



THE FCA LOGGING SCANDAL

A summary paper on the abuse of Forest Clearing Authorities to facilitate large-scale tropical forest logging in Papua New Guinea

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ABOUT THIS REPORT

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Cover image: Logging ship, Turubu Bay, East Sepik.
Photo credit: Oakland Institute

ACT NOW

ACT NOW is a community advocacy organisation based in Papua New Guinea. Its vision is for a 'gutpela sindaun blong olgeta' (a just and equitable society) that embraces PNG's rich and diverse cultural and biological heritage and is based on the principles of sharing, communal land ownership and environmental stewardship.

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GLOSSARY OF TERMS

CEPA	Conservation and Environment Protection Authority
COI	Commission of Inquiry
FCA	Forest Clearing Authority
FMA	Forest Management Agreement
LDC	Livestock Development Corporation
UNODC	UN Office on Drugs and Crime
PNGFA	PNG Forest Authority
SABL	Special Agriculture and Business Lease
TA	Timber Authority
TRP	Timber Rights Purchase

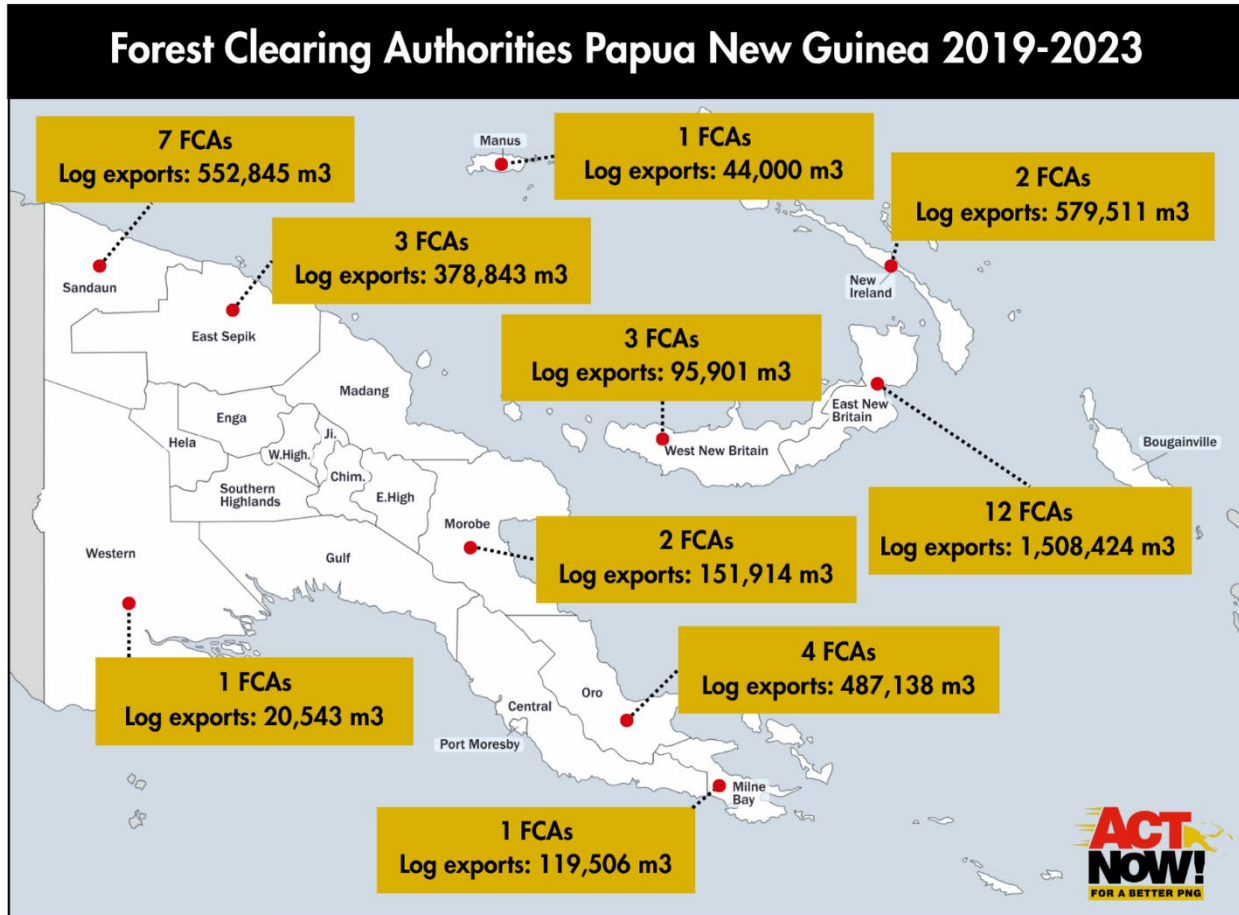


Image: PNG map with list of FCAs and total 2019-2023 logging exports by province. Source: SGS Reports, 2019-2013.

EXECUTIVE SUMMARY

Papua New Guinea's (PNG) forests are globally important. New Guinea island is home to the world's third largest contiguous rainforest and is its most botanically diverse island. The forests of PNG are an important carbon sink and an essential part of global plans to contain global warming. They also sustain the lives, livelihoods and cultural traditions of millions of rural people. However, for decades, PNG's forestry sector has made national and international headlines over a series of logging scandals. Today PNG stands as the world's largest exporter of tropical logs, yet there is a high risk most of those logs are being harvested from concessions that could be regarded as illegal.

Logging in PNG is governed by the Forestry Act 1991 and managed by the PNG Forest Authority (PNGFA). The three logging concession types defined under the Act are: Forest Management Agreements (FMAs), which allow selective harvesting of timber over large forest areas; Forest Clearing Authorities (FCAs), which allow forest clearing for agricultural activities or other land-use changes; and Timber Authorities (TAs), which allow for small scale harvesting for domestic processing.

Logs harvested under FCAs account for a third of PNG's total log exports. Tropical forest experts have been calling for FCAs to be halted at least as far back as 2011. This is due to concerns about the use of FCAs as a front for large-scale selective logging.

In January 2023, the PNGFA issued a moratorium on FCAs, requiring an immediate halt to the issuance of new FCAs. Critically, it also required audits of existing FCAs to be conducted by the PNGFA staff. However, more than two years since the moratorium began, the PNGFA has yet to publish any audit findings on existing FCAs and has not responded to written requests to release the reports. FCA projects began exporting logs for the first time in 2023¹.

Previous research by ACT NOW and Jubilee has identified abuses both in the application process for FCA licences and in the execution of the logging post approval. The evidence for these abuses is based on four previously published case studies: the Wammy Rural Development Project in West Sepik (Sanduan) Province (the Wammy project); the Mengen Integrated Agriculture Project in East New Britain (the Mengen project); the Wasu Integrated Agriculture Project in Morobe Province (the Wasu project); and the Loani Bwanabwana Integrated Agro-Forestry Project in Milne Bay Province (the Loani Project).

The totality of this evidence points to a very high risk that any logs or timber products sourced from FCA projects could be classified as illegal.

ABUSES IN THE APPLICATION PROCESS

The report has identified three types of abuse in the FCA application process.

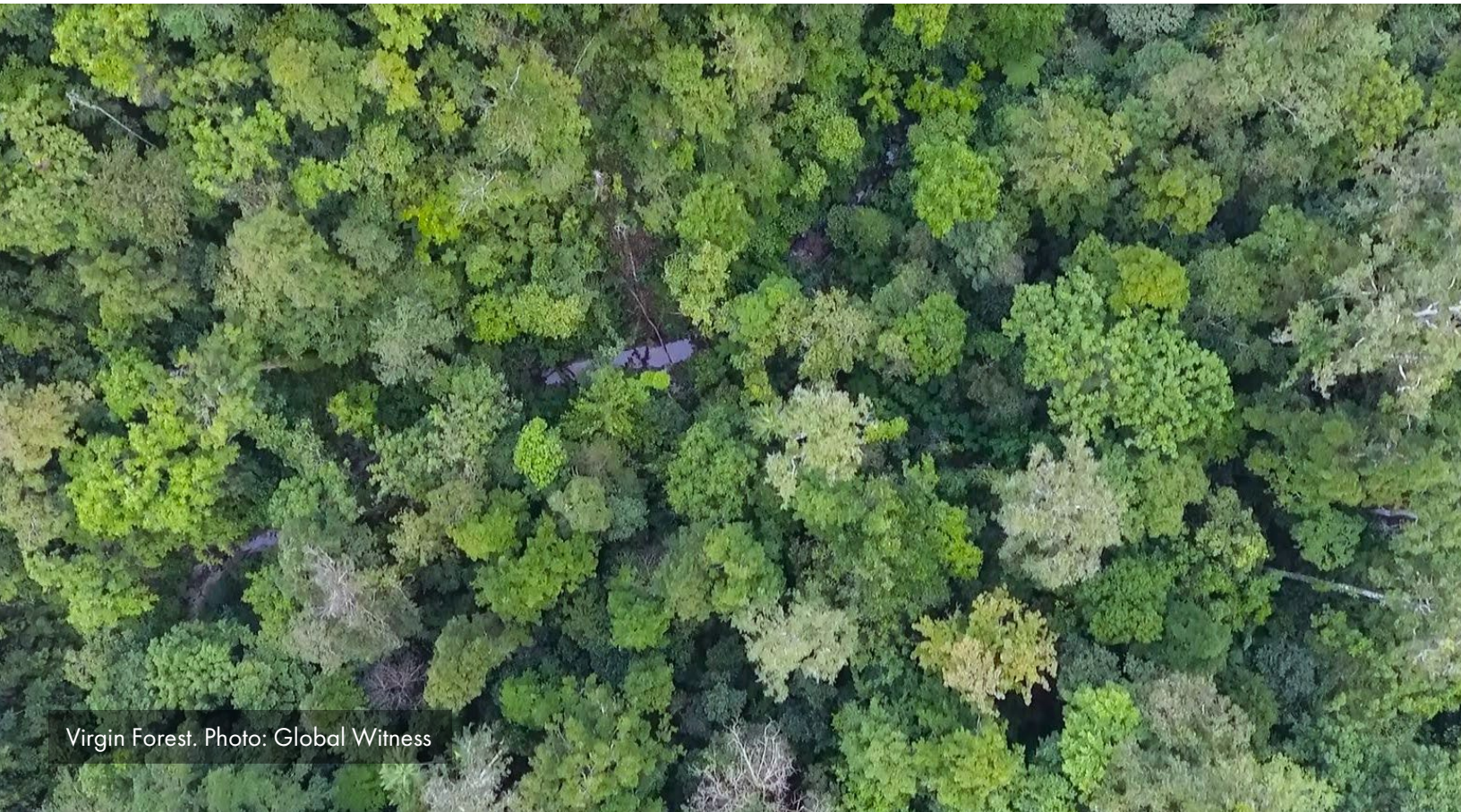
1. The submission and approval of applications without evidence of viable and rigorously costed agriculture plans– and the company's capacity to execute them.
2. The practice of logging companies seeking permission to log concessions that are significantly larger than the intended agricultural projects.

3. Local community consent for an FCA or any other logging permit is a legal requirement in PNG; yet the case studies repeatedly reveal that permits were approved against the clear objections of many legitimate resource owners.

ABUSES IN THE EXECUTION OF FCAS

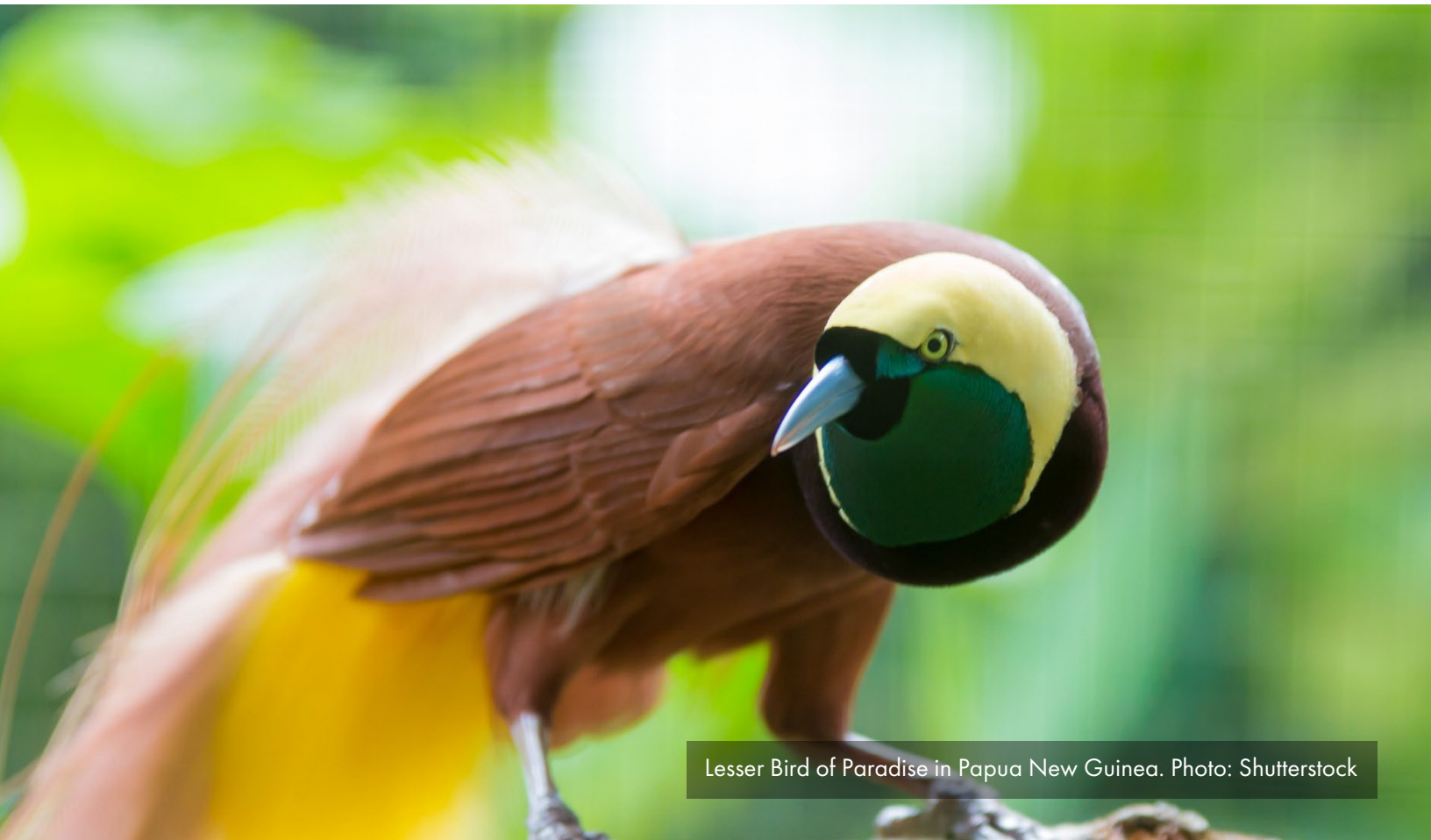
The report has identified several different types of abuse in connection with the execution of FCAs:

1. Strong evidence that the practice of selective logging—the felling of only the most valuable trees – while leaving the rest of the smaller trees and less valuable species – is repeatedly occurring in FCA areas, even though this type of practice would leave a site unusable for an agricultural project which requires clearing of a discrete area of forest.
2. Evidence of the proposed agricultural projects in FCA sites is often lacking. The Wammy project has no oil palm or rubber plantations, the Wasu project has no cattle, and the Mengen project has no cocoa or other crops growing. This all points to the likelihood that the FCA proponents in these cases never intended to use the sites for agriculture.
3. Conflict, violence and intimidation has been used against landowners who have been opposing logging on FCA sites, in particular in the Wammy Project in West Sepik and the Mengen Project in East New Britain. This includes violence and intimidation perpetrated by police forces.
4. There are repeated incidences of journalists, legal offices, resource owners and civil society groups, including ACT NOW and Jubilee, raising concerns or contacting the PNGFA or other government authorities and informing them about legal non compliance and other issues with FCA projects, particularly around their lack of consent or improper consent processes, only for their complaints to be ignored.



SUMMARY OF RECOMMENDATIONS

- The Government to suspend all log exports from FCA areas until an independent, transparent and public inquiry into the legality of all existing FCA licences and logging operations has been completed.
- The National Forest Board to extend the moratorium on new FCA licences until a full government inquiry has been conducted and any recommendations have been implemented and to publish the findings of the completed audits of FCA projects.
- The fraud squad, UNODC and Interpol to identify the criminal laws that may have been broken in the submission and approval of fraudulent FCA applications.
- Commercial banks to identify any customers linked to FCA logging operations and ensure full compliance with all anti money laundering regulations and bank environmental and social responsibility policies.
- The diplomatic community and aid agencies to support the PNG government to implement a review of all existing FCA licences and action the inquiry recommendations. Assist the PNGFA to establish a public register of all timber harvesting operations as provided under S.103A of the Forestry Act.
- Overseas timber buyers to ensure any unprocessed logs, sawn timber and timber products purchased from PNG are independently verified as coming from a valid, legally approved and sustainably managed source.



Lesser Bird of Paradise in Papua New Guinea. Photo: Shutterstock

PART I: INTRODUCTION

Papua New Guinea's (PNG) forests are globally important. New Guinea island is home to the world's third largest contiguous rainforest and is its most botanically diverse island.² The forests of PNG are an important carbon sink and an essential part of global plans to reduce global warming. They also sustain the lives, livelihoods and cultural traditions of millions of rural people. Like many other Pacific countries, PNG's population is overwhelmingly Indigenous, with as much as 95 per cent of land under traditional tenure and customary land rights are recognised in PNG's legal framework. Increasingly, there is global recognition of the sophistication of PNG's traditional ecological knowledge.

However, for decades, PNG's forestry sector has made national and international headlines over a series of logging scandals. Today PNG stands as the world's largest exporter of tropical logs.³ Logs harvested under a single permit type – a Forest Clearing Authority (FCA) - account for a third of PNG's total log exports.⁴ This is particularly alarming as a FCA's primary purpose is not to enable large scale or long term logging, but to support agriculture and other land use changes by allowing any necessary forest clearing.

In 2023 - more than two decades after FCAs were first introduced - PNG's National Forest Board – the body overseeing the PNG Forest Authority (PNGFA) - enacted a moratorium on the issuing of new FCA permits and an audit of existing projects. This was a response to widespread concerns that FCAs were being issued despite not meeting legislated requirements or were operating without adhering to legal requirements and related environmental or human rights abuses. However, alarmingly, all existing FCAs were allowed to remain in effect, and no audit results have been made public.

This paper seeks to provide a summary of the core legality and human rights issues affecting the use of FCAs. It starts by briefly outlining the systemic issues of illegality in PNG's logging sector, summarises the legal framework governing FCAs and references the long standing recognition of problems with FCAs. Next, it draws on ACT NOW's previous published FCA case studies, to provide examples of issues frequently seen in both the application process and the FCA execution. Finally, it outlines a series of recommendations for the PNGFA, government, criminal law enforcement agencies, commercial banks, the diplomatic community and aid agencies and overseas timber buyers.

This paper is being published in good faith and for informational purposes only. The content aims to promote transparency and dialogue on matters of public interest. The findings are all based on information publicly available at the time of publication.

All the information contained in this paper has been communicated by either the Jubilee Australia Research Centre or ACT NOW to the PNGFA and the named logging companies a number of times in connection with previous reports and papers and they have been invited to provide their input, but no responses have been received.

1.1 LOGGING LEGALITY IN PNG

The devastation of PNG's forests, widespread illegal logging and related human rights and cultural impacts on forest communities have been widely reported over decades. In some communities the fight against illegal logging is so pervasive it is intergenerational, with adult children continuing the efforts begun by their

parents. The systemic risks of illegal logging in PNG have been widely and consistently documented through case studies, court actions, media exposes and research reports (see Table 1 below).

Table 1: Sample of reports since 2017 discussing widespread timber illegality and related issues

Year	Publications
2017	Preferred by Nature assessed PNG at high-risk of timber illegality, scoring 3 out of 10. ⁵
2017	The Bank of PNG noted widespread corruption and illegal logging in the PNG forestry sector, and that various estimates put the value of illegal logging between 70-90 percent of the total product exported. ⁶
2018	Global Witness' 'A Major Liability' report drew on satellite imagery to show "hundreds of apparent violations of the country's Forestry Act in major logging operations". ⁷
2021	Forest Trend's Timber Legality Risk dashboard ranked PNG in its highest risk category, scoring 83.4 out of 100. ⁸
2022	A joint report by the UN Office on Drugs and Crime and the PNG Conservation and Environmental Protection Authority noted "widespread illegal practices across the forestry sector" and "low (or no) penalties when violations are detected". ⁹
2023	Act Now's 'Timber Legality Risk Assessment' found almost all logging in PNG to be unlawful. ¹⁰
2024	A report on PNG money laundering reiterated illegal logging as one of the key risks linked to money-laundering. ¹¹

Discussing forest crime in 2022, the UN Office on Drugs and Crime (UNODC) and the PNG government's Conservation and Environment Protection Authority (CEPA) noted that:

"PNG has a comprehensive forestry legal framework, but it is undermined by a critical lack of enforcement including inadequate allocation of resources (human, financial, and technical) for monitoring and compliance, corruption, widespread illegal practices across the forestry sector, and low (or no) penalties when violations are detected"(see footnote 8 above).

In one alarming illustration of the extent to which the culture of impunity is engrained in PNG, the UNODC and CEPA report describes a practice where *'illegally taken logs are retrospectively "authorised" by PNGFA [the PNG Forestry Authority] prior to export. PNGFA then collects royalties on these exports even though the logs have been taken outside of the approvals issued under the Forestry Act.'*¹²

The widespread issues with FCAs are analogous to another scandal, PNG's Special Agriculture and Business Leases (SABL). In 2013, a PNG Commission of Inquiry was tasked with examining 72 Special Agriculture and Business Leases. The inquiry found only four SABLs to have genuine landowner consent and a commercially viable agriculture project, it also found widespread abuse and fraud.¹³ Despite various announcements suggesting SABLs would be or were cancelled, today many SABLs examined remain in effect, including for logging operations. The issues with FCAs summarised in this report frequently overlap with those highlighted in the SABL scandal – from violations of landowner land rights, to proposals for agricultural projects that are not viable, to, at times, threats and violence against those protesting to defend their forests and rights.

1.2 FOREST CLEARING AUTHORITIES

Logging in PNG is governed by the Forestry Act 1991 and managed by the PNGFA. The three logging concession types defined under the Act are:

- Forest Management Agreement (FMA): an FMA is an agreement between customary resource owners and the PNGFA for the sustainable management of large areas of forest and selective timber harvesting. Under the contract the PNGFA acquires the long term rights to manage the forest. The PNGFA is then able to select a logging company to sustainably harvest timber and issues them with a timber permit.
- Forest Clearing Authority (FCA): an FCA is granted “for the purpose of clearance of natural forest on areas designated for agriculture or other land use development”. The focus of the FCA is to enable agriculture or other projects by permitting land clearing, it is not intended to facilitate or manage sustainable long term logging or timber harvesting.
- Timber Authority (TA): this is used to authorise small scale harvesting activities.¹⁴

Logs are also exported each year from pre 1991 concession types, including Timber Rights Purchase agreements (TRPs) and Local Forest Areas (LFAs). However, recent data suggests that FCAs is the concession type with the largest share of timber exports (see Figure 1 Below)

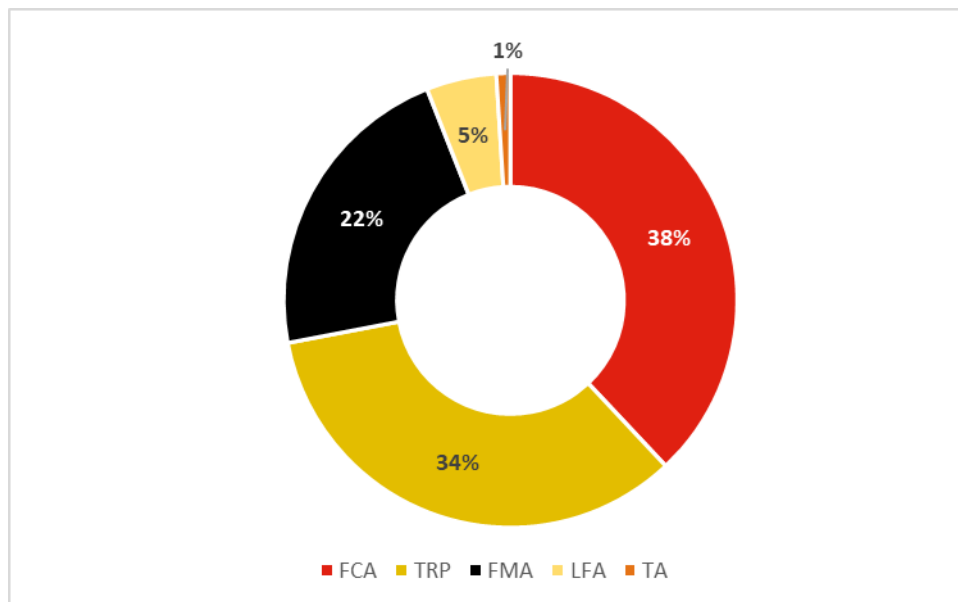


Figure 1: Log Exports from PNG by License Type, 2023. Source: SGS Annual Report 2023

As table 2 below explains, the bulk of FCA exports have come from just five provinces: East New Britain, New Ireland, East and West Sepik, and Northern (Oro) Province. Almost half have come from East New Britain.

Table 2: FCA Exports by Province 2006-2023

Province	Total Exports (cubic metres)	Percentage
Central	4,324	0.03%
Western	26,440	0.22%
Manus	44,000	0.36%
Milne Bay	119,506	1.0%
Morobe	185,527	1.5%
West New Britain	264,309	2.2%
Northern	632,472	5%
New Ireland	1,464,492	12%
East Sepik	1,618,435	13%
West Sepik	2,323,699	19%
East New Britain	5,558,947	45%
Total	12,242,061	

Source: SGS Annual Reports 2016-2023

The concept of the FCA was introduced into the Forestry Act in 2000. Initially, FCAs were granted to the holders of Special Agriculture and Business Leases, theoretically to allow agriculture or other land use projects to undertake any necessary land clearing.

The Act outlines a series of requirements that must be met before an FCA is granted. These clearly articulate that consideration of the proposed agricultural (or other land use) project is a core component of the process. Before the PNGFA can grant a FCA, it needs to consider a detailed development plan, implementation schedule for the agricultural (or other land use) project, a map showing any areas that are important for conservation or unsuitable for agricultural or other land use development and other information about the project. Under the Act, applications need to provide details of the costs of the proposed project, confirmed access to finance, and ‘evidence of past experience in such developments’ (Section 90A 3).¹⁵

The PNGFA also needs to see evidence of landowner consent, in the form of a document that verifies the consent of each resource owning clan, via their Incorporated Land Group or agent. There also needs to be a government report showing that a public hearing was held about the project, close to the project site, and a signed agreement between the resource owners and the developers. The Forestry Act stipulates that any forest clearing operation should take place in four phases. Each phase is to be subdivided into blocks for clearing of a maximum of 500 hectares. Permission for logging under a second or any subsequent phase may only be granted where “all conditions relating to the development plan and implementation schedule have been satisfied.” There is no mention of permission for selective logging under an FCA.

An FCA may be suspended “where the planned land use for which a forest clearing authority is granted is not progressing according to the development plan or implementation schedule” or any condition of the FCA is breached.

1.3 FCAS: A FRONT FOR LARGE-SCALE LOGGING

Tropical forest experts were calling for FCAs, alongside SABLs, to be halted at least as far back as 2011 – almost a decade and a half ago.¹⁶ Their Cairns Declaration is just one example of extensively documented concerns about FCAs.¹⁷

A primary concern is the use of FCAs as a front for large scale logging - where logging companies can avoid the more stringent requirements under a FMA, the primary license intended for the management of large scale, long term logging. While still hampered by a context of widespread lack of forest law enforcement, an FMA incorporates more safeguards to ensure sustainable forest management and more rigorous measures to respect landowner rights.¹⁸ While both the FCA and FMA require resource owner consent, the FMA process has stricter procedural requirements designed to ensure the consent is meaningful. It requires an intensive awareness process among customary owners, negotiation of terms with consultation at each stage of the process and stringent environmental assessments and sustainable annual logging quotas. The FMA process also places more restrictions on logging volumes than the FCA process as the whole FMA concept is premised on the basis of sustainable forest management over a thirty five year logging cycle.

However, FMAs accounted for only 23% of PNG's logging exports in 2023. In contrast, FCAs accounted for 38%. Much of the remainder was from permits and licenses that predate the Forestry Act.¹⁹

PNG's Centre for Environmental Law and Community Rights (CELCOR) Inc has observed:

*"FCA permits issued under the Forestry Act are a vehicle being used to facilitate massive felling of large tracts of tropical hardwood timber species by foreign owned logging companies. Allegations of routine ignorance of our forestry laws and the lack of free prior informed consent by forest communities has become a major concern. In most cases, the large scale agricultural activity which is supposed to be established is never implemented or if it is, it is not economically viable and does not benefit the customary resource owners."*²⁰

The Institute of National Affairs has commented that the abuse of FCAs has been ongoing since the mechanism was introduced. It has also called for the police fraud squad, or PNG's Independent Commission Against Corruption, to investigate some of the "more questionable" FCA applications.²¹

Twelve years after the Cairns Declaration, the PNGFA finally imposed a moratorium on FCAs. The moratorium took effect in January 2023, requiring an immediate halt to the issuance of new FCAs for one year. Critically it also required audits of existing FCAs to be conducted by the PNGFA.²² The moratorium has since been extended and remains in effect.²³ However, more than two years since the moratorium began the PNGFA has yet to publish any audit findings on existing FCAs and has not responded to written requests to release the reports.²⁴ A rigorous and effective audit could, in theory, be a catalyst for the suspension of all FCAs and the cancellation of FCAs where companies cannot proactively evidence that they have met legislated requirements in applying for, or managing, their FCA license.

In another worrying development, in January 2024, the independent monitoring of log export volumes and species declarations by the international surveillance company SGS was suspended due to the non payment of outstanding invoices by the PNGFA. This was despite the program generating an estimated K35 million a

year in additional tax revenue against a cost of K7.3 million.²⁵ The suspension of the log export monitoring means there is no reliable data for 2024 on the volumes of logs exported from PNG or the output from individual concession areas.

Despite the widely acknowledged issues with FCAs – they remain in effect and the logging continues.



Figure 2: FCAs at a glance.

PART II: ABUSES IN THE FCA APPLICATION PROCESS

2.1 UNVIABLE PLANS

The core premise of a FCA is to allow land clearing in service to a specific agricultural or other project. A company's inability to evidence detailed and rigorously costed plans – and its capacity to execute them – is a red flag that an FCA will serve as a front for large-scale logging. Nevertheless, there is a significant amount of evidence for the submission and systemic approval of obviously unviable plans.

For example, in July 2013, the company Global Elite Limited sought and received an FCA (FCA 10-08) for the Wammy Rural Development Project (hereafter referred to as the Wammy project), in West Sepik (Sanduan) Province. Global Elite Ltd had already acquired a SABL in 2010 for a proposed oil palm and rubber project.²⁶ The FCA was for land clearing for the project. At the time that the SABL was granted, Global Elite's company registration did not include any permission to carry out agricultural activities. As part of its FCA application, a company is legally required to provide "details of costs of the agricultural or other land use project and a certificate from a bank or financial institution which is satisfactory to the Managing Director certifying that the full costs of funding the project will be available to the applicant". When asked about this in a Commission of Inquiry hearing, the company's representative claimed that the company would secure certification to carry out agricultural activities once it had made enough money from logging to recoup its costs and fund the agricultural component. The Chief Commissioner pointed out: "This indicates that the developer is not bringing into the country its own resources and capital to invest in the country and instead is trying to raise money in-country through logging activities before it ventures out into agriculture and other business activities."²⁷

Similar problems have been found with the Mengen Integrated Agriculture Project (hereafter Mengen project) in East New Britain. In October 2021, the PNGFA granted FCA 15-22 to Westenders Limited to implement the proposed "agro-forestry" initiative, with the FCA covering 52,500 hectares. The FCA proposal included cocoa plantations and livestock, as well as kamarere (eucalyptus) and galip nut plantations. The FCA application provided sparse detail, extremely dubious costings and no map for where the cocoa is intended to be planted, raising serious doubts as to whether the cocoa scheme was a genuine one. The cattle farming plan did not consider the viability of the land for cattle or include cattle sites. The only clue where the cattle might be located is limited to one page showing photographs of already cleared land, where no further logging seems necessary. Certain pages in the central part of the cattle proposal appear to have been cut and pasted from a user manual on cattle husbandry rather than a genuine site-specific plan.²⁸

Other irregularities in planning include: galip trees are mostly grown for nuts, and yet the project proposal talks about harvesting them for timber; the project proposal does not specify where the kamarere and galip trees will be planted or include a map of planting locations; the only area clearly identified for clear felling is a 20 metre corridor on either side of the logging road. Finally, resource owners themselves told ACT NOW that the agricultural development plans did not include any feasibility studies. There is also the question of costs: There is no evidence in the project documentation that Westenders is prepared to make the sort of investments that an expert estimated will be needed to develop this project.²⁹

Finally, there is the case of the Loani Bwanabwana Integrated Agro-Forestry Project (hereafter cited as the Loani Project) in Milne Bay Province. Although nominally involving a 16,000ha balsa wood plantation and a

10,000ha cocoa plantation, neither of these proposed agricultural projects appear genuine. The size of the balsa wood plantation would increase PNG's total balsa production ten times, and yet there is no evaluation of the market potential for such an increase. Most of the land does not appear suitable for cocoa planting and there is no information provided in the FCA application about the necessary cocoa fermentaries. There is also no evidence that the company has the funds to finance the costs of setting up these projects, and no track record of managing such projects.³⁰

2.2 EXAGGERATED BOUNDARIES

Another example of systemic abuse in the FCA application process is the practice of logging companies seeking permission to log concessions that are significantly larger than the intended agricultural projects. The average FCA is suspiciously large when considering their intended purpose for oil palm or forest plantations. The average oil palm estate managed by NBPOL, PNG's largest agriculture company and largest employer is only 2,000ha in size and the total oil palm planting in the whole of West New Britain, PNG's biggest agriculture province, is 40,000ha. Similarly, existing timber plantations across the whole of PNG cover just 86,000ha. And yet, the average FCA covers 58,595ha.³¹

Below we present several examples of exaggerated boundaries being approved by the PNGFA, leaving companies free to do land clearing of forest that was not even ostensibly to be used for other productive purposes.

PNGFA granted the Wammy project an FCA to allow land clearing of 105,000 hectares. The majority of the land covered by the FCA - 60% - was not for the actual agricultural project, which was to cover only 40% of the FCA area.³² As defined in legislation, the purpose of an FCA is to support agricultural and other land use projects by enabling land clearing to undertake those activities. This suggests that, in effect, the Wammy FCA granted permission to clear an area of forest more than twice the size of Kuala Lumpur that would not cover the proposed agricultural project. A 2014 academic analysis of SABLs noted that the project's Environmental Inception Reports and Environmental Impact Statements assessed that the Wammy FCA project area had insufficient suitable land to sustain an economically viable palm oil production project. If undertaken on land with suitable soils, it concluded that the agricultural activity proposed would only require 5,000-10,000 hectares. This would suggest that, had an appropriate site been chosen, in terms of hectares cleared 90-95% of logging permitted under the FCA was unnecessary.³³

The Mengen project in East New Britain was granted an FCA covering 52,000 hectares, yet only 22,500 hectares is identified for agriculture use. The proposal suggests that 2,500 hectares would be used for cocoa plantations and livestock, with the remaining 20,000 hectares for kamarere (eucalyptus) and galip nut plantations.³⁴ Almost half of the area covered by the FCA was described as constituting "rocky, steep slopes, mountainous, swamps, gardens, conservations, cultivations, buffers, and other existing land used by the inland Mengens". Moreover, there was no map to identify the proposed location of any of these activities - with exception for a small area near a road clearing.

The Loani project documents indicate an intention to clear 22,315 hectares of forest, even though the proposed area for agricultural planting only covers 17,600ha.³⁵

Table 3: Amount of Land to be cleared vs amount of land for agricultural use in various FCAs

FCA Concession	Proposed land clearing area (ha)	Proposed agricultural area (ha)	% of concession to be cleared for no agricultural purpose
Wammy	105,000	-	60%
Mengen	52,000	22,500	57%
Loani	22,315	17,600	21%

2.3 LACK OF CONSENT FROM CUSTOMARY OWNERS

Customary owner consent for a FCA or any other logging permit is a legal requirement in PNG. Although estimates vary, around 90-95% of PNG’s total land area is designated as customary land. The Forestry Act requires that the PNGFA consider “a verification of ownership and the consent of each resource owning clan agent (or incorporated Land Groups if they have been formed) within the project area”, a report on a public hearing, and “an agreement or agreements between the landowners and the proposed developer of the agriculture or other land use project.”³⁶ This requires the involvement of all stakeholders, including the local, district and provincial governments, landowners and civil society.³⁷

PNGFA granted the Wammy project in West Sepik without the consent of a significant portion of customary landowners - if not the majority, based on testimony presented to the government-appointed Commission of Inquiry (CoI) into the Wammy SABL. The CoI hearings into the Wammy SABL heard allegations that one customary landowner group’s land had been broken up and split over three logging concessions—one of which was the Wammy concession—without their consent and that the Wammy landowner company was an artificial construction that was formed by 5 of the 22 villages in the Namea Local Level Government Area of the Telefomin District.³⁸ Further testimony at the CoI hearings from the Provincial Lands officer of Sanduan Province alleged that around 6-12 Incorporated Landowner Groups (ILGs) withheld consent for the project; Commissioner Numapo noted that this confirmed there was ‘conscious dissent and opposition during the Land Investigation process.’³⁹ Other irregularities that came before the CoI were that the Land Investigation Report was not properly executed; that a crucial project document, the Certificate of Alienability, was executed without reserving any land use rights to customary landowners; and that the Department of Agriculture approved the Wammy project four months before the public consultation hearing on the project took place. All these actions were condemned by the Chief Commissioner.⁴⁰ Despite these concerns being raised by Commissioner Numapo in June 2013, the PNGFA approved an FCA one month later, in July 2013.

In 2023, the ABC aired a story based on a visit to the Yellow River area where the Wammy project is located, including a recording of a community meeting which was also attended by a staff member from CELCOR—The Centre for Environmental Law and Community Rights.⁴¹ In the meeting, an unidentified man who claimed to be a land group chairman said that he had never signed an agreement allowing for the logging; he further alleged that someone had signed it on his behalf (i.e. fraudulently). Another community leader stated on camera that he did not consent to the logging. A number of people suggested that those opposing the project were arrested and detained in shipping containers as punishment by police officers working for the logging company.³⁹ The CELCOR staff member raised concerns in the media report that the company was seeking consent individually – not communally as required under the law. One landowner who supported logging and was receiving payments from the company described this as obtaining consent “block by block”.⁴² The

Forestry Act requires applications to include verification of consent of each resource owning clan *within the project area*.⁴³

Similarly, for the Mengen project there were several red flags that the project did not have informed consent from the resource-owners. The proposal for the Mengen project is purported to be a partnership between an Incorporated Landowner company, local company Mengen Resources Development Limited (MRDL), and Westenders Limited, a part of the KK Connections group of companies. MRDL described itself as belonging to Extended Mengen Land Group Incorporated, an ILG that purports to represent nine land groups. However, MRDL's corporate filings (which it should be noted are not up to date) do not list Extended Mengen Land Group Incorporated as a shareholder.⁴⁴

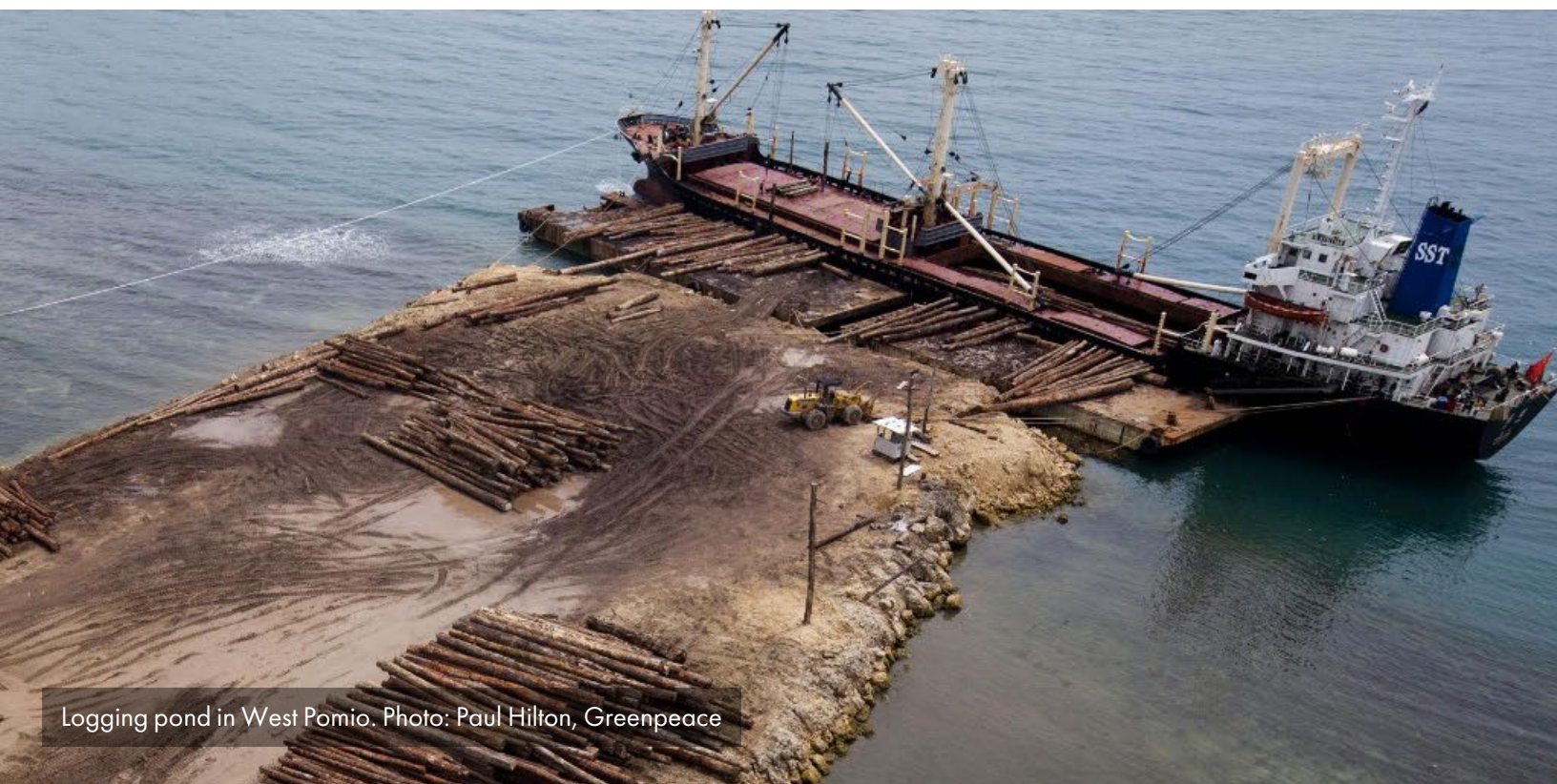
Moreover, the consent forms in respect of the Mengen project were signed or marked by 12 persons, 11 of whom are directors or shareholders of MRDL. There is no evidence that PNGFA undertook activities to verify that the signatories were the clan agents for the nine clan groups or representatives of Extended Mengen Land Group Incorporated.⁴⁵ More significantly, representatives of least seven villages from the Mengen area (Pakia, Bago, Mile, Kemetanme, Muro, Mukulu and Lele) wrote letters to the PNGFA and other bodies explaining that they did not wish the company to initiate any logging operations in their area. They further claimed that there had been failures of due process surrounding consent, including a lack of project information, a lack of transparency, and that only those landowners in support of the project had been allowed to attend the PFMC meeting in which it was to be considered.⁴⁶ This group also claimed that the formation of the landowner organisation associated with the project had occurred outside the project area without widespread knowledge of communities or the group and that when a public hearing did occur in 2019, the hearing descended into conflict and no consent was given, despite company pressure for the community to sign onto the project at the hearing.⁴⁷



Eucalyptus trees, East New Britain, Papua New Guinea. Photo: Shutterstock

In 2019, PNGFA granted FCA 13-03 for the Wasu Integrated agriculture project in Morobe Province (hereafter called Wasu project). Serious failures of due process also occurred in connection with this FCA. The Nzera Clan, who live in Sio village and who claim to be the principal resource owning clan under the Wasu FCA concession, have said that they were not educated about the project details, were not informed about project implementation plans, were excluded from the consultation meetings as part of the FCA project, and were not made aware of or included at any stage of the project. They have repeatedly raised concerns with the authorities, in a letter to the Morobe Provincial Government (Forest Sector) in September 2022; in letters to the PNGFA on four separate occasions (September 2022, December 2022, March 2023 and November 2023); and interview subjects repeated these concerns to ACT NOW during a site visit to the area in September 2023.⁴⁸ The November 2023 letter to the PNGFA was co-signed by a second group, the Levo clan who occupy the Karangon Village, which is also in the project area. The response by the PNGFA did not grapple with the issues raised, and instead took issue with the breadth of clan concerns.⁴⁹ Although ACT NOW has not seen the FCA application in this case and do not know what knowledge Wasu Resource Limited would have had regarding the customary ownership dispute involving the Nzera Clan, appropriate due diligence may have revealed the existence of a land dispute in the area and flagged the need for consultation with the Nzera Clan and to either obtain their consent or wait for the resolution of the dispute.

The Loani project in Milne Bay Province also has very serious shortcomings when it came to securing landowner consent for the FCA. Research by ACT NOW has established a series of irregularities, including: only one of the seven clans on Sideia island gave approval for the project, and only 3 out of 12 clans in Basilaki; there were missing and duplicate forms for the FCA application on the mainland; the wrong paperwork was likely used to verify landowner consent; the required public hearing was not conducted in the project area but in Alotau, the provincial capital.⁵⁰



Logging pond in West Pomio. Photo: Paul Hilton, Greenpeace

PART III: ABUSES IN THE EXECUTION OF FCAS

3.1 LOGGING NOT CLEARING

The premise of an FCA is that it is to support agricultural projects and other land use activities by allowing land clearing necessary for those projects. Conversely, felling of only the most valuable trees – while leaving the rest of the brush, smaller trees and less valuable species – indicates targeted or selective logging, and would leave a site unusable for a project purported to require land clearing.

An April 2023 satellite analysis of the Wammy project area in West Sepik showed that only 240 hectares of forest has been cleared in a way that would enable possible agricultural planting (recalling that the FCA covers an area of 100,00ha). The analysis, commissioned by ACT NOW!, also identified that selective logging had occurred over a wide area.⁵¹

Selective logging also appears to be happening on a large scale within the Mengen project in East New Britain. In October 2021, the PNGFA approved the five-year logging plan for the Mengen FCA for 2021-2026. The approval allowed logging to take place in Coupes 1-3 for the first three years and Coupe 4 in final two years. This plan differed from the company's Annual Forest Clearance Plan approved in November 2021.⁵² Analysis of recent satellite images by ACT NOW shows that the actual logging has not complied with either of the approved plans, with the logging spread across Coupes 3, 4, 5, 6 and 7 and the area is being selectively logged rather than cleared (see Figures 3 and 4 below). The analysis also show there has been no attempt to adhere to the requirement to restrict operations to 500 hectare blocks, in apparent violation of the Forestry Act.⁵³

The practice of logging in the Wasu project in area seems to be following a similar pattern. Satellite imagery on tree cover loss between 2015 and 2022 from Global Forest Watch shows a scattered pattern that suggests selective logging rather than systematic agricultural clearing and planting.



Figure 3. Tree cover loss (>30% canopy cover) in the eastern part of the Wasu LLG area, 2020-23, shown in pink. The red square (added) shows the size of a 500 hectare clearance block for reference. The pattern of the tree cover loss (pink areas) appears consistent with several scattered patches of logging along roads rather than clearance in 500 hectare blocks. Source: Global Forest Watch database: <https://gfw.global/3Rq7fB5>

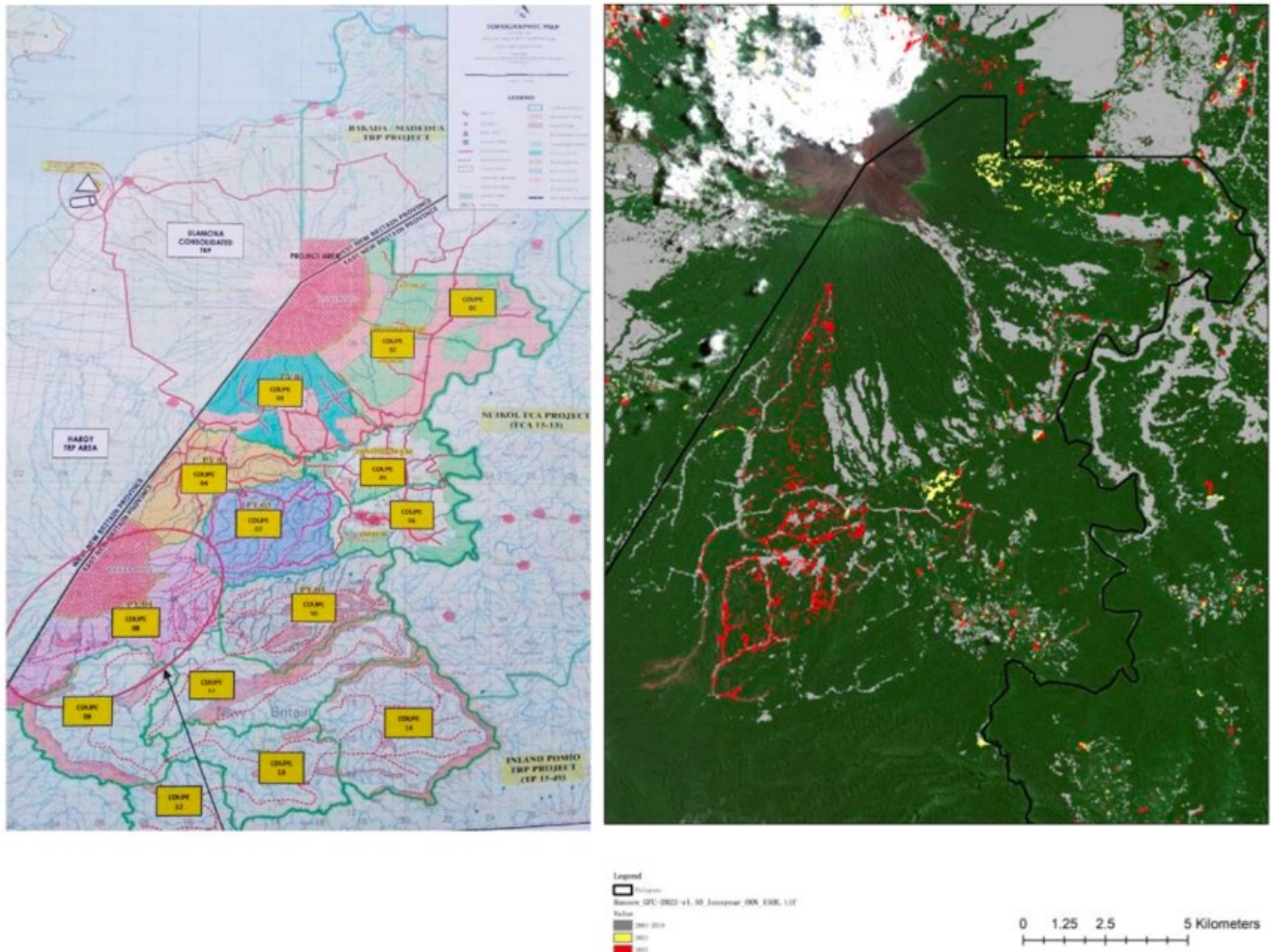


Figure 4: Map on left showing demarcation of coupes in Mengyan FCA. Map on right is a satellite image showing scattered areas of logging in red.

3.2 NO AGRICULTURE PROJECTS

The Wammy project in West Sepik has been operating for over 10 years, during which time more than 400,000 cubic metres of round logs with a declared value of over US\$40 million have been exported⁵⁴. Yet, as mentioned above, only 240 hectares have been cleared in a block, although there appears to have been significant selective logging. The 2023 ABC report found no oil palm or rubber plantations had been established. The company, Global Elite, responded that the company had “begun all the processes” but “multiple nurseries” were burned down by resource owners.⁵⁵

The Wasu project in Morobe Province provides another example of a lack of any evidence of agricultural production under an FCA. The rationale for the project is the establishment of a cattle farm, but requests to the PNGFA, the Department of Agriculture and Livestock (DAL), and the Livestock Development Corporation (LDC) as well as site visits have not been able to establish any evidence of cattle farming taking place. The

Managing Director of the LDC has stated publicly that there is no need to clear any land for cattle farming, as there is adequate grassland in PNG for that purpose and he has knowledge of the Wasu project.⁵⁶

Similarly with the Mengen project, although log exports began in 2022, locals have reported they are yet to see any evidence of the planting of cocoa or the establishment of any tree plantations. Similarly, there is no evidence of any cattle on the land.⁵⁷

3.3 CONFLICT OR VIOLENCE AGAINST THOSE PROTESTING

In the Wammy project in West Sepik, the ABC investigation revealed the landowners encountered police intimidation if they opposed the logging, and some landowners' lives were threatened. Luke Amial, speaking to ABC Foreign Correspondent, said: 'They broke my jaw, my teeth, my mouth. They beat me badly...They pointed a gun at me...they locked me in a shipping container for a week.'⁵⁸ The report also detailed several witnesses in a group interview with ABC at Yellow River describing a violent altercation with a police officer, brought in from Port Moresby by the logging company, who shot into a crowd during an argument at the market. One person was killed, and two were badly injured. Members of the crowd allegedly killed the police officer in retaliation. Global Elite confirmed to the ABC that it has an arrangement with the PNG police force, that it has indeed brought in policemen as security for the project and is paying for their food and accommodation; it denied that they were intimidating landowners. The police commissioner told the ABC that he has banned such deployments and that the officer should not have been there.⁵⁹ The ABC reported that it had viewed a confidential report from PNG Defence which warns that logging companies are "using police to bulldoze over the rights of landowners".⁶⁰

In the Mengen project in East New Britain, there are credible reports of police working on behalf the company to apply pressure to sceptical landowners, including from the Executive Officer of the local MP for Pomio. A letter from this officer to the local police alleged intimidation from police engaged by resource owners favourable to the project.⁶¹ A resource owner representative from Bago stated that local people were quashed with threats of police action because of their opposition to the company and the community members had been threatened for following up on company promises of building houses and infrastructure or for calling for replanting in the logged areas.⁶² ACT NOW has also witnessed police guarding commercial premises owned by the KK Connections group of companies in the Kokopo area.⁶³

3.4 NO ENFORCEMENT

Rights under an FCA may be suspended "where the planned land use for which a forest clearance authority is granted is not progressing according to the development plan or implementation schedule" or any condition of the FCA is breached.⁶⁴ Earlier sections of this report outline many instances of non-compliance, illegalities or other concerns that authorities have not acted upon – despite issues being readily identifiable. The lack of enforcement may also embolden those looking to engage in unlawful activity—for example, money-laundering or threats and violence towards resource owners seeking to defend their forests in a context where authorities are failing to protect their rights.

Even more egregiously, there are also repeated incidences of journalists, legal offices, resource owners and civil society groups raising concerns or contacting the PNGFA or other government authorities and informing them about legal non-compliance and other issues with FCA projects, particularly around their lack of consent or improper consent processes, only for their complaints to be ignored or not acted upon. Evidence about improper consent process with respect to the Wammy project in West Sepik were raised during the SABL Commission of Inquiry hearings and the subsequent Numapo Report in 2013 as well as in the 2023 ABC Foreign Correspondent story ‘The Second Amazon’, where disturbing allegations were made about police brutality in association of the project. Yet, no action has been taken. In simple terms, the PNGFA appears to be tacitly permitting ongoing logging operations that appear not to be legal⁶⁵.

Sometimes, resource owners have raised their concerns directly with the PNGFA. For example, with the Wasu project in Morobe Province, Representatives of the Nzera Clan wrote to the PNGFA on four separate occasions: in September 2022, December 2022, March 2023 and November 2023 (with the Levo Clan), bringing concerns about the project to the Authority’s attention. However, the PNGFA’s response simply argued that the clan’s concerns were too broad and declined to provide information to address the issues the clan had raised.⁶⁶ In the Mungen project in East New Britain, as was detailed earlier, the Executive Officer of the Pomio MP wrote to the local police in May 2020 about police intimidation; once again, no action was taken.⁶⁷

In 2023, a moratorium on FCAs was enacted and the PNGFA was advised to complete an audit of all existing FCA projects⁶⁸. To date, the PNGFA has failed to publish any audit findings and has not responded to requests for their release. This suggests that either the PNGFA is knowingly failing to act on information that FCAs are operating despite being non-compliant with key requirements in the Forestry Act – including denying this information to resource owners whose legal rights may be being violated, or alternatively, despite being alerted to potential legal non-compliance and violations are failing to investigate – allowing potentially illegally logged timber to continue to be exported and allowing companies to profit from the proceeds of activities that are non-compliant with the law.



Logging truck in Vanimo. Photo: Alamy Stock Photo

PART IV: RECOMMENDATIONS

The Government to suspend all log exports from FCA areas until an independent, transparent and public inquiry into the legality of all existing FCA licences and logging operations has been completed and identified steps to rectify any abuses have been implemented. It should also ensure recommended legislative and policy reforms are implemented.

The PNGFA to extend the moratorium on new FCA licences until a full government inquiry has been conducted and any recommendations have been implemented and to publish the findings of the completed audits of FCA projects.

The fraud squad, UNODC and Interpol to identify the criminal laws that may have been broken in the submission and approval of potentially fraudulent FCA applications and the removal of timber without the informed consent of forest owners.

Commercial banks to identify any customers linked to FCA logging operations and ensure full compliance with all anti money laundering regulations and bank environmental and social responsibility policies.

The diplomatic community and aid agencies to support the PNG government to implement a review of all existing FCA licences and action the inquiry recommendations. Assist the PNGFA to establish a public register of all timber harvesting operations as provided under S.103A of the Forestry Act.

Overseas timber buyers to ensure any unprocessed logs, sawn timber and timber products purchased from PNG are independently verified as coming from a valid, legally approved and sustainably managed source.



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