Ong?

MR ONG: Yes, work permit is 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 inquire into. Could you come forward please Mr Ong, come forward so you are heard on the microphone. Just go to the bar table and just take a sit there. Who is responsible for work permits?

[10:38 am] MR ONG: Our Human Resources Manager.

COMMISSIONER JEREWAI: Who is the person in charge if you could give his name?

MR ONG: William Lau.

COMMISSIONER JEREWAI: William Lau?

MR ONG: Yes.

COMMISSIONER JEREAI: All right we will take note and we will make arrangements for him to appear to tender the work permits. It is part of the Terms of Reference.

10 MR ONG: Can I? Because he passed it to me this morning, it is all here the work permit, is it all right I give copy to you?

COMMISSIONER JEREWI: Well, then Mr Ong 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 formerly is Sigite Mukus Integrated Rural Development project development plan for the establishment of oil palm and forest plantations which  
20 a document jointly submitted by Gilbert and Memalo Holdings. We referred to that over there in Kokopo but it is---

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 KETAN: Yes. They can be excused.

COMMISSIONER JEREWAI: Alright. Mr Ong and Mr Bacani, you three can go now thank you very much for coming in this morning.

All right counsel, just have it tendered from the bar table. We are not bound by strict rules of evidence. Because the material had been largely referred to and  
30 verified by various witnesses in the course of the evidence I will accept it as a material to be tendered as exhibit.

MR KETAN: Yes. The significance of it is, it could have been the document on which it 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, “Sigite Mukus Integrated Rural Development Project Development Plan” for the establishment of oil palm and forest plantation in the Sigite Mukuss consolidated land area jointly submitted by Gilbert Limited and Memalo Holdings Limited, Pomio district, East New Britain November 2008. It is dated  
10 the 11 November 2008. Its contents include overview of provincial agriculture sector policy and strategy objectives bio-physical resources and land suitability assessment of the project area. Plantation development and implementation strategy which is section 3 and then it has got a section 4 is market potential sustainability strategy.

[10.42am] Section 5, anticipated risks and strategy in 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?

MR KETAN: Yes.

20 COMMISSIONER JEREWAI: Thank you, counsel, I will accept it in evidence to be marked as exhibit AP-Pomata/Ralopal/Nakiura/Unung Sigite – East New Britain Province.

**[EXHIBIT AP – DOCUMENT TITLED “SIGITE MUKUS INTEGRATED RURAL DEVELOPMENT PROJECT DEVELOPMENT PLAN” - POMATE/RALOPAL/NAKIURA/UNUNG SIGITE - EAST NEW BRITAIN PROVINCE]**

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

30 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 workers holding the work permits et cetera, the accompanying visas included in relation to Gilford Limited.

MR KETAN: Yes, that is right.

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?

10 MR KETAN: Yes.

COMMISSIONER JEREWAI: Just Gilford, thank you. All right hold it and form some view on it and give it to me and we will decide on my return from Kerema, Gulf, 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 for East New Britain this morning and that is Toriu Timbers and I have directed for Mr Samuel Yaya as well as Mr Klevin Ling to come in and they sent a message which I have on my desk that Mr Ling is arriving at 10:00am this morning and we will adjourn briefly and await their arrival and we will resume again.

MR KETAN: Very well. They rang through and said they will be here at  
20 11:00am.

COMMISSIONER JEREWAI: All right very good then we will adjourn to 11:00am and see if they arrive. If they arrive sooner, we will resume straight away.

MR KETAN: Yes, very well.

COMMISSIONER JEREWAI: Associate, adjourn the Inquiry temporarily.

### **SHORT ADJOURNMENT**

[11:24am] COMMISSIONER JEREWAI: All right good morning, counsel Mr Ketan.  
30 Good morning representatives of KK Connections and for the record, this matter this morning is the continuation of the hearing into portions 903C and

904C, East New Britain Province, particularly the Bainings 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 the total log volumes throughout the months for each year commencing from 2008 to 2011. Unfortunately this aspect, counsel, will not be addressed at this point and we will indicate to KK Connections that at the appropriate time we may require them to re-appear to go through this aspect. The second aspect importantly, which we did not raise in Kokopo while hearing  
10 was conducted in respect of these two portions was alternatives to be presented to the developer KK Connections to have their response as to whether in the event 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 particularly the landowner organizations, the landowner companies and the incorporated land groups et cetera.

So perhaps this morning we will merely spend on the questions to be put as to the willingness of KK Connections or any reorganization should this Commission of Inquiry consider that we should recommend reorganization to enable them to continue in their involvement with those particular portions. So  
20 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. First of all if you can indicate if Mr – I can see Mr Yaya because I recognise him from Kokopo. Is Mr Ling here also?

MR KETAN: Yes.

COMMISSIONER JEREWAI: Alright, very good. 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.

[11.28am] **KELVIN LING, Sworn:**

**XN: MR KETAN**

COMMISSIONER JEREWAI: Yes, counsel?

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



A: Ling Kuok Tiang.

Q: Sorry?

A: Ling Kuok Tiang.

Q: K-o ---

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

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

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

Q: T-i-a-n-g.

A: Correct. My Christian name actually Kevin Ling.

10 Q: Your Christian name?

A: Yes, Kevin Christian name.

Q: This is your Chinese name, is it?

A: Correct, the full name.

Q: And your Christian name is Kevin Ling?

A: Correct.

COMMISSIONER JEREWAI: Sorry, what is the last name, starting with P?

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

COMMISSIONER JEREWAI: Okay, yes.

A: Yes.

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

COMMISSIONER JEREWAI: Yes, just like us, we have our village names and we have Christian names.

MR KETAN: Yes.

COMMISSIONER JEREWAI: I understand.

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

COMMISSIONER JEREWAI: The Christian name.

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

A: Yes.

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

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

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

COMMISSIONER JEREWAI: Yes.

MR KETAN: If you maybe ask the witness in relation to questions in relation -  
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COMMISSIONER JEREWAI: 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  
20 information is not at hand yet and I cannot take the witnesses through those. But have you ---

MR KETAN: Very well. We ---

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

MR KETAN: Yes, very well.

[11.32 am] We 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 Lukas Koatnaski 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 Connections.

A: I am their developer and I am the contractor. Their landowner company engaged me there to do the log. In fact, the whole thing; the project is an East New Britain Provincial Government project for the log we sign. So join with the Toriu Timber Limited, they invited me to go in there to do the logging infrastructure for the Open Bay to Malasait part what they call the “missing link.”

10 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 worked with Kerawara and I finished with them in 2006 and then formed this company and get this project. So before I work with Kerawara.

Q: Before you worked with Kerawara?

A: Yes.

COMMISSIONER JEREWAI: As an employee, correct?

20 A: Yes.

Q: As an employee?

A: Yes.

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, Keruwara, nothing to do with this area. This area is only with KK Connection. 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 and that?

A: Yes. We print the ---

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

MR KETAN: Yes. I ---

COMMISSIONER JEREWAI: 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 -  
--

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

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

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

[11.36 am] You got the copy of the list of the export log volume there. Ms Peipul gave you that?

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

COMMISSIONER JEREWAI: 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.

COMMISSIONER JEREWAI: 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 ---

COMMISSIONER JEREWAI: 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.

10 COMMISSIONER JEREWAI: 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?

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

MR YAYA: This one, you have.

COMMISSIONER JEREWAI: No, counsel ---

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

20 COMMISSIONER JEREWAI: 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 ---

COMMISSIONER JEREWAI: Yes.

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

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

MR KETAN: Yes.

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

MR KETAN: Yes.

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

10 **SHORT ADJOURNMENT**

[11.36 am] COMMISSIONER JEREWAI: Yes, counsel.

MR KETAN: This document as annexure “G” was tendered in Kokopo. It has got 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.

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

MR KETAN: Yes.

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

MR KETAN: Yes.

COMMISSIONER JEREWAI: 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 a brief letter, there is a cover letter, brief report on Toriu Integrated Development Project portion 903C and 904C. They are submitting the Progress Report on Agriculture and  
30 Infrastructure Development and the bound document is titled, “Updated Progress Report as of month of September 2011 Inland Lassul-Baining Toriu

Integrated Development Projects, FCA 15204”, prepared 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 903C.

[11:47 am]Now, I am suggesting Commissioner that because this document has come in now and with other information as you have mentioned on the exchange rates  
10 and that that we take through Mr Yaya or Mr Ling as the chief executive of the company and then we review it along with our own agriculturist in reports and that and then if there are 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 spontaneously which---

COMMISSIONER JEREWAI: Instantaneously?

MR KETAN: Yes.

COMMISSIONER JEREWAI: Which both you and I are not qualified to be able to do. I agree with that. Perhaps we can take note of this and leave it  
20 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 JEREWAI: I am surprised that Ms Peipul did not brief you  
30 earlier and you keep repeating the briefing was this morning. And what we are going to end up doing is you are, sorry with respect, Counsel, you are going to be criss-crossing from one issue to another and we are not going to make sense out of anything. I suggest the matters to be all raised be reserved to the

continuation of the hearing, we will not end this matter; continuation of the hearing after Ms Peipul returns from the Vanimo trip. Is it Vanimo or Wewak both?

MR KETAN: Vanimo.

COMMISSIONER JEREWAI: Vanimo and Wewak. I think they proceeded to Wewak after Vanimo?

MR KETAN: No, they returned here.

COMMISSIONER JEREWAI: They returned here?

MR KETAN: Yes.

10 COMMISSIONER JEREWAI: My concern is that we have required them to be here and they have travelled in from Kokopo. If we are going to defer this matter, I would suggest we 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 JEREWAI: 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, it may be that we will be able to do it but depending on the extent of your briefing and that is why I said at the outset, I am surprise that you got briefed only this  
20 morning counsel.

MR KETAN: Yes.

COMMISSIONER JEREWAI: 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 adjourned for 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 reconvene 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  
30 questions. It will only be a couple of questions. Mr Ling, in the initial Inquiry into portion 903C and 904C, during our hearings in Kokopo, we detected quite a number of irregularities; irregularities meaning matters that affect validity of



those agriculture leases. The first irregularity is a matter that 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 consents were obtained without the knowledge of the landowners whose names were placed on the consent forms and against which they signed. Second, was the landowner company and particularly their 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. That sub-lease agreement is dated - I will give you the date shortly - 30 April 2010 last year.

[11:55am] The third irregularity or defect 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-forestation project similar to the one in the Open Bay area and also now recently balsa; development of balsa farm. Balsa now being a big industry in the East New Britain Province. So that is not totally an irregularity but it may form up to be an irregularity because it suggests that the agriculture development plan was not a firm one and it kept changing without the prior consultation and approval of the agencies concerned, particularly 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 here this morning relates to the proper description of the currency in relation to the volume of logs exported, the export levy paid to the 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 a matter of irregularity. The fifth is a matter of full disclosure as to 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 carry out for each project through the National Economic and Fiscal Commission. The person in charge of which is Dr Nou Badu and we have said that, that is a requirement which we think should be involved the first place. Those are the matters we have detected.

[11:58 am] We also said that we recognized that the people of the area want development and that is the way they have chosen to progress their area in terms of economic development although it may have been conducted through wrong mechanisms.

So having told you all these, I want to pose this question to you. If we correct all these things, would you consider a total rearrangement so that there is a very clearly defined benefits and a great involvement in terms of benefits flow to the landowners of these portions. You can take your time. Would you be willing to participate in correcting errors and increasing the participation of the landowners properly with their proper consents properly obtained?

10 A: No your Honour we made propose by there - your department to ask us to discuss or if a reasonable one, in fact I did produce the profit and loss report and everything here to you this morning for check, because this area only consider 2008 and my concern now here with the provincial government is the infrastructure, the road from Open Bay to Malasait which is 71.5 kilometers under my expenses. So later they are going to cut us off. 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 proposes to the Baining people is to do the infrastructure about the road. Too because all these will 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  
20 in the area is not like other area, the difficulty is to find gravel. So sometimes the gravel on the front part, it will take about over 20 kilometers just to gravel it and the cost is very high.

Q: I understand that.

A: I wish we did discuss with the landowners on this issue and their understanding but the real proposal, it all depends we can effect on it.

30 Q: Let me also explain. In Kokopo I stated without 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, particularly forestry, to supplement the cost of construction of particularly the infrastructure roads. However, that is we have stated very clearly that the Government policy must be implemented bearing above every other interest 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.

[12:04pm]

Yes, I can appreciate what you are saying actually. If upon all the evidence before us we find an imbalance in the benefits directly to the people and we make these suggestions to you, will you be able to consider?

10 A: Yes, your Honour. In fact, your Honour, if you do not mind---

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

A: In fact apart from the infrastructure, the agreement signed with the landowner on this special project is the still the agriculture and the re-forestation. So in between the infrastructure the agreement with provincial government who wish to carry on this is, I will maintain why I - the landowner I sublease area, in fact we do not own the land, it is all by the - the landowner in fact they submit it to their representative company called Toriu Timber Limited and that is how we made for the sub-lease  
20 for 60 years but in return, like Government say the - while I am still there so we have to maintain that road, is consider because that is part of East and West New Britain highway, so that 71.5 kilometer 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 the easiest one like logging have finished already, in fact, the term for logging is by 201 hectare, 201 figure is finished totally there so for the future plan that is why we are going for the re-forestation for balsa and other crops. At the same time then landowner when they harvest all their area finish so in return we plant this balsa and I have to set up a balsa  
30 mill in that area in return for the loss of the virgin trees.

Q: 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 it; that is a requirement.

10 You cannot go in and that is why you have to complete your feasibility with regard to the suitable crop right from the outset. You cannot go in and you keep changing the crop as you come across soil suitability or terrain suitability, all of that kind of thing. You must ensure that you have conducted a complete feasibility right from the outset, and that is the problem that I just pointed out to you which was a 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 resubmit 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 concerned too that is where Forestry comes in.

Counsel have you any matter arising from those?

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

COMMISSIONER JEREWAI: Also James Tapele. It is annexure "G" to James Tapele's affidavit and James Tapele's affidavit was exhibit C.

20 MR KETAN: Yes. With the employees, are they employees of your company?

A: Yes. We did bring a photocopy of the 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 you can---

COMMISSIONER JEREWAI: The list of employees, particularly foreign employees with work permits and visa?

30 MR KETAN: Yes.

COMMISSIONER JEREWAI: Sorry, that is part of – pardon us, that is part of the Terms of Reference of the Inquiry and that is necessary. You have it there Mr Yaya?

MR YAYA: Yes.

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

MR KETAN: Because Bernard Koatnaski, I think 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, as put, covers those irregularities which have been found on a preliminary basis.

MR KETAN: Yes. With the land investigations the question was asked in Kokopo but your role, did you involve with any of the investigations, the public hearings, social mapping to identify owners of the land and that, in the process  
20 did you have that at all?

A: No. Inside the executive of the company is the one who come and deal with me on these issues.

COMMISSIONER JEREWAI: Which company, landowner company?

A: Landowner company, Toriu Timber Limited.

MR KETAN: Toriu Timbers?

A: Yes. And then with the government agency for this 904C. In fact the whole area was registered under Toriu Timber Limited because there is a - to avoid the people from outside who cannot dispute with them, that is why in fact it is advised by Land to ask them to register their land  
30 because there are a lot of people from outside coming and dispute when they know there is a 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 they come up with this 904C which I agree. I sat with the Toriu Timber with the term condition and they signed the agreement, sub-lease agreement in front of their lawyer - our lawyer there. So in fact the one you saw organized by the landowner company, they served with all the landowner inside. So I am not much involved in there in fact.

[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 issue that arose was, there were timber purchase – there was a 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 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. Because 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. It was started by them in fact.

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

A: Yes. The main aim is in fact the road.

Q: Sorry?

A: The road. Because the all East and West New Britain, in fact from Open Bay to Ulamona, there is only a portion missing here, the main part is still the Open Bay to Malasait. And at Malasaet to Vunapaladin consider it is joined so only that portion 71.5.

COMMISSIONER JEREWAI: Right. Malasait is on the other side of Vunapaladin?

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

Q: On the southern side of Vunapaladin?

A: Correct. There is a road already from Malasaet to Unapaladin just to upgrade, needs to be upgraded and I think the provincial government might – when we finish the road going to Malasait we should believe, depend on weather, may be by end of this year we should join already  
10 and from there Government says by next year we discuss to upgrade all the road down to Vunapaladin.

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 again a lot of questions on this particular witness might just be general questions in relation to the other particular questions about the, which are covered in the reports that he has presented so once we have that opportunity to see that we may or may not need to take it up.

COMMISSIONER JEREWAI: Yes. I think counsel if we are really focused  
20 on question of what are wrong, what are the wrongs in relation to these two SABLs, in Kokopo we have established those primary defects some of which I have pointed out to Mr Ling.

12.18 pm] 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 up with the cry for development. So we have put Mr Yaya through very, very intensive questioning in Kokopo.

MR KETAN: Yes, I understand, yes.

COMMISSIONER JEREWAI: Very intensive. And we have also put the  
30 landowner companies through very, very intensive questioning in Kokopo, particularly the landowner company executives. And the defects and

irregularities are very, very obvious. I understand why you are asking some of the questions which we have covered ground.

MR KETAN: Yes, I ---

COMMISSIONER JEREWAI: Mainly because of very short briefing you received only this morning.

MR KETAN: Yes.

COMMISSIONER JEREWAI: 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  
10 continuing, but to improve the effectiveness of these SABLs. 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: Yes. Commissioner ---

COMMISSIONER JEREWAI: Yes, go on.

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

COMMISSIONER JEREWAI: Of course, that is the standard instruction, if I  
20 may put it that way, that it may be 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: Yes. So at this stage Commissioner, if he can be excused and then we bring Mr Yaya.

COMMISSIONER JEREWAI: And we will call Mr Yaya in.

MR KETAN: Yes.

COMMISSIONER JEREWAI: 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  
30 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 Ling. If you can step down.

### **THE WITNESS WITHDREW**

10

12.22 pm] **SAMUEL YAYA, Continuing:**

**XN: MR KETAN**

COMMISSIONER JEREWAI: 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 took 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 903C and 904C. Counsel, perhaps I could ask him to  
20 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.

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 even some documents to support on the export also if you need it, the Inquiry is needed, like ---

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

MR KETAN: Yes.

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

Q: Bbefore we get to that, the Commission was referring to that document you were to update it, I think he used that word.

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

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

A: Presented to, the first presented a while ago.

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.

10 Q: Very well.

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

A: Yes, to replace that one, your Honour, to make it---

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

A: Yes.

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

A: Yes, your Honour.

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

20 COMMISSIONER JEREWAI: Take note of it.

MR KETAN: Take note ---

COMMISSIONER JEREWAI: Yes.

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

A: Yes.

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

MR KETAN: We should.

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

MR KETAN: Yes.

COMMISSIONER JEREWAI: Show him both together for identification.

MR KETAN: Yes. Sorry Commissioner, I just ---

COMMISSIONER JEREWAI: I will pass mine down.

MR KETAN: Rather than taking, if I can start with that.

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

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

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

MR KETAN: Yes, I am ---

COMMISSIONER JEREWAI: You are okay?

MR KETAN: I am all right.

COMMISSIONER JEREWAI: I am going to remove my jacket.

MR KETAN: Very well.

COMMISSIONER JEREWAI: Counsel please, proceed.

20 MR KETAN: Mr Yaya, this first document is the one you presented to us in Kokopo. Again, it is jointly, well, we assume because Toriu Timbers' name and your company's name KK Connections name is both on the document. It is titled, "Updated Progress Report as of month of September 2011, Inland Lassul-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.

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

A: Yes.

Q: This other document, Commissioner, I suggest we do it separately.

12.28 pm] COMMISSIONER JEREWAI: All right.

MR KETAN: I tender that.

COMMISSIONER JEREWAI: 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, "Updated Progress Report as of month of September 2011."

COMMISSIONER JEREWAI: Updated Progress Report as of ---

10 MR KETAN: Month of September 2011.

COMMISSIONER JEREWAI: Right.

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

COMMISSIONER JEREWAI: Alright. Will that become, in terms of exhibits ---

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

COMMISSIONER JEREWAI: Exhibit?

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

20 COMMISSIONER JEREWAI: And what document is that?

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

COMMISSIONER JEREWAI: Never mind, it is exhibit F.

MR KETAN: This one will be exhibit G.

COMMISSIONER JEREWAI: 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.

COMMISSIONER JEREWAI: Toriu Timbers, East New Britain Province.

**[EXHIBIT G – UPDATED PROGRESS REPORT AS OF MONTH OF SEPTEMBER 2011 – TORIU TIMBERS, ENBP]**

COMMISSIONER JEREWAI: Alright.

MR KETAN: Mr Yaya, the next document I will show is the Updated Progress Report as of month of September 2011, same title, but according to you is the simplified report to the one that we have just tendered. It comes –  
10 Commissioner, what they have done is they have used the same title and the same headings and the only exception, 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.

COMMISSIONER JEREWAI: 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 name ---

A: Yes, I already declared it in Kokopo last time before, when I was queried  
20 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 Yaya Madoura.

Q: Madoura.

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

Q: And you are the same person.

A: Yes, same person.

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

MR KETAN: Yes.

30 COMMISSIONER JEREWAI: As exhibit G.

MR KETAN: Exhibit H, Commissioner.

**[EXHIBIT H – SIMPLIFIED VERSION OF UPDATED PROGRESS REPORT AS OF MONTH OF SEPTEMBER 2011 UNDER COVER OF LETTER DATED 16 NOVEMBER 2011]**

12.32 pm] COMMISSIONER JEREWAI: I thought the previous one, the one immediately ---

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

10 COMMISSIONER JEREWAI: 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 ---

COMMISSIONER JEREWAI: On the 31 October 2011.

MR KETAN: Yes.

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

MR KETAN: G, yes.

20 COMMISSIONER JEREWAI: 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.

COMMISSIONER JEREWAI: These are all tendered through Mr Yaya?

MR KETAN: Yes.

COMMISSIONER JEREWAI: All right.

A: Plus some supporting documents also if needed.

MR KETAN: Sorry?

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

Q: Are they to go with that?

A: Yes, okay.

Q: Okay, what are those?

A: These are the documents for the levies payment to the forestry, then also the first shipment payment for duties to the Customs from 2008 – 2011, and also the documents for the workers that I have been summoned to produce for all our permits photocopied.

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

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

COMMISSIONER JEREWAI: 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.

COMMISSIONER JEREWAI: 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.”

20 COMMISSIONER JEREWAI: Sorry?

MR KETAN: Reforestation and Forest Management ---

COMMISSIONER JEREWAI: Levies?

MR KETAN: Levies.

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

MR KETAN: For year 2008 to 2011.

COMMISSIONER JEREWAI: 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 Computation of export duty for the year 2008.

[12:36pm] The next is the similar---

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

MR KETAN: That is just for the year 2008. The next one is for 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 Connections Limited’s total revenue for the year 10 2010. Is that the same as these other two documents or different?

A: No, it is different.

Q: Different?

A: Can I – it is different, every what is it is different; every---

Q: This is total revenue for the year 2010 of the logs exported using the US dollar inward TT rate in converting the sales to PNG kina.

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

MR KETAN: It is a bound document presented to us by the KK Connections Limited.

20 COMMISSIONER JEREWAI: Yes, and their title of the document is?

MR KETAN: Total revenue for the year 2010 of the logs exported using the 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 computation 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 computation of export duty for the year 2011.



COMMISSIONER JEREWAI: Yes?

MR KETAN: 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.” It 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 of work permits?

10 MR KETAN: Yes, comprising of work permits.

COMMISSIONER JEREWAI: That is sufficient to identify.

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

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

MR KETAN: Yes. The dates of the letters are varying as well and that for identification purposes, it is a bound 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  
20 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 Statements  
30 for the Year Ended 31 December 2010. The last volume of documents that this

witness has given to us is, KK Connections Limited – List of machineries purchased from Year 2008 to Year 2011.

Mr Yaya, this should be to use on Toriu Timber Project?

A: Yes.

Q: Commissioner, those are the documents I will 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 marked now. All right  
10 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. That will be Exhibit I – 1-10. Because some of these documents number altogether 10. And for identification purposes, these documents comprise firstly; I-1- KK Connections Limited Reforestation and Forest management Levies for 2008 to 2011 – Toriu Timbers, East New Britain Province.

**[EXHIBIT I(1) - KK CONNECTIONS LIMITED REFORESTATION AND FOREST MANAGEMENT LEVIES FOR 2008 TO 2011 – TORIU TIMBER, EAST NEW BRITAIN PROVINCE]**

20 Exhibit 1(2) – Summary of logs exported as per US\$ dollar rate conversion used by PNG Customs. That will be I(2).

**[EXHIBIT I(2) - SUMMARY OF LOGS EXPORTED AS PER US\$ RATE CONVERSION USED BY PNG CUSTOMS FOR 2008]**

[12:47 pm] 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 conversion rate used by PNG Customs for 2009 that is exhibit I- 3.

**[EXHIBIT 1(3) – SUMMARY OF LOGS EXPORTED AS PER US\$ RATE CONVERSION USED BY PNG CUSTOMS FOR 2009]**

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, just so that they are in their proper sequence, if we mark the next document which is similar document to the other two.

COMMISSIONER JEREWAI: Thank you. So number 4 will be similarly summary of logs exported at US\$ Dollar rate used by PNG Customs for 2011, is that right?

10 MR KETAN: Yes.

COMMISSIONER JEREWAI: That will be exhibit I – 4.

**[EXHIBIT 1(4) – SUMMARY OF LOGS EXPORTED AS PER US\$ RATE CONVERSION USED BY PNG CUSTOMS FOR 2010]**

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 the sales.

COMMISSIONER JEREWAI: In conversion of the sales, yes.

MR KETAN: To PNG Kina.

20 COMMISSIONER JEREWAI: Of sales revenue to PNG kina, that will be exhibit I(5).

**[EXHIBIT 1(5) – SUMMARY OF LOGS EXPORTED AS PER US\$ RATE CONVERSION USED BY PNG CUSTOMS FOR 2011]**

Exhibit I(6) will be employment work permit with their 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(6) – EMPLOYMENT WORK PERMIT WITH RESPECTIVE COVER LETTER FROM DEPARTMENT OF LABOUR DATED 5 APRIL 2011]**

MR KETAN: Yes.

COMMISSIONER JEREWAI: Exhibit I(7) will be KK Connections Limited financial statements for the year ended 31 December 2008.

**[EXHIBIT I(7) – 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(8) – KK CONNECTIONS LIMITED FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2009]**

10 Exhibit I- 9 - will be KK Connections Limited financial statements for the year ended 31 December 2010.

**[EXHIBIT I(9) – 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.

**[EXHIBIT I(10) – KK CONNECTIONS LIMITED LIST OF MACHINERIES PURCHASED BETWEEN THE YEAR 2008 AND 2011]**

Those are all the exhibits accepted as tendered through Mr Yaya.

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

A: 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 should not think I need to look through all their contract. I am sure the Department of Labour would have been satisfied with these contracts prior to the issue of the work permits.

MR KETAN: Very well.

COMMISSIONER JEREWAI: I will leave that to Secretary George Vaso to sort out.

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

COMMISSIONER JEREWAI: 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  
10 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 that right, counsel?

MR KETAN: Yes, I mean voluntarily.

COMMISSIONER JEREWAI: Yes, voluntarily and we really appreciate that. While you are in the witness box, I once again, and I do that all the time with other SABLs I have been delegated to inquire 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  
20 into law to enable Papua New Guineans to enter the market economy.

[12:53pm] Because the ordinary public programs in terms of development did not reach 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 and I know it has been trying times for many of you who  
30 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 travelled 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.

## **THE WITNESS WITHDREW**

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

MR KETAN: This is for today. You wanted the officials for Friday, is that still the requirement or?

COMMISSIONER JEREWAI: We will discuss that when we adjourn straight away 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 a advance  
10 notification. There is tomorrow and Friday. I think it will be unfair on them to require them to appear promptly and those will 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 these matters are concerned those two will be the only outstanding issues plus any issues that we might add once we review these documents which we might need to take it up with these witnesses, but other than that that is the evidence.

COMMISSIONER JEREWAI: That concludes for this morning, matters we need to deal with?

20 MR KETAN: Yes.

COMMISSIONER JEREWAI: Associate, adjourn the Inquiry, thank you.

**AT 12:58 P.M. THE COMMISSION OF INQUIRY INTO SABLs  
ADJOURNED INDEFINITELY.**

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