

The background of the cover is a photograph of a lush tropical forest. In the foreground, there is a dense line of palm trees and other green foliage. Behind them, a large, steep mountain rises, covered in a thick, dark green forest. The sky is a pale, clear blue.

REDD and Forest Land Use in PNG

Overview Report on the INA/IGES
Workshop and Issues arising

March Girls Resort, Central Province, February 17-18, 2011

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Overview Report on the INA/IGES Workshop on REDD and Forest Land Use and Issues arising

**March Girls Resort, Central Province, February 17-
18, 2011**

Prepared for INA by H. A. Holzkecht PhD
Edited Paul Barker
2011

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1. Introduction

The ‘Summary of discussions (draft 1)’ (Scheyvens, 2011) made available following the conclusion of the INA-IGES REDD+, PES and Benefit Sharing Workshop held at the March Girls Resort at Gaire (near Port Moresby, Papua New Guinea [PNG]), provides an excellent précis of the range of presentations by speakers and the main points made both in the presentations and in discussions at the ends of each session of this workshop.

It is not the intention of this Report to go over all the presentations again. Rather, this report picks up and develops further a number of issues arising from the proceedings of this workshop, as seen within the context of the discussions held in four working groups. Each of these working groups had a focal theme and each presented a set of recommendations to the workshop (set out in Appendix 1). These focal themes were ‘Safeguarding PNG’s Resources’, ‘The State and Resource Owners’, ‘International Experiences’ and ‘Way Forward: Inclusion, Transparency and Coordination’.

Much of the PNG political, economic, socio-cultural and natural resource background is assumed in this report to be reasonably well-known and understood (Amos and Gowae n.d.) and so not restated here in any major way. The overview also does not deal with REDD+ as a separate issue, since it has not yet become an official climate change instrument.

If not directly then at a deeper conceptual level there is some considerable overlap between the sets of recommendations and from this amalgam further comments will be made in this report on PES (Payments for Environmental Services) and Melanesian Carbon Property Rights.

2. Payment for Environmental Services

Payments for environmental services involve schemes where payments or rewards are given by those who benefit from environmental services, like clean and sufficient water, biodiversity, stable climate or aesthetic beauty, to those who play a central role in providing or maintaining these services (Lee & Mahanty 2009: i; Wunder 2005). Using a sustainable livelihood framework suggests that livelihoods are not just about securing financial assets, but also human, social, natural and physical assets, and this presupposes the need to look broadly at how schemes may interact with the wider range of livelihood assets.

Coming from this perspective it is clear that PES schemes can, and are, impacting rural communities in important ways. Lee and Mahanty suggest (2009: i – ii; paraphrased below) that some critical issues can be taken from recent experiences:

- Rural or poor people will benefit from PES only if they can establish and maintain recognized and strong rights to resources;
- Many schemes are bringing additional income to rural households, but the costs of participating in such schemes are high, income is lost from agriculture and other resource-use options and so the net benefits need to be worked out;
- Improving the status of natural assets is a central objective of PES;
- Where local institutions for coordination and cooperation are strong they can provide a strong basis for participation in PES and can manage the flow of benefits from PES schemes;

- Infrastructure development has been one way in which some PES schemes have delivered community-level benefits; and
- Though it can be argued that market efficiencies rather than social objectives should drive the design of PES schemes, the emerging evidence suggests that PES can have significant impacts on the livelihoods of rural populations and so help reduce poverty.

Some of the constraints, risks and opportunities presented by PES schemes include:

- Access and equity in PES schemes. Some areas of consideration include insecure tenure, small landholdings, high transaction costs, high investment costs, low awareness, education and technical capacity and who receives the benefits.
- Benefit sharing is obviously a significant part of PES schemes, in that if done well it has the potential to affect the lives of many people. Many different factors could come into play. How the benefit sharing is worked out to a level acceptable to all the parties involved, and could be seen by some as a constraint or risk, and by others as an opportunity.
- So how benefit sharing as part of a PES scheme is done is critically important, because if done well it may be the factor that makes the difference between a community supporting a PES scheme or turning its back on it.
- Secure tenure and clear rights are clearly the keys to the development of an acceptable and equitable PES scheme. So, an good working knowledge of resource tenure rights should be seen as the baseline information from which everything else flows.

To date, PNG has no PES schemes in operation, nor are there apparently any being planned or about to be undertaken, although related pilot initiatives are being pursued notably by some NGOs and at least one company.

3. Melanesian Carbon Property Rights

The importance of carbon and the ability of plants, the soil and water to sequester is becoming widely known around the world. The associated carbon property rights can be seen as an important element in the ways in which climate change challenges can be met.

When the insurance industry states clearly that carbon stored in forests (and, by implication in other resources) is a regulatory asset (Lang 2008) then resource owners, regulators, asset managers, lawyers and researchers know that this is a matter that is broadly accepted (see also Takacs 2009). That being so, it is then important to understand much more clearly who owns carbon property rights, if a national carbon property law regime exists, or must be drawn up, that can and does incorporate carbon property rights as tradable assets.

In many ways carbon property rights transcend disciplinary boundaries (Prior and Boydell 2010) and are sometimes viewed as ‘new property’ (Hepburn 2009). The context of property rights is also critical (Boydell, Sheehan and Prior 2009). All these aspects are critical when the focus turns to carbon property rights in Melanesia.

Melanesian natural resource tenure systems are actively in existence, they are highly adaptive and inclusive and, importantly, they are recognized in national constitutions across Melanesia. They are not controlled by the State, but by indigenous customary

resource owner groups; across the region virtually no natural resources (except mineral, and even that is disputed) are owned or controlled by the States, but by the indigenous customary resource owner groups. The rights to land and soil, inshore waters and forests are all owned or determined in this manner. It then follows logically that, if a clan owns the trees in a forest, then it also owns the carbon sequestered in the trees in that forest.

What is urgently needed is a definitive study that will clearly establish what the current situation is in terms of who/what owns the carbon property rights in trees across Melanesia, and whether or not that right has been transferred when the State has acquired the timber rights already and allocated them to operating (i.e. logging or forestry) companies, or through other lease arrangements. Critical evidence will be needed if/when governments in Melanesian countries are tempted to take control of carbon sequestered in forests, forests over which the State has no rights. While national constitutions recognize customary ownership of these resources, this recognition is further strengthened by the State making payments for logging rights to sell on to logging companies.

4. Discussion

There are many points of importance and interest that could be followed up from the above information, all of them relevant to PNG's (and its neighbours') evolving situations. The INA-IGES Workshop once again highlighted a number of these issues, although it is disappointing that a large number of the recommendations from the last of these Workshops (INA 2008 and INA-IGES 2010) have again been repeated in the 2011 Workshop suggesting that little or no progress has been made in the intervening period.

In this section, and based in part on the information provided in points 2 – 5 above, I will focus further discussion on 'SABLs', on 'Rights and Responsibilities; proactive communities' and, finally, on 'Way Forward: transparency, inclusion and coordination'.

A. SABL

The SABL ('Special Agricultural and Business Lease') issue has been one of the emerging scandals in PNG in recent times. Individuals, singly and in small groups, have in purposeful ways made use of loopholes contained in s.11 and s.102 of the Land Act 1996 to disenfranchise many PNG customary landowners from large tracts of land and forests and to seek to enrich themselves by selling the 99-year leases to outsiders. This loophole allows for the relatively innovative lease-leaseback provisions existing in the Land Act 1996 to clandestinely convert land from informal institutional arrangements and, through the services of the responsible Minister or alternate, put it into the formal sector (pers. comm., Prof. S. Boydell; Filer n.d.: 2).

This method enables 'customary landowners' to grant a 99-year lease to the Minister (in reality, the State) at no rent; he (or his agent, normally the Secretary for Lands or alternate) then, in theory, leases it back to them for the same 99-year lease also at no rent. However, s.102 also allows the Minister to use discretionary powers to lease the land out to a third party, also at no rent. In practice, and with virtually no public knowledge (even by many, most or all of the affected customary landowners), between July 2003 and early 2011 some 5.5 million hectares of land have been effectively alienated for 3 generations at no rent, in what can be seen as a major land

grab by outside investors, (data based upon analysis of Gazettal notices by B Aldrich). This amounts to some 11% of PNG's total land area (Filer 2011: 2). These activities also connect with a worldwide trend in 'land grabbing', some of which has been documented (see Cotula *et al.* 2010).

This outcome highlights some serious flaws in the Land Group Incorporation Act of 1974 and/or its application (and not fully corrected in the recent draft revised legislation passed in 2009 and awaiting gazettal); these flaws are contained in establishing the burden of proof to verify the genealogies put forward as part of the ILG ('incorporated land group') process. This burden of proof has in very many, likely most, cases not been followed through. In very many cases there has been no attempt made to follow the legal incorporation process to verify this burden of proof, as set out in the 1974 Act, and so should not have been approved and registered; nevertheless they were; (note, the Forestry Act requires vetting prior to approval of Forest Management Agreements – FMAs, but the SABLs are clearly being used, in many instances, as a mechanism to by-pass the requirements of the forestry legislation).

This highlights the lack of basic monitoring and checking in those government departments, required to check that all procedures have been followed and all requirements complied with and fulfilled; admittedly the financial and manpower resources to do such monitoring effectively have also not been made available to those departments. In this case the relevant government department is the Dept. of Lands and Physical Planning (DLPP), operating with tacit support from, or even facilitation by, the Dept. of Agriculture and Livestock, in the form of having the supporting documentation signed. In theory, again, the approvals process outside DLPP should have gone, or should also go to the PNG Forest Authority (PNGFA) since all the large alienated areas in question are forested, or substantially forested, and so would require PNGFA to issue 'Forest Clearance Authorities' (FCAs). In practice the PNGFA may have taken, or sought to take a harder line on this issue, notably where they consider these are essentially forestry projects, but their position is undermined somewhat by recent amendments empowering DAL to determine whether they are principally agricultural projects (hitherto PNGFA was under more legal duress to verify whether the proposed project was, or was, not a genuine forest conversion). DAL has seemed to be rather compliant when promoting such proposals, with little apparent verification or provision of evidence.

While some Institutes (including the INA, notably in its newspaper column) and NGOs were beginning to draw attention to this manipulation of the law, their efforts initially did not seem to gain much traction. However, since these so-called SABL leases have become public knowledge, it has become increasingly clear that a huge majority of customary resource owners knew nothing about these developments covering their ancestral lands and other resources. There is increasing evidence that very few (if any) customary landowners gave their 'Free, Prior and Informed Consent' ('FPIC') to these developments. Filer's recent case study of land grabbing (n.d.) sets out one set of circumstances that lead to the sale of all of Lavongai Island, New Ireland Province to a Singaporean firm for a virtually nominal US\$1.6 million in 2009.

From all the above it is clear that the SABL situation was out of control and needed to be challenged, notably in court and shown to be illegal and the areas of land involved

revert back to the customary clan owners. Following the INA-IGES workshop in February 2011, the quick action by the NGO CELCOR, notably through Mr. Damien Ase and his staff (CELCOR and FPP 2011), to alert both the UN system (Human Rights Commission) and other interested parties (including within government) to this apparent travesty of justice, has been a major factor leading to the appointment of a Commission of Inquiry into SABLs announced in early 2011 by then Acting Prime Minister, Hon Sam Abal, MP. (The terms of reference for the CoI and the CoI members had not yet been made public and no starting (or completion) time has been announced, at the time this report was prepared).

B. Rights and responsibilities; proactive communities

PNG customary tenurial rights over land, forests and other natural resources are established by the kinship systems that apply to each social and linguistic grouping. So, if these rights are inherited patrilineally, then these access and ‘ownership’ rights are passed on at birth from male ancestors through the male line. In matrilineal systems these rights are passed on in the female line (though males in each generation may do the actual managing). And there are many variations on these in combination.

The point made here is that, while the holding of these rights is important for each individual, (so making their ‘permanent’ rights pre-eminent in any landownership determination, what is often forgotten is that these tenure rights are just as important for the maintenance, indeed the very existence, of the landholding unit, usually a clan. Thus individuals have these rights, but these are balanced by responsibilities. The latter are not only to one’s immediate family through the provision of food, shelter and security, but also to one’s lineage and clan for security, survival and individual and community well-being.

Rights and responsibilities, in terms of tenure and natural resource management, are thus inexorably linked. Where it is evident, is that these two characteristics have become decoupled and are being exercised separately, and that it is clear that there is a breakdown of the system and this is leading inevitably to exploitation and manipulation. Examples of this are very clear in the SABL situation and the lack of free, prior and informed consent to any of those transfers of ownership of large areas of land and their resources. There is increasing evidence to show that there was no FPIC granted by any landowners, and that there is no evidence that this process was even attempted.

From the above, it is clear that the current ILG processes are only partly being put into practice. This is due to a number of factors, including the following:

(a) ILG Facilitation

Individuals who are leading the facilitation work to set up and register ILGs are clearly not fully familiar with what they are meant to be doing. The focus is also on a question: are they working to help their land group communities to get themselves organized or are they being paid by logging and other companies to rush through the process quickly, without paying much attention to accuracy and establishing burden of proof? Another question is: are facilitators aware of the requirements under the Land Groups Incorporation Act, 1974, as well as trying perhaps to circumvent the amended legislation, prior to its application?

Individuals wishing to provide facilitation services to communities, clans or commercial enterprises should go through a certification process, entailing thorough

vetting) to ensure that they are aware of all the ramifications and legal requirements of the ILG process and requirements of how ILGs should operate after establishment. After a suitable phasing-in period only trained, certified and audited ILG facilitators should be employed by commercial enterprises to carry out ILG facilitation and advisory services.

(b) Individuals and Priorities

Both the SABL situation and other related developments show that there are individuals, now often based in the capital or in other urban areas, who are acting purely for their own monetary benefit and riding rough-shod over the attendant rights held by customary resource owners through their customary clans (or land groups). Concerned and knowledgeable individuals and communities need to be vigilant in holding on to their natural resources and implement ways by which FPIC is a first and necessary step in considering any developments and where the rights on the land group are as important as those held by individuals.

(c) Safeguarding PNG's natural resources

Despite the enshrining of customary resource tenure rights in PNG's National Constitution, the State has been reticent in protecting these rights to the primary customary rights holders. One of the outcomes of this negligence has been in the almost non-existent resourcing, to date, of the Incorporated Land Group Registry in DLPP, both in terms of funds and manpower.

(d) Enabling the ILG Registry to work better

From an institutional point of view DLPP has neither the funds nor the manpower to carry out the important monitoring and checking functions that are critical parts of ILG process before and ILG application is approved and registration occurs.

The fact that the national ILG Registry has obviously not been able to function properly for some of the reasons mentioned above, begs the question whether there might be better ways to provide the necessary support to ILG processing, evaluation and monitoring. (Whilst some, like Donigi et al, may counter that the ILG process is applicable or the most suitable for addressing major resource issues, it remains clear that the mechanism has been prevented from even proving itself, by the complete lack of human or other resources or oversight; these must clearly be addressed to even provide a starting ground for effective application).

One way forward could be to have the effective registries managed at a provincial level, with a link into a national registry to be maintained as a back-up system, and for monitoring. At the very least, the costs associated with the verification of ILG applications would be significantly reduced by a provincial focus. A provincial registry would also be that much closer to the land groups seeking to register themselves as ILGs (and not just the paper landowners, prevalent in NCD).

(e) Lack of involvement of public servants in the ILG process

It is also likely that the other public servants, who in the 1974 legislation are part of the process of checking and securing the burden of proof at district and local government levels, know little of what their responsibilities are under the legislation.

(f) Revised Land Groups Incorporation Act 2009

The National Parliament passed a revised version of the Land Groups Incorporation Act in 2009. However, to date this revised act – an outcome of the National Land

Development Task Force – has not yet been gazetted and therefore is not in force. It would be a worthwhile exercise in the near future for some technically competent persons (including someone with competence in customary land tenure systems) to examine this new Act specifically in terms of the SABL, and other developments that have taken place since it was drawn up, to ensure it will be sufficiently resilient to address this issue effectively.

C. Way Forward: Transparency, Inclusion and Coordination

REDD+ appears to be an excellent instrument, in theory, to encourage and provide potential opportunities for natural resource owners to manage their resources much more effectively to meet international objectives and gain some tangible local benefit; (if not necessarily the most efficient mechanism for emission control and climate management). However, until this approach has become a legal international mechanism with the right number of signatories/participants to enable it to work effectively, REDD+ remains a promising approach.

The link between the REDD+, PES (Payments for Environmental Services) and Benefit-sharing frameworks adds significant dimensions for customary resource owner communities the world over. In PNG this is even more important in that customary land groups hold natural resource ownership rights, not the State. In many other countries the State owns and controls all the rights to natural resources, and individuals and groups are required to lease areas of land or forest from the State for shorter or longer periods; these leases often containing a range of restrictions limiting lessees to what they can do with those natural resources.

PES frameworks (including the voluntary carbon market), too, have not yet been proven (in the Melanesian context) to provide effective incentives. Perhaps, only when REDD+ becomes an official instrument and has the appropriate PES resources, with suitable procedures and operational scale established, will it be possible to make such as evaluation. Although PES schemes have been operational for some years in various countries, from Europe to China, but in the meantime, in PNG at least, little reliable information has been circulated among resource owner communities to canvas this kind of approach, and to date the ‘carbon’ market has remained too tenuous and inadequately funded to provide a reliable and competitive alternative payment system. When adequate awareness and resourcing is finally provided (including from official sources), then communities can better evaluate its suitability for their needs, based on knowledge and an understanding of tangible options, and depending upon this may become interested in long term PES and the attendant requirements.

In order to further strengthen the imperative of keeping forests standing (or at least significantly reduce deforestation), other supportive elements will be needed to further encourage this approach. These supportive elements need to include a range of activities that both add income generation activities to a community and a range of new possibilities for employment within village communities, as well as ensuring effective distribution to ILG/clan members, as needed for long term support, rather than siphoning off benefits to a few clan members/ or representatives.

Ways forward for customary resource owner groups and institutions, and organizations that work to support them, need to focus on approaches that both preach and practice transparency, inclusion and coordination.

These issues point to the great and urgent need for all parties to be involved in awareness raising and in enabling access to clear, unbiased and accessible information through every means possible. In the climate change context in PNG to date, the related issues of awareness raising and access to information have been sadly lacking from the government side (as well, apparently, as achieving consistent and tangible policy or implementation progress); this is an unfortunate situation given that the state owns or controls very little of the natural resources in the country. Who will step up? Pilot initiatives (with international funding), both entailing the science, notably of carbon absorption with different species in different conditions in PNG, but also trailing different models in PNG's different social conditions, have been restrained by an apparent inclination towards centralized control, by government or its agents.

4. Conclusion

Many of the issues raised in this report are ones that were touched on either directly or indirectly, superficially or in depth, by presenters and discussants and in broader discussion during the INA-IGES Workshop in February, 2011. What is of some concern is that many of these issues were also raised, discussed and recommended on as outcomes of the previous INA-IGES Workshop in 2010 and the INA 2008 workshop, as well as in other events hosted by other parties.

A number of developments since the 2008 workshop – including the substantial burgeoning of SABL developments – lead to the conclusion that customary resource owner groups now need to be empowered to undertake a much more proactive approach, that is protective of their tenure rights to a range of natural resources, both to recoup their resources, as well as safeguard land/resources still uncommitted under these mechanisms. The SABL Inquiry also needs to be granted adequate powers, financial resources and duration to undertake a rigorous probe, without fear or favour, and to provide adequate legal guidance and effective policy recommendations. Government then needs to follow up with commitment on those recommendations, in a manner it has sadly failed to do in some recent inquiries.

Customary land groups are, therefore, urged to work more proactively to find ways to protect themselves against some of the nastier methods being used by individuals to enrich themselves, often at the expense of members of their own clans. For landowner communities to act and react proactively they need to be empowered with much more and clearer information and access to legal advice and the courts, if necessary, but with the Government itself taking legal action (and policy/legal reform where necessary, to wipe out loopholes etc) and providing tangible legal support to clans and households, partly to rectify the discrepancies and malpractice of some of its own agencies and officials.

References

- Amos, G. and Gowae, G. n.d. PNG Country Presentation “Challenges and Expectations in Linking Sustainable Forest Management and Climate Change”.
- Boydell, S. and G. Small 2003 The Emerging Need for Regional Property Solutions – a Pacific Perspective. Brisbane: Pacific Rim Real Estate Society Ninth Annual Conference.
- Boydell, S., J. Sheehan, J. Prior, S. Hendy 2003 Beyond the bundle: expanding our understanding of contemporary Property Rights. Presentation to Pacific Rim Real Estate Society Ninth Annual Conference. University of Technology, Sydney: APCCRPR (Asia-Pacific Centre for Complex Real Property Rights).
- Boydell, S., J. Sheehan and J. Prior 2010 Carbon Property Rights in Context. *Environmental Practice*, 11: 105 – 114.
- CELCOR and FPP 2011 Violation of Indigenous Peoples’ Property Rights and the Right to Effective Remedy: The Rights of Corporations Privileged over the Rights of Customary Land Owners in Papua New Guinea. Report to the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People. Port Moresby: CELCOR and Forest Peoples Programme.
- Cotula, L., S. Vermeulen, R. Leonard and J. Keeley 2010 Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa. London: International Institute for Environment and Development.
- Filer, C. n.d. The New Land Grab in Papua New Guinea: A Case Study of Land Grabbing in New Ireland Province. [Draft]
- Filer, C. 2011 The Political Construction of a Land Grab in Papua New Guinea. Paper presented at the International Conference on Global Land Grabbing, 6 – 8 April, 2011. Future Agricultures Consortium, Institute of Development Studies, University of Sussex.
- Hepburn, S. 2009 Carbon Rights as New Property: The benefits of statutory Verification. *Sydney Law Review*, 31: 239 – 271.
- Institute of National Affairs 2008 Climate Change, Forests and Carbon Trading. Report from the Workshop. INA: Port Moresby.
- Lang, C. 2008 The insurance industry on carbon stored in forests: ”It’s a regulatory asset.” <http://www.redd-monitoring.org/2008/12/10>
- Lee, E. and S. Mahanty 2009 Issues Paper: Payments for Environmental Services and Poverty Reduction. Bangkok: RECOFTC.
- Prior, J. and S. Boydell 2010 Understanding property rights in carbon: A methodological inquiry. COBRA 2010 Legal Research Symposium.
- Scheyvens, H 2011. 2011 INA-IGES REDD+, PES and Benefit Sharing Workshop: ‘Summary of discussions (draft 1). Typescript.

Scheyvens, H. 2010, Institute for Global Environmental Strategies (IGES). INA / IGES PNG Situation Assessment for REDD, REDD Capacity Building Workshop and Building Consensus, 01-03 March 2010, Gaire, Central Province, PNG: Summary. Typescript
Rapporteur: Henry Scheyvens

Takacs, D. Forest Carbon Law + Property Rights. Arlington: Conservation International.

Wunder, S. 2005 Payment for Environmental Services: Nuts and Bolts. CIFOR Occasional Paper No. 42. Bogor: CIFOR.

Appendix 1: 2011 Workshop working group recommendations

Group 1: Safeguarding PNG's Resources

Main Risks

Action Points

- | | |
|--|--|
| (i) Social risks – conflicts | * Grievance process
* International Convention on rights |
| (ii) Lease-leaseback system | * Legal fund to challenge cases
* Moratorium in SABL
* Leave the process to FCAs
* Assessing viability of agricultural proposals |
| (iii) Improper ILF formation/illegal ILG process | * Improvement of civil registry
* ILG process needs to be strengthened |
| (iv) Insufficient data on natural resources | * Emphasis on improved database of natural resources and information gaps |
| (v) There is no mandated DAL policy/
no legislative mandate | * No major influence on FCAs or lease-leaseback
* There should be a tribunal where land-owners can raise their complaints on lease-leaseback or illegal land grabbing
* There should be a maximum limit to FMAs/TAs/FCA land sizes
* Give mandate to administrative process away from legislative powers. |

Group 2: The State and Resource Owners

1. Suspend/impose moratorium on granting SPABs
2. Ensure all consenting parties including LLG/WC agree to application
3. Judicial Reviews on:
 - a. SPABs
 - b. FCAs
 - c. Export permits
 - d. Revisit ban on round log exports
4. “Conditions for Norway” deals
5. Establish independent multi-stakeholders’ administered fund for REDD
6. Resource Inventory & Management Plans at Provincial Level for REDD Readiness
 - a. Workshop
7. Substantial funding towards institutional support from US\$6.4million UN REDD support.
8. Sack KC
9. Explicit reference under Forestry Act that landowners have ownership rights over carbon

Group 3: International Experiences

1. Clan-based participatory land use plan – a pre-requisite
2. Participatory organizing towards micro-savings and economic enhancement
3. Develop REDD as just one of several income sources for communities

- a. Mama Graun Trust Fund
- b. National Microbank
- c. National HIV/AIDS Council

Group 4: Way Forward: Inclusion, Transparency and Coordination

1. Laws

- a. Review relevant regulation – revoke regulation on discretionary powers
- b. Sort out rights to carbon- Under FMA
- c. Clarify whether lease-leaseback void with customary act
 - i. Interim step to ILGs to make flexible
- d. Develop legal mandate to make ministers and public servants do their job
- e. Whistle-blower regulation

2. Build on PNG Home Grown

- Initiative
- New Pilot Areas should be based on previous experience
- All new Forest Areas should be required to get FSC

3. Lack of Co-ordination by Government Departments

- a. Name and Shame

4. Implementation

- a. Allocation enough resources to do the job
- b. Reinforcement of Ombudsman
- c. Enforce legal mandate (as per 1)
- d. Timely dissemination of Information

5. Conflict Resolution

- a. Establish tribunal to resolve tensions without recourse to courts

INA-IGES REDD+, PES and Benefit Sharing Workshop

Feb. 17 – 18 2011, March Girls Resort, Gaire, PNG

Summary of discussions (draft)

prepared by Henry Scheyvens, IGES)

DAY ONE

Session 1: Introduction, Situation Review and State Context

Paul Barker (INA)

Paul explained the purpose of the workshop and the agenda. He explained that Special Agricultural and Business Leases (SABLs) had been discussed at the REDD+ workshop in March 2010 and that in the course of one year had become of even greater concern with over 5 million ha now under SABLs. Regulatory instruments are in place to control land and resource use but people are finding ways around these. Of major concern is the fact that the Government agencies that are in place to enforce the regulatory instruments are all unable to effectively do so because of corruption.

Henry Scheyvens (IGES)

Henry noted that funding for the workshop was provided by the Ministry of Environment of Japan. AusAID funding was also used by the Crawford School, ANU, to bring participants to the workshop. The main expectation from IGES and Japan's Ministry of Environment was that the workshop was used as productively as possible to enable PNG to move forward on the issues surrounding REDD+.

Rufina Peter (INA)

Rufina presented the recommendations from the INA-IGES REDD+ workshop in March 2010 and discussed where progress had and had not been achieved. She noted that:

- There has been progress on policy and awareness, but there is still need for proper coordination of REDD+ efforts.
- On consultation for the formulation of the climate compatible development plan: The plan was circulated to all NGO members for their input.
- Many of the recommendations are still clearly valid, such as the need for: regular updates on readiness activities (e.g. through workshops organized by Government and development partners); a database on NGO REDD+ -related activities; capacity assessment; an accessible pool of climate/forest resource and PES/REDD+ specialists to provide impartial advice to resource owners; a credible climate trust fund; actions to improve land governance to properly regulate the granting of land leases; verification of basic service delivery as a

prerequisite for REDD+ projects; better representation of PNG interests in the international climate change (CC) negotiations, including collaboration between NGOs and government to present a united PNG voice.

Paul Barker (INA)

Paul extracted the need for more communication, more information sharing, and finding ways to move forward as a key message from Rufina's presentation.

Gwen Sissiou (Office of Climate Change and Development (OCCD) – MRV and National Communication)

Gwene described the progress that Government had made on REDD+ since January 2010: technical working groups were established with representatives from civil society, private sector and the Government to refine the REDD+ strategy; the Cabinet established the National Climate Change Committee (NCCC), and the OCCD, headed by Dr. Wari Imo (Cabinet abolished the OCCES); the Climate-Compatible Development Strategy (CCDS) was released; and provincial/local consultations and pilot projects began.

The NCCC meets every 6 months and is represented by the key ministries. The NCCC reports to the Prime Minister and advises the OCCD. The 4 technical working groups (TWG) (REDD+, Adaptation, Low-carbon growth, and Consultation) meet bi-weekly.

The PM has stated that PNG plans to cut emissions by 50-75% by 2030 and become carbon neutral by 2050. Mitigation and adaptation priorities have been identified. For REDD+ these are: review of agriculture leases; locate palm-oil on non-forest land; afforestation/reforestation programs; secondary forest management; reduced impact logging. OCCD with the REDD+ TWG produced the REDD+ Project Guidelines to guide REDD+ project development. UN-REDD has approved \$6.4 million for PNG's National Joint Programme (NJP). An MRV workshop will be held next week under the UN-REDD NJP and all participants at this workshop are invited to attend.

Justin Ondopa (Eco-Forestry Forum - EFF)

Justin explained that the EFF has recently set up a small desk on CC issues, including REDD+. The desk focuses on awareness and capacity building. The EFF argues that a whole-of-government, multi-stakeholder approach is necessary to reflect transparency in every process of REDD+. Its position on REDD+ highlights the importance of governance; free prior informed consent (FPIC); equitable benefit sharing; sustainable land use; and rights (indigenous and community).

Discussion with the floor

- The policies on REDD+ presented here by Government all look well and good, but is there any evidence of a real effort in terms of political and policy decisions to reduce the bulk of emissions which is coming from poor forestry and conversion of forests under agriculture lease arrangements? And, who is on the OCCD Advisory Board?
- (OCCD) The Advisory Board is yet to be established but will include government and development partners.
- From 2004 – present, ~5 million ha has been allocated for agriculture leases. In 4 to 5 cases the landowners have taken the leases to court and were

successful with their claims. Can you please clarify how the OCCD has taken up the issue of the SABLs?

- (OCCD) We now have a draft Cabinet submission on the interim suspension of new agriculture lease approvals. We have been to one agriculture lease where we found there was selective logging but no agriculture taking place.
- (PNG Forestry Authority – PNGFA) We would like to see greater consultation with the provinces/communities on the NJP.
- Will there be any forests left by the time we have an international mechanism for REDD+? I was astonished by the hypocrisy when the PM went on the international stage to talk about climate change.
- (UN-REDD) We would like to meet with EFF partners on the NJP.

Session 2: Safeguarding the resource base – State of PNG’s forests and land

Paul Barker (chair)

Paul argued that there is a need for Government, supported by NGOs and others, to work together to effectively regulate agriculture land leases. This needs to be done quickly because people who want access to forest resources and land are moving quickly to secure this access before tighter controls are introduced. Indeed, this reflects the same experience we had at the time of the introduction of the new Forestry Act in 1991. The Act brought in much tighter regulation of forestry projects, and its introduction was purposefully delayed to allow a large number of projects under the old arrangements to be endorsed.

Goodwill Amos (PNGFA)

Because of a lack of resources PNG’s forest resource data is poor. We were not given resources to improve our data, despite our requests. Instead, we were told to develop more projects.

PNGFA is developing REDD+ pilots in 4 provinces – Sandaun, West New Britain, Milne Bay, Eastern Highlands – that represent the four regions. The REDD+ pilots are taking up 4 approaches: 1. reduced impact logging (RIL), 2. secondary forest management, 3. afforestation and reforestation, and 4. forest conservation.

The recommendations include a National Land-use and Land Care plan, secure long term Permanent Forest estates for 50 years, and a thorough screening of (Forest Conversion Authority (FCA)) applications.

Tony Power

Tony questioned whether there is deliberate conniving by the government in not certifying the amendments to the Incorporated Land Group (ILG) Act. It could be argued that all the agricultural land leases are illegal. The land leases encompass the whole land of the landowners, whereas the amendment talks about “portions” of land. Other contradictions can be found. The Lands Dept. are displaying incompetency and ignorance in implementing the amendments. Even the term lease-leaseback is a contradiction. The landowners in all the areas of lease-leaseback are now legally landless for up to 99 years, but they don’t yet realize this.

Tony explained that he married into a clan 40 years ago and is Secretary of their ILG, but without his knowledge all of the clan's land went under a lease-leaseback arrangement to a foreign company. This was organized through bribes and corruption. Our (PNG) people cannot comprehend that the ILG is a corporate entity, but they will have to under the new amendments which requires them to behave as such, e.g. transparency requirements.

Nicodemus Mosoro (Department of Justice)

Nicodemus presented on the functions of the Department of Justice and the various types of assistance it can provide to the Department of Environment and Conservation (DEC) and the OCCD. For example, the Department can undertake a gap analysis to identify requirements of the regulatory framework on climate change.

Ezekia Warvi (National Land Development Program)

Ezekia explained that the National Land Development Program (NLDP) relies on the goodwill of the agencies responsible for implementation. It does not have its own Act.

The NLDP focuses on improving land administration, strengthening land dispute resolution processes, and the development of customary land (on which the SABLs impact). The NLDP is telling the Department of Lands and Physical Planning (DLPP) to stop the agriculture business leases but it has no legal "ammunition" (i.e. no Act) to force a change.

Henry Wasa (Department of Lands)

An office of Customary Land has been established within the DLPP. Some internal processes are now being implemented to ensure that the landowners are properly consulted in the arrangements for lease-leaseback agreements.

Ian Orrell (Oil Palm Research Association)

Ian discussed the history of palm oil in PNG and the challenges it is now facing. Palm oil was first established in 1967 and the last "new" development was in 1987. Since 2000 palm oil has become the dominant agricultural export for PNG. The export revenue is now > 1 billion Kina. After the public service, palm oil is the largest employer in the country.

In terms of growth of volume, we see a linear growth for palm oil as could be expected without any new developments. The total area is about 130,035 ha (about the size of a medium Indonesian company).

All PNG palm oil companies achieved ISO 14001 and they are now either certified under the Roundtable on Sustainable Palm Oil (RSPO) or are in the process of certification. This has required a large investment in sustainability and significantly increased production costs. RSPO certification is not a simple add on. It has required profound changes. All PNG palm oil goes to the European market, which is very sensitive to traceability and sustainability.

Production costs in PNG are high and timelines are long. Therefore, PNG can compete on sustainability but not on costs. It produces 37% of global certified sustainable palm oil (CSPO) and 80% of smallholder palm oil, even though its total share of global production is small.

In terms of growth potential, there is little alienated land available. Expansion could be via smallholders and lease-leaseback sub-lease arrangements with customary landowners. Under the RSPO, the growth focus must be on yield intensification and on non-forest land. PNG is only capable of one new palm oil development every 10 years.

Over the past 15 years the government has facilitated new palm oil development, but all that this has resulted in is the conversion of forest; not one new drop of palm oil. The government has no expertise on palm oil development in this country but it has not consulted with industry in the development of its policy. We see the emergence of many palm oil agro-forestry projects, all with a focus on securing FCAs. Palm oil development does not need an FCA. Rather, we are experiencing a land grab using SABLs that is posing a huge reputational risk to our industry.

The SABLs should be assessed for their finances. A 10,000 ha palm oil operation with processing mill requires investment of ~250 million Kina.

Warren Dutton (NFR)

Warren explained that leases over 2 million ha of Western Province have been granted by the Secretary of Lands. We have been supporting the local people to produce rubber and they have done this successfully with a 20% return. This gain is through their hard labor. At 3 Kina/kg the value of this rubber is 60 million Kina. The landowners have legally lost the ownership of their rubber since the granting of the lease.

In one case a 600,000 ha lease was granted by the Secretary of Lands. A company was set up to represent 81 Incorporated Land Groups (ILGs) in applying for the lease, but the lease was granted for a much greater area that could encompass another 100 ILGs. The Dept. of Lands is supposed to have its officers conduct boundary surveys with the landowners before granting a certificate. This clearly did not happen. The lease is over parts of land with existing leases held by the churches. This is clear negligence from the Dept. of Lands.

PNG does not need leasehold title. It needs the simplicity of a freehold title registered to the people. All we need to do is to register what is their right.

Damien Ase (CELCOR)

Damien noted that last year over 2.6 million ha were allocated under lease-leaseback arrangements. He explained that CELCOR provides free legal support to landowners to protect their rights. Under the Land Act 1996 the State acquires land from the resource owners through either compulsory acquisition or lease-leaseback arrangements. The traditional landowners are not allowed to sell their land to foreign interests. CELCOR argues that when land is leased for fixed term periods it becomes important to have effective review of leasing arrangements in the cases where the outcomes for traditional owners are negative.

The law provides for a process called lease-leaseback wherein the State can acquire a lease from customary owners and re-issue a lease on that land for agricultural or economic development purposes. These are referred to as Special Agriculture and

Business Leases (SABLs). Before a lease can be issued, an investigation by a “peer” must be conducted and a certificate of alienation must be issued on the basis that the landowners do not require the land for the period of the lease.

Under the Forestry Act 1991, the concept of a Forest Conversion Authority exists. Logging companies are using FCAs to avoid the lengthy 35 step process outlined under the Act for the development of a forestry project. When a SABL is issued it must, by law, be announced in the national Gazette.

There is widespread concern in PNG that many or a majority of these leases have been obtained without the consent of the customary land owners. The Minister of Justice called for a commission of inquiry to investigate the Lands Dept. In the case of Musa Valley vs Dept. of Land and Physical Planning the landowners successfully challenged a 99 year lease showing that only 10 of the 66 ILGs in the affected area had given their agreement for the lease.

There are various loopholes in the law that are being taken advantage of to organize lease-leaseback agreements. Any registered entity (association, etc.) can apply for a lease-leaseback, without first checking with the landowners. The courts are very clear that free prior informed consent (FPIC) is a right held by indigenous people. On this basis alone, all the lease-leaseback arrangements can be viewed as illegal. CELCOR recommends 7 steps to communities for achieving FPIC: 1. Find out who is developing the proposed project; 2. Request information from the developers; 3. Hold discussion within your community; 4. Negotiate with developers; 5. Seek independent advice; 6. Make decisions as a community; 7. Maintain on-going communications with the project developers.

CELCOR recommends greater access to information; establishment of an independent land tenure tribunal to provide accessible review for customary owners to challenge leases issued on their lands; review of the Land Act 1996, especially Section 102, to ensure that the intention of lease-leasebacks to give people access to capital is preserved; and an independent and skilled panel to examine all SABLs issued in 2010 and earlier to ensure that in cases where consent has been engineered, fraudulently obtained or manipulated, that the rights to land and resources are returned to the customary owners and the leases cancelled.

Lester Seri (Collingwood Bay)

Lester described the history of local resistance against logging and other resource developments in Collingwood Bay. In 1984/5, 1988, 1992, 1998 and 2004/5, the local people successfully resisted logging and other projects. In 2007, a 85,000 ha permit was granted. The conversion of the land title from the landowners to the State sparked physical confrontations amongst landowners. CELCOR has taken the permit to court. A palm oil project was approved in 2009, but again landowners are resisting this.

The major problems that need to be addressed are negligence and lack of due diligence within the agencies responsible for implementing the laws. The people responsible for the REDD+ policy and framework must be aware of the realities on the ground. Even the courts have not been able to stop the corruption, etc. by which business interests are attempting to access forest resources.

Colin Filer (ANU)

Colin argued that the lease-leaseback system was made redundant by the amendments to the Land Act. The purpose of the lease-leaseback system was to allow people to register their land for legal title. This is no longer required by the amendments.

Discussion with the floor

- PNG is one of the few countries in the world that has a national FSC endorsed forest management standard. This provides us with an opportunity to address the bad international image that PNG forestry has. Why is PNG not using this opportunity?
- In 2009, PNG announced that it would not allow planting of palm oil on peat. Nitrous oxide emissions from fertilizer can be managed through good agricultural practices. Methane capture sources can be attached to the palm oil effluent. Standards will be introduced on carbon and these will contain a threshold for conversion.
- To remove the discretionary powers of the Minister on lease-leaseback a submission has to be made.
- (Lands Dept.) If there is a moratorium in the low carbon development plan then please bring this to our attention.
- A moratorium would be a way to appeal to international partners for more funding.
- Will the Land Dept. continue to issue certificates based on fraudulent materials? There are 5 million ha fraudulently alienated under lease-leaseback. We need more than a moratorium. We need a way to wipe all of these to “clean the nest.”
- (Lands Dept.) If you can provide documents that are legally sound we can take action on land leases.
- We need a tribunal or another type of process to deal with complaints on lease agreements. Currently, the only option for the landowners is to take their claims to court, but this is costly and the courts are overwhelmed by these cases.
- Within 6 months of a lease being granted, if they want to dispute the lease the landowners must notify the State that they intend to take court action. There is possibility of extension of the period of notice if permitted by the Attorney General. If they fail to give notice within 6 months, then the landowners at most could sue the companies for environmental infringements, etc. This requirement for notice must be removed. There is no good reason for this requirement in terms of the rights of our people that the Constitution aims to protect. Indeed, this requirement could be challenged as unconstitutional.
- We need to deal with the old leases first then put the new leases on our agenda.
- The issue of corruption in the Lands Dept. needs to be dealt with.

Session 3: Positive REDD+/PES Experiences in PNG, in the region, and internationally

Tanya Zeriga-Alone (WCS)

Tanya described the REDD+ project in Makira, Madagascar, implemented by the World Conservation Society. The objectives of the project are relevant to PNG, e.g. community engagement for multiple purposes including food security. Also relevant is the fact that some of the credits were used to finance land zoning. 50% from the sale of credits is allocated to the communities.

Based on a survey of ~ 500 people in villages in PNG, WCS believes that PNG presents some opportunities/advantages for REDD+, namely that: PNG has intact forest; people can see and feel impacts of CC; people want information/technical assistance to help themselves; people need leadership; people want low impact forest projects; through partnerships, PNG can successfully do REDD+; involving forest owners will contribute to permanence.

Peter Dam (FORCERT)

Peter argued that we need to think about environmental services in terms of community survival, not money. Communities need to prepare for CC. Land use planning is part of this preparation but is only sustainable when it is bottom up, i.e. communities decide themselves on long-term land use. There will be no “permanence” unless higher land use plans are based on community land use plans.

REDD/PES should be part of an overall plan to assist communities in CC adaptation. Government should show it is serious about promoting REDD/PES by stopping all large-scale logging and agricultural projects. Do the people of PNG trust their government to handle income from PES on their behalf? Transparent management and payment systems are needed.

FORCERT is now exploring the options of PES as an additional resource management and income generation option for eco-forestry operations. Trial forest carbon inventories have been conducted by 7 communities. Impact monitoring of portable sawmill operations in 2 communities is underway.

FORCERT is also part of a group of people who have proposed a PES system for PNG and presented this to Government.

Yati Bun (FPCD)

Yati explained the core business of FPCD as onsite training of forest resource owners to manage and develop their forest resources and benefit fully from them. FPCD has 5 project sites with a total of 8,500 ha under sustainable forest management (SFM) and is marketing FSC certified timber (volume of 60m³ and sales of 120,000 Kina since 2007).

FPCD is now involved in REDD+ activities at the forest management area (FMA) and district levels. At the FMA level FPCD is working with the 5 certified communities on carbon stock assessment. At the district level, in one district FPCD is supporting the development of an integrated land use management plan and will monitor changes in forest carbon stocks using remote sensing data from 3 different periods.

Luca Tacconi (ANU)

Luca explained the concept of PES and the findings of a global study on PES practice. It is important to recognize that there can be trade-offs between the different services provided by forests, e.g. an activity to improve carbon stock conservation could negatively impact biodiversity.

Additionality is an important test for PES but it is a complex issue. We have a complex situation in PNG where the current high rate of conversion in PNG under the agriculture lease arrangements means that PNG could easily meet additionality requirements.

A global study has found that participation by poor households in PES is possible, but is often hampered by tenure, labor, capital needs and transaction costs. Transaction costs can be brought down by collective contracts and by strengthening/recognizing local rights. The study also found that individual payments were a small % of household income and were used for private consumption. In contrast, collective payments were invested in infrastructure and services. The timing for payments is important with ongoing payments providing an incentive to maintain the environmental service.

Payments can generate conflict at the community level; processes that decide who and who does not participate are important to consider. The study also found weak evidence of change in access to resources because the projects were on private or collectively owned land, and that the monitoring of environment outcomes is weak.

A strength of PNG is strong customary tenure. Most PES experience is on private lands so there are not many lessons we can take for PNG on community management of PES.

Rosa Koian (Bismarck Ramu)

Rosa explained that the main focus of the work of Bismarck Ramu is on community support. In 2010, Bismarck Ramu conducted a study on CC impacts focusing on sea level rise and inland flooding. The critical issues include relocation, food security and population. There was a lot of discussion about carbon but the communities did not see anything eventuate so they decided to “go for cacao.” Problems with the ILGs remain critical.

Clement Bourse (EU Attaché)

Clement discussed FLEGT and the EU Timber Regulation, which will be applied from 03 March from 2013. The implications will be significant for PNG as not only will the EU and US have similar legislation to restrict the import of illegal wood, but Australia is also considering introducing a similar policy.

Discussion with the floor

- We have been working on a PES model for PNG for the past 3 years looking at a whole range of issues from micro-credit, to conflict resolution, etc. We have presented this to Government and wanted Government to take this to Copenhagen. Unfortunately, the Government did not take this on.

- (OCCD) We are now in a position to look more closely at the proposal on PES developed by the group in PNG.
- How could different NGOs co-ordinate their efforts to contribute more effectively?
- We went to Australia to discuss the issue of illegal logging but had difficulty to convince the Government to take strong action because our exports from PNG are a small % of their total imports.
- We should consider FMU certification for PNG's REDD+ models.
- We had a REDD+ roadshow and one of the recommendations was that we needed the OCCD to be a national co-ordinating body, not an implementing body, that makes sure that all the other actors work effectively.
- We have found examples of corruption and social conflicts in PES projects, and this could also happen in REDD+.

Closing of Day 1: Paul Barker

Governance remains a major issue. We have experience from other sectors on doing deals with communities that REDD+ must pay attention to. One of the greatest challenges is involving every single person in the community.

DAY TWO

Session 4: Benefit-sharing initiatives/experiences that embrace the wider community

Chair – Dorothy Tekwie

Dorothy provided an opportunity for participants to share their views on Day One's discussion.

Discussion

- There is lots of money being pumped into consultations and ideas but the real issue for CC is local livelihoods. The OCCD should be playing a coordinating role. We have the expertise for implementation elsewhere with respect to forest biomass and livelihoods.
- We should not be hiding our problems in PNG from the international CC negotiations. We end up being defensive and lose the potential to challenge the issues head on.
- The formation of ILGs remains a challenge. The registration of births is problematic. The ILG process needs to be corrected before we try to do REDD. Currently, it is too bureaucratized and a simpler system is needed which is more workable and understandable for communities.
- The problem with birth certificates is that there are some (a few) cases where people do not belong to one clan, so requiring registration for one clan will be problematic for them.
- Did we invent REDD+ to solve our problems at home or to beg for international money?

- REDD+ should be fitted into an overall land-use plan. Who is doing the plan? There is a role for the communities and Government in formulating land-use plans.

Noriyuki Ito (JICA)

Ito-san presented on the JICA Project on Capacity Development on Forest Resource Monitoring for Addressing Climate Change, for which the Executing Agency is the Forestry Authority. The purpose of the Project is to address climate change and to enhance the capacity of relevant institutions in PNG for the nationwide monitoring of forest resources including carbon stocks. The intended outputs are 1. The nationwide forest base map is improved by using remote sensing technology, 2. The national level forest resource database is improved, 3. The forest resource monitoring system, including carbon, is improved.

The Project inputs are: 2 long-term experts, short term experts, and training in Japan and PNG. The Project duration is March 2011 – February 2014. The funding is: ~ US\$ 6 - 7 million USD grant aid; technical assistance ~ US\$2 - 3 million.

Discussion with the floor

- Floor: Do you have historical data to set a baseline? JICA: The Remote Sensing Unit at UPNG already has this data and we will build upon it.
- Floor: Will you work with communities? JICA: Yes, our program includes community participation and JICA also has a separate community development program.
- (UN-REDD) Is there possibility for UN-REDD, OCCD and PNGFA to work together with JICA to make fullest use of the capacity and information that is generated? JICA: Yes. JICA undertook consultations to ensure that our work does not overlap with that of other donors. We are focusing almost solely on technical issues.

Bob Johns (former Professor at UNITECH)

Bob explained the work that he is involved in to create a classification of forests in PNG. He argued that remote sensing cannot be used for a fine classification of forests. A ground-based program is now underway to gather data to develop an acceptable classification of PNG's forests.

Nalau Bingeding (NRI)

Nalau pointed out that some control of deforestation and degradation can be achieved within forest management agreements (FMAs) by proper enforcement of forest laws, but these areas will return to communities in ~ 35 years. The communities may then decide to convert the logged over forests to palm oil.

Conflict of interest can be predicted. Customary land owners (CLOs) in the city may want a logging or agro-forestry project, but CLOs in the village may want a conservation or carbon project. Conflict can be expected between departments. The Dept. of Agriculture wants agriculture; the DEC wants conservation. The solution partly lies in the development of a national land-use management plan.

The National Forest Fund proposed by Greenpeace and the PES Fund proposed by the Eco-Forestry Forum are options for managing REDD+ finances. Local people do not want the Government involved in the handling of REDD+ monies.

Nalau argued for a nested approach for REDD+, rather than a national approach as adopted by the Government, which would allow projects to take advantage of the voluntary market.

Paul Winn (Greenpeace)

Paul explained that Greenpeace has always been concerned about introducing deforestation in to global carbon trading because of measurement uncertainties, and concerns over additionality, permanence and the possible impact on carbon markets. But REDD+ is here and we see that there are potential co-benefits so Greenpeace is now taking a more proactive approach, but one that is also sensitive to the potential negative impacts of REDD+. One concern is that the safeguards are now an annex to the REDD+ agreement and not part of the core text.

Goodwill Amos (PNGFA, Manager – REDD and Climate Change)

Goodwill argued that PES can be bundled, i.e. carbon, biodiversity and watershed services can be considered as a single package. He discussed Vietnam's experience with PES and its recent study on benefit-sharing for REDD+, both of which he felt could be instructive for PNG.

Discussion with the floor

- (OCCD) We published a paper on above ground biomass last year that participants may find useful.
- We should stop saying that 97% of PNG forests are customarily owned. We must now accept that only ~86% of the forest is customarily owned because of the amount of land now under agricultural leases.
- It is important to understand that a national approach means national reporting. Implementation can still be bottom up.
- The project to classify forest types is being conducted at a national scale. One aim is to have the system computerized so people can use a program to identify the types of forests that they own. The system could be used for biodiversity and carbon assessments.
- Remote sensing can contribute to forest classification, but it is not complete without ground-truthing.
- On ownership of forest carbon (different views were expressed)
 - The issue of who owns the carbon rights must be addressed. The communities? The logging companies?
 - The PNGFA document on REDD+ states clearly that the communities own the carbon.
 - Section 46 on the Forest Act is very clear. The landowners own the forest. They thus own the carbon.
 - The concession holders own the carbon as they have the rights to timber and other forest products.
 - The Forestry Act should not apply as carbon is an entirely new concept that was not considered when the Act was formulated.

- There are 2 papers on PNG in the Pacific Economic Bulletin that participants are encouraged to read.
- (PNGFA) We have been consulting with the 19 provinces on REDD+ since about 2005 and we now have a framework and are ready to implement pilots. We have been doing this quietly. The landowners' first question is always, how much money will we get? We tell them not to think about the money but instead to first focus on understanding the concepts. Of the 5 million ha under lease-leaseback, FCAs have been issued for less than 1 million ha.
- It is important to ensure that transparency and safeguards are reflected in the national MRV system.
- The Government needs to implement a proper consultation process to ensure meaningful input into all REDD+ documents such as the NJP and the REDD+ Project Guidelines.
- We would like the OCCD to provide information on the cost and the timeline of the McKinsey contract and assurance that the process under the NJP won't collapse.

Session 5 and 6: What other aspects are important to keep in mind? How best to move forward to benefit both landowners and PNG as a whole?

Damien Ase (CELCOR)

Damien noted that landowners have the right to veto any development on their land. On landowner participation in resource development projects, Damien argued that consultation for informed consent, proper social mapping and land investigations are critical. He explained that for REDD+ projects: landowners should be the central participants and that they can participate through their ILGs; proper agreements must be signed by the rightful landowners; and that landowners must be involved in all stages of the process

The risks of badly managed projects are that: they fail to achieve real emissions reductions; corruption could mean that benefits don't reach the landowners; REDD+ projects could lead to human right violations; and REDD+ may result in land grabbing, displacement of people and conflict.

Under the land leases, the communities have lost the rights to carbon

We need to come up with a list of activities that need to be done to move forward on the REDD+ issue, and we want to be able to mark some of these off the list the next time that we come together.

Goodwill Amos (FPCD)

Goodwill described the REDD+ activities set out by the PNGFA. He explained that the aims of the REDD+ pilots were 1. Develop and enhance the knowledge base of REDD+ initiatives, 2. Test new policies, plans, visions and institutional arrangements, as well as build capacity, 3. Develop MRV and benefit-sharing systems that ensure benefits reach resource owners, 4. Contribute to further research and analysis in the forestry sector, such as a comprehensive GHG inventory, and 5. Incorporate CC

mitigation and adaptation issues into the forestry sector as well as national development planning.

Hartmut Holzkecht (ANU)

Hartmut explained that according to custom in Melanesia, rights and responsibilities go together; they cannot be separated. Carbon property rights must best be understood as rights over property. Carbon rights turn carbon into a commodity and allow it to be traded. In many ways, carbon rights can be compared to intellectual property rights.

But who owns the rights? The question raises a number of legal issues including how to define and allocate carbon rights in national REDD+ frameworks. In Nepal, the forest user groups only have user rights so carbon should be linked to user rights. In PNG, the CLOs have customary ownership rights; hence, carbon rights are linked to land groups, not those who have user rights.

Wider perspectives need to be applied; a conventional and legalistic approach seeing carbon as a severable and transferable property right may not be appropriate for many Asia-Pacific countries. The biggest challenge is to put the customary resource owners as the first priority.

Gwen Maru (UN-REDD)

Gwen described PNG's National Joint Program (NJP) country actions (US \$6.4 million) as consisting of: REDD Readiness Management Arrangements; National MRV System developed; Historical Drivers of Deforestation; Monitoring of Abatement Concepts; Stakeholder Engagement in PNG's REDD+ Readiness.

The progress and next steps under the NJP are: PNG's UN-REDD National Joint Program submitted to UN-REDD Policy Board in Nov. 2010; 16 Conditions for prior approval; A revised version of the NJP was circulated in Jan. 2011; Comments were due on 11 Feb. 2011 however not many comments received; Joint OCCD, UN (FAO & UNDP), AusAID and PNGNFA mission 21-25 Feb. 2011; Validation & MRV workshop 22-24 Feb.2011.

Discussion with the floor

- We need to clarify whether landowners have rights in those forests that are under concessions.
- In PNG, we should be using the term forest resource owners, rather than forest dependent communities.
- When an FMA is granted, all the rights go to the logging company which could include the carbon rights (there was some disagreement on this issue). PNGFA stated that they would test this issue with one of their projects.
- Proper FPIC could take several years.
- Could the PNGFA provide information on the issuance of FCAs? (PNGFA response) We do give these out to a working group or you could request them from the Director. There is a public hearing before the processing of an FCA.
- FMAs were never intended for carbon trade, so this needs review before carbon trading for forests under FMAs is allowed. We also should not be using the term carbon trading. This only confuses people at the village level. If we explain to them that they will be paid for the service of avoiding emissions, they can understand.

- Using REDD to fund RIL is a risky activity. You may end up sustaining logging operations that would have otherwise closed down and they will now have the finances to move into new areas that they would otherwise not have logged.
- It is clear that there is a lack of collaboration between the agencies on the control of forest and land developments.

Breakout sessions

The participants divided themselves into 4 discussion groups to consider recommendations that could be presented as an outcome of the workshop. The focal areas for discussion were:

- Safeguarding PNG resource base
- The State and customary resource owners
- Learning from the experiences of others
- Moving forward: Inclusion, transparency and coordination

Final session: Recommendations and closing

The rapporteurs of each breakout group presented their recommendations and these were discussed by the plenary. Paul Barker summarised the main points of the discussions over the 2-day workshop. Henry Scheyvens concurred with Paul on the need to further refine the recommendations and to ensure a proper follow up.

Appendix 3

TENTATIVE PARTICIPANTS LIST, PNG REDD+ CAPACITY BUILDING WORKSHOP				
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Graham Sem	Independent			
Francis Hurahura	TNC	Project Manager	852 2349/66	852 3518
Enock Kale	IBR	Staff Biologist	732 3836	732 3837
Primas Kapi	RCF	Project Manager	532 3211	532 1123
Pamela Avusi	Forcert -PES	Forester	983 4440/7256 4520	983 4440
Ruben Taminza	Forcert -PES	Forester	983 4440	
Paul Barker	INA	Executive Director	321 1044	321 7223
Rufina Peter	CIMC/ INA	Agriculture Sector Co- ordinator	321 1714	321 7223
Dr Wari Iamo	DEC	Secretary		
Gwen Sissiou	DEC	D/Secretary	7200 6505	325 0182
Ezekia Warvi	NRI		326 0061	326 0213
Nalau Bingeding	NRI			326 0213
Ruth Turia	PNGFA		327 7874	327 7839
Vitus Ambia	FPCD	Climate Change Officer	852 3536/71771405	852 2718
Matthew Leggett	WWF			
Peta Mills	AusAid	First Secretary Climate Change	325 9333 – 332	
Goodwill Amos	PNGFA	Manager REDD & Climate Change	327 7907	325 4433
Tanya Zeriga	WCS		7679 4895	
Peter Dam	Forcert - PES	Coordinator – PES	982 9441	982 9441
Kevin Samuel	DAL		312 8570 / 8126 / 7201 3027	312 8141
Steven Nicholls	UNDP			
Rebecca Asigau	CELCOR		323 4509	311 2106
Yati A Bunn	FPCD	Executive Director	325 8470	325 2670
Nanai Puka-Areni	EFF	Program Manager	323 9050	
Senson Mark	EFF	Climate Change Officer	323 9050	
Sam Lahis	DAL	Project Coordinator	321 5382	321 4541 / 1125
Martin Bal	DAL	Aid & Invest Coordinator	321 4096 / 7178 3054	321 1389
Mika Andrew	DAL	Chief Land Use Officer	7627 5848 / 340 2175	321 1389
Stanley Wapot	UNDP			
Gewa Gamoga	PNGFA			
Damien Ase	CELCOR	Executive Director	323 4509	311 2106
Dorothy Tekwie	Greenpeace	Forest Campaigner	321 5959	321 5960
Ellen Hau	AusAid		325 9333	
Clement Bourse	EU	EU Attache	7134 9224	
Carmel Jonduo	DEC	Cadet Policy Officer	323 1045	325 0182

Sara Tsiamalili	ELC		320 0128	320 0124
D Mewerimbe	ELC		320 0128	320 0124
Gwen Maru	UNDP	Programme Officer	321 2877	321 1224
Kathy Apelis	NRI	Land Researcher	326 0300	
Thomas Paka	EFF	Executive Director	323 9050	325 4610
Grace Meauri	CELCOR	Lawyer	323 4509	311 2106
Jane Mogina	Mama Graun	Executive Director	325 6041	325 7026
Vincent Wonalia			7688 5844	
Matthew Hapaeakola	CIMC / INA		321 1714	321 7223
Moale Sabadi	INA		321 1045	321 7223
Lester Seri	CELCOR			
Japhet Terina				
Danu Wicaksana				
Vincent Warakai	UPNG	Sociology- anthropologist		



INA-IGES REDD+, PES AND BENEFIT-SHARING WORKSHOP

March Girls Resort, February 17 – 18, 2011

[DRAFT PROGRAM, V.3]

DAY ONE – February 17, 2011

9.00 – 10.30

Session 1: Introduction, Situation Review and state Context

Chair: Hartmut Holzknecht, INA - ANU

PART 1: Purpose and Review of 2010 Workshop and Updates

Speakers:

- ◆ Paul Barker and Rufina Peter [Institute of National Affairs]
- ◆ Henry Scheyvens [Institute for Global Environmental Strategies]

Part 2: Updates from Cancun and PNG Government on Climate Change and REDD+

Speakers:

- ◆ Varigini Badira [DEC – Adaptation]
- ◆ Paul Rame [DEC - REDD+ Mitigation and Low Carbon Growth]
- ◆ Gwen Sisiou [DEC - MRV and National Communication]
- ◆ Ken Mondiai/Dr. Justin Ondopa [Eco-Forestry Forum]
- ◆ Sam Moke [Greenpeace]
- ◆ Stanley Wapot/Gwen Maru [UNDP]

Discussion

10.30 – 10.50 MORNING TEA BREAK

10.50 – 12.30 noon

Session 2: Safeguarding the Land/Resource Base: State of Papua New Guinea's Forests and Land

Chair: Paul Barker, INA

Speakers:

- ◆ Kanawi Pouru [PNGFA]
- ◆ Phil Shearman [UPNG RSC] (if we can get him to attend!!)
- ◆ Tony Power
- ◆ Lawrence Kalinoe [Attorney General](maybe Nicodemus Mosoro)
- ◆ Ezekia Warvi [NRI]
- ◆ Dep Sec Lands/ DAL [e.g. Chief Land Use Officer] – if we can get them to attend!
- ◆ Brian Aldrich [AKT Associates]
- ◆ Industry: Warren Dutton [NFR]
Ian Orrell [OPRA]
- ◆ NGO plus:
 - ELC/CELCOR – Damien Ase

- Lester Seri (re Collingwood Bay experience)
- Colin Filer

Discussion

12.30 – 1.30 LUNCH BREAK

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1.30 – 3.15

Session 3: Positive REDD+/PES experiences in PNG, in the region and internationally

Chair: Kanawi Pouru

Speakers:

- ◆ Tanya Zeriga-Alone [WCS]
- ◆ Sophie Hawke/Voitech Novotny [STC Binatang Research Centre, Madang]
- ◆ Peter Dam [FORCERT]
- ◆ Paul Lokani/Vitua Ambia [NTC Madang] –if available – may have workshop in Madang
- ◆ Luca Tacconi et al. [Indonesia and elsewhere]
- ◆ Goodwill Amos, [PNGFA]
- ◆ IIED experience (probably not)
- ◆ Positive/negative experiences with the voluntary market?
- ◆ Practical steps (see Session

Discussion

3.15 – 3.35 AFTERNOON TEA BREAK

3.35 – 5.00

Session 4: Benefit-sharing Initiatives/experiences that embrace the wider community

(assuming sound benefit sharing essential for any REDD+ / voluntary Market/PES progress/success)

Chair: Dorothy Tekwie

Speakers:

- ◆ Any positives in PNG?
- ◆ Nalau Bingeding [NRI]
- ◆ John Burton – Mining companies?
- ◆ Lukis Romaso [Bris kanda]
- ◆ Jane Mogina [MGCTF]
- ◆ Others?

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DAY TWO – FEBRUARY 18, 2011

9.00 – 10.30

Session 5: What other aspects are important to keep in mind?

Chair: Ezekia Warvi

Speakers:

- ◆ **Damien Ase/Effrey Dademo/Brian Aldrich et al.** Legal issues and challenges to the SABLs (some linkages with earlier sessions)
- ◆ **Effrey Dademo** - Suitable laws for PES, incl. REDD+
- ◆ **Hartmut Holzknrecht** – Carbon Property Rights and Natural Resources
- ◆ **Others**

10.30 – 10.45 MORNING TEA BREAK

10.45 – 12.30 noon

Session 6: How best to move forward to benefit both landowners and PNG as a whole?

Chair: x

Speakers (for brief comments and overviews):

- ◆ Paul Barker [INA]
- ◆ Effrey Dademo [
- ◆ Hartmut Holzknrecht [ANU]

Discussion groups, one each for the following focal areas:

- ❖ X
- ❖ X
- ❖ X
- ❖ X

12.30- 13.30 LUNCH BREAK

1.30 – 3.00

Session 7: Feedback from Discussion Groups

Chair: x

Group 1

Group 2

Group 3

Group 4

3.00 – 3.15 AFTERNOON TEA BREAK

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3.15 – 4.30

Session 8: Final Session: Feedback, Reporting and Recommendations

Chair: Rufina Peter [INA]

Plenary Session

Closing remarks:

Paul Barker
Henry Scheyvens

INA and IGES acknowledge the funding for this Workshop by:

- **The Ministry for Environment, Government of Japan; and also wish to express appreciation to the contribution of the Crawford School, The Australian National University**

2010 REDD Capacity Building and Building Consensus Workshop Recommendations
(and associated actions to be taken during 2010):

Issue #1: Absence of National Climate Change Policy, Legislation and Clarity on Climate Change Institutional Arrangements, including Clear Timeframe for Implementation

Issue #2: Absence of a Land Use Planning and Coordination Framework (and the national as well as local level)

Issue #3: Limited Consultation on the formulation of the Climate Compatible Development Plan

Issue #4: Lack of public information (incl. delays in necessary REDD Readiness Activities acc. To the Bali Action Plan towards the implementation of Climate Change activities and the REDD+ initiatives including progress of facilities set up as part of the international negotiations on Climate Change and REDD.

Issue #5: Need for capacity building among key stakeholders involved in implementing the REDD+ Readiness Activities and other Climate Change Activities.
Benefit sharing: between state, landowners and within community

Issue #6: Need to establish a credible Climate Trust Fund

Issue #7: Poor Land Governance

Issue #8: Collapse of basic services delivery by government in rural areas which could be an hindrance to implementation of sound land management in the resource owners' best long-term interests, including REDD projects.

Issue #9: Need to institutionalize the climate change policy, planning and implementation role to ensure effective local ownership and coordination between government and the wider community.