



# **SPECIAL AGRICULTURAL AND BUSINESS LEASES (SABLs)**

A PREVIEW

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# Special agricultural and business leases

Current spate of SABLs, issued largely since 2004, esp. latterly, topped 5 million ha mark in Jan 2011, with 656,000 ha Purari Devlt Assocn Inc

- Despite name (agro-forestry) largely disguised logging projects, made up of multiple ILGs (often organised by MPs and/or outside businesses), usually without genuine free and fair consent by resource owners
- Driven by relative ease of process, (in contrast to following requirements of obtaining a forestry permit under Forestry Act), the exhaustion of many existing forest concessions and the current high price (and returns) from logging
- Some maybe for land/agricultural, even carbon trading speculation (as part of worldwide land/resource grab in developing countries, by companies from developed/emerging economies)
- Some who gave consent may be disappointed (like Lester's oil palm farmer, promised house and car!)

# Forestry Background

- 1980s found extensive abuses, incl. transfer pricing. Yet industry not unduly consolidated then
- Early 1990s powerful groups took control of PNG log industry, wielding much clout and funds, esp with high log prices of early 1990s
- 1992 new Forestry Act applied. –tighter requirements and reinforced oversight on exports
- Hitherto TRPs and LFAs (arranged under Private Dealings Act – widely abused, entailing Lancos holding permits and obligations and logging coys with profits and few liabilities)
- Replaced by more supervised FMA
- Loopholes; in 1990s early 2000s: Timber Authorities -TAs (supposedly for agriculture or roads etc – e.g. Concord Pacific – Kiunga A proj)
- TAs (and forestry extensions – as used by RH to try and grab Kamula-Doso) harder from 2000 with Amendments to Forestry Act, including reqt for FCAs for larger conversions (S 90), requiring verification from other bodies (including DAL)
- Made easier with Forestry Act Amendment in 2007 – making FCA more automatic with DAL's approval and removal of mandatory separation of agric-forestry business functions (required by 2000 Amendment)

# 'Agro-forestry' projects

- Recent mis-named agro-forestry projects not the first; but some keep recurring!
- In early-mid 1990s Purari and Aitape agro-forestry projects pushed (e.g. by Evara as Agric Minister), or in some cases to grab forestry resources off others (Vailala oil palm etc); tripped up by tougher rules and more rigorous application of new *Forestry Act* (other techniques used...e.g. TP without TRP etc)
- Also attempt to use Land Act to acquire Hekiko forestry resources in mid-90s (through direct land transaction) – with Emperor Group (of HK, with much political involvement)

# Incorp Land Groups (ILGs)

- LG Incorp Act 1974; ILGs - neither land registration nor business group (juggled IPA-Lands)
- Viewed as great socially attuned mechanism to by some, to be used for development projects, or social manipulation by others
- Little used, however, till early 90s when requirement for identification of landowners for Kutubu oil proj; later highlighted flaws and some legal rigour, when many ILGs challenged
- Multiplied when requirement under *new Forestry Act* (so instead of logging cos setting up Lancos, they facilitated ILGs)
- Requirement to verify ILGs *under Forestry Act*, minimum requirement under Lands Act; unit staffed by part time officer in Lands
- Amended *Land Act and Land Group Incorp Act 2009* designed to provide greater opportunities for landowners to utilise portion of land commercially, whilst retaining ownership/control; provides much more demanding requirements for ILGs, but not yet applied (birth certificates, membership of only one ILG etc); although Lands has been strengthening capacity (ostensibly) and magisterial service – special land courts. SABLs from 2004-present using the old legislation

# Use and Abuse of Lease-leaseback

- Lease-leaseback introduced 1979 as interim arrangement for landowners to access title (which was meant to be based upon ILGs and amended Land Registration Act – but that was deferred – Filer)
- Used extensively from about 1980 for 20 ha coffee and some cocoa blocks, as means to more rapidly develop agricultural production and access credit (which thought a constraint- and inaccessible without a title); loans provided by Development Bank (now NDB), notably with WB agric credit programmes, and using (costly) management agencies, introduced to managed the estates locally acquired under the post-Independence Land Acquisition Scheme; 20 ha schemes had some benefits, but some on disputed land, undermined by mngt costs when prices fell, an sometimes used as means by some bigmen to acquire/control customary land
- But lease-leaseback provision not widely used from later 80s till 1999 with NBPOL used it for landowner partnerships with local communities for mini-estates, sub-leased to company for 20-40 years
- Same year 1999 (Filer, Seri) SABL used for Deegold scheme in Collingwood Bay – a logging operation disguised as an agricultural scheme (where also instant EP issued, without any mandatory consultation etc); this entailed approval by some landowners and SABL being issued directly to the outside company

# SABLs

- Lease-leaseback is meant to entail leasing back to landowners, but the spate of new projects are leased to outside companies or business entities (contrary to intent of Act etc); 1996 Land Act Amendment Sn 102 Allowing the Minister (or his delegate) discretion to allocate lease not necessarily to landowners (constit/legally very questionable but the major flaw)
- (5 mill ha –monitored from Nat Gazette by Aldrich, 12% or so of PNG land area –check – and several others known to be in pipeline)
- Distributed all around the country from small land areas to many of 100,000 ha, plus: e.g. Purari Dev Assocn and one for 1 mill ha in WP for the KD area
- Landowners should determine period (as with NBPOL mini-estates where 20-40 yrs); but vast majority of new SABLs are for full 99 yrs, or 3 generations, so for that period it is taken out of customary title (even if head lease with customary owners) and inaccessible to landowners – i.e. any local benefits/access depending on the nature of the lease
- Mostly entail FCAs (but FCAs used for SABLs and TAs)

# SABL Acquisition

- ILG (under old – revised - requirements); dozens organised over whole Census Divisions, by MPs/Council Presidents/ and/or ‘logging companies/developers’ etc
- If for logging ILG meant to be PNGFA verification (but in this case prob not), but Lands Dept was meant to, but requirement (prior to Amended Act) not onerous (and largely ignored or rubber stamped) – really meant to entail land investigation by lands officer (or DO Lands) and verification not land used by village, for gardening needs and approval by landowners/those affected gained
- Specification of purpose of lease (difficult to check details at lands, and details of business entity sketchy at IPA, but more readily accessible)
- DAL proposal (which comes first – DAL purportedly visits to developers)
- DAL says it checks lease certificates and conducts public hearings (and has sometimes called them- not sure of reports other than letters of endorsement from DAL to PNGFA)
- DAL writes to PNGFA seeking FCA
- PNGFA staff verification and approval of PFMC (hitherto Forestry had more discretion to verify, but after 2007 Forestry Act amendment discretion given to DAL to verify that genuine agricultural project and FCA granted)
- PNGFA and DAL monitoring, but PNGFA largely butts out unless reports of non-compliance with FCA
- EP – largely rubber stamping by DEC without vetting
- Forest Authority (board clearance) – may impose requirements on step by step conversion – nursery, planting and harvesting rate – but little capacity to monitor on the ground (based partly on Budget allocation, geared to forestry projects)
- Loss of control of national forestry resource (diff rules if TP under FMAs and FCA, an added incentive to be an FCA..)
- Ministerial discretion on Issue of SABLs direct to outside business entities



# Way forward

- Many contradictions in policy, but big drive to 'land mobilisation' widely stated, but actually disempowering community, including involvement in legitimate projects/partnerships
- Govt keeps talking of freezing SABLs/ new FMA etc – to halt land grab, and whilst applying forest/climate commitments etc; but don't apply; Apply moratorium without further delay
- Need immediate halt of Ministerial-delegated discretion (sn 102, Lands Act) to grant lease except direct to landowners themselves; apply other requirements of amended Lands/LG Incorporate Acts
- Institute independent inquiry into issue of SABLs, probing role of Lands, DAL and other public officials – charge corrupt officials involved
- Seek legal action to nullify all SABLs issued to third parties (i.e. not the landowners) or entities without landowners' consent, and/or at very least provide legal aid or financial assistance to landowners to challenge allocations granted without free and fair consent etc

DATE	GAZETTE NO.	GRANTEE	TERM (YEARS)	AREA (HECTARES)	LAND DESCRIPTION			PROVINCE
					PORTION	MILINCH	FOURMIL	
03-07-03	G86	VAILALA OIL PALM LTD	99	11,800.00	377C	HU (NE & SE) KEREMA (NW & SW)	KIKORI & WAU	GULF
03-05-04	G42	TRUKAKE LTD	99	120.70	46	KOKOPO	RABAU	ENBP
14-10-04	G113	BARAVA LTD		244.70	307	KOKOPO	RABAU	ENBP
06-01-05	G1	LOLORU ESTATES LTD	45	1,750.00	1C	GARUA	TALASEA	WNBP
28-10-05	G157	BAINA AGRO-FOREST LTD	40	42,100.00	29C	KASE	BUNA	CENTRAL
12-12-05	G184	ROSELAW LTD	99	25.11	2541C	GRANVILLE	MORESBY	NCD
16-06-06	G120	PULIE ANU PLANTATION LTD	99	46,233.00	396C	GOGOR/MIO	RAULT/ARAWA	WNBP
20-07-06	G143	VANIMO JAYA LTD & ONE UNI-DEV.CORP	99	47,626.00	248C	TADJI	AITAPE	WSP
21-09-06	G183	ZIFASING CATTLE RANCH	50	8,374.23	79	ONGA	MARKHAM	MOROBE
22-09-06	G186	PERPETUAL SHIPPING LTD	50	283.29	19C	AIRD	KIKORI	GULF
07-12-06	G224	CASSAVA ETAGON WHY LTD	99	20,000.00	884C	DJAUL	KAVIENG	NIP
28-12-06	G234	EMIRAU TRUST	99	3,384.38	53C-58C	ELEOA	EMIRA	NIP
01-02-07	G15	CHANGHAE TAPIOKA (PNG) LTD	40	1,656.00	519C	RIGO	MORESBY	CENTRAL
01-02-07	G15	CHANGHAE TAPIOKA (PNG) LTD	40	74.87	444C	RIGO	MORESBY	CENTRAL
01-02-07	G15	CHANGHAE TAPIOKA (PNG) LTD	40	66.77	446C	RIGO	MORESBY	CENTRAL
01-02-07	G15	CHANGHAE TAPIOKA (PNG) LTD	40	2,514.00	517C	RIGO	MORESBY	CENTRAL
01-02-07	G15	CHANGHAE TAPIOKA (PNG) LTD	40	3,573.00	518C	RIGO	MORESBY	CENTRAL
01-02-07	G15	CHANGHAE TAPIOKA (PNG) LTD	40	2,514.00	521C	RIGO	MORESBY	CENTRAL
01-02-07	G15	CHANGHAE TAPIOKA (PNG) LTD	40	2,514.00	520C	RIGO	MORESBY	CENTRAL
15-02-07	G22	BRILLIANT INVEST LTD	99	25,600.00	146C	ANGORAM / MARIENBERG	BOGIA / VANIMO	ESP
19-02-07	G234	OKENA GOTO KARATO DEV.CORP.LTD	99	28,100.00	146C	KUPARI	TUFI	ORO
03-05-07	G68	YUMI RESOURCES LTD	99	115,000.00	30C	KASE	BUNA	CENTRAL
03-08-07	G115	KOARU RESOURCE OWNERS COMPANY LTD	99	59,460.00	323C	KUKIPI/CUPOLA	YULE	GULF
17-10-07	G161	RAKUBANA DEV.PTY.LTD.	99	24,581.00	871C	DOLOMAKAS	NAMATANAI	NIP
17-10-07	G161	TABU LTD	99	11,864.00	885C	LOVANGAI	KAVIENG	NIP

17-10-07	G161	UMBAKUL LTD	99	25,108.00	886C	LOVANGAI	KAVIENG	NIP
17-10-07	G161	CENTRAL NEW HANOVER LTD	99	56,592.00	887	LOVANGAI	KAVIENG	NIP
22-11-07	G182	MEKEO HINTERLAND HOLDINGS LTD	99	116,400.00	45C	OMERI	YULE	CENTRAL
09-01-08	G3	WOWOBO OIL PALM LTD	99	23,180.00	4C	AURI	KIKORI	GULF
18-03-08	G45	AKAMI OIL PALM ESTATE LTD	99	231.20	104C	MEGIGI/DAGI	TALASEA	WNBP
07-04-08	G54	AKAMI OIL PALM ESTATE LTD	99	345.75	2628C	MEGIGI/DAGI	TALASEA	WNBP
09-07-08	G120	POMATA INVESTMENT LTD	99	15,000.00	196C	NAKANAI/WOIPUNA	TALASEA	ENBP
09-07-08	G120	NAKIURA INVESTMENT LTD	99	16,100.00	198C	WOIPUNA	TALASEA	ENBP
09-07-08	G120	RALOPAL INVESTMENT LTD	99	11,300.00	197C	WOIPUNA	TALASEA	ENBP
14-07-08	G124	BEWANI OIL PLAM DEVELOPMENT LTD	99	139,909.00	160C	OENAKE/BEWANI	VANIMO/AITAPE	WSP
14-08-08	G145	OIL PALM PLANTATION LTD	99	116,840.00	144C	TRING	WEWAK	ESP
14-08-08	G145	RERA HOLDINGS LTD	99	68,300.00	2C	KAPIURA	TALASEA	ENBP
01-09-08	G152	ATABEDA AGRO FOREST LTD	99	11,700.00	409C	EPO/KAIRUKU	YULE	CENTRAL
25-09-08	G174	AKIVRIIU LTD	99	6,111.00	398	MIO	ARAWE	WNBP
25-09-08	G174	IVAGA OUROUINO-MASINAMTA LTD	99	10,741.00	397	MIO	ARAWE	WNBP
25-09-08	G174	POLOPO LTD	99	8,328.00	35	GOGOR	ROUALT	WNBP
25-09-08	G174	KAVUNI LTD	99	7,161.00	34	GOGOR	ROUALT	WNBP
25-09-08	G174	GOGORANTO LTD	99	8,893.00	33	GOGOR	ROUALT	WNBP
08-01-09	G4	MUSIDA LTD	99	211,600.00	16C	GONA (GORA?)	TUFI	ORO
18-02-09	G31	EAST WAII OIL PALM LTD	99	21,108.00	5C	BEARA/AURI	KIKORI	GULF
18-02-09	G31	AROWA OIL PALM LTD	99	12,341.00	6C	AURI	KIKORI	GULF
01-04-09	G58	NUKU RESOURCES LTD	99	239,810.00	26C	VARIOUS	VARIOUS	ESP & WSP
28-04-09	G78	TUMU TIMBERS DEVELOPMENT LTD	99	790,800.00	1C	VARIOUS	VARIOUS	WESTERN

30-10-09	G217	JA ALI INVESTMENTS LIMITED	70	7,170.00	5C	SUAVI	AWORRA	WESTERN
30-10-09	G217	MUDAU INVESTMENT LIMITED	70	10,450.00	6C	SUAVI	AWORRA	WESTERN
30-10-09	G217	SODAE LAND GROUP INC.	70	15,153.00	7C	SUAVI	AWORRA	WESTERN
30-10-09	G217	HAUBAWE HOLDINGS LIMITED	70	11,110.00	8C	SUAVI	AWORRA	WESTERN
30-10-09	G217	FOIFOI LIMITED	70	33,900.00	9C	SUAVI	AWORRA	WESTERN
10-12-09	G245	JUNUNG SIGITE LIMITED	99	13,000.00	27C	NAKANAISE	TALASEA	ENBP
14-01-10	G7	KONEKARU HOLDINGS LTD	99	457.00	2465C	GRANVILLE	MORESBY	CENTRAL
14-01-10	G7	KONEKARU HOLDINGS LTD	99	98.00	2466C	GRANVILLE	MORESBY	CENTRAL
26-02-10	G37	TIRIU TIMBERS LIMITED	99	11,240.00	904c	PONDO	RABAU	ENBP
26-02-10	G37	TIRIU TIMBERS LIMITED	99	42,240.00	903c	PONDO	RABAU	ENBP
23-04-10	G83	MAPSERA DEVELOPMENT CORPORATION LTD	99	54,384.00	54C	MASALAGA, KUBALIA, CHAMBRI & YAMBON	WEWAK	ESP
23-04-10	G83	WEST MAIMAI INVESTMENT LTD YANGKOK RESOURCES LTD & PALAI RESOURCES LTD (AS JOINT TENANTS)	99	149,000.00	594C	LUMI	AITAPE & WEWAK	WSP
29-07-10	G160	POROM COFFEE LTD	99	24.10	302C	BAIYER	RAMU	WHP
29-07-10	G161	VEADI HOLDINGS LTD	99	1057.45	2485C	SOLDIE	MORESBY	CENTRAL
05-08-10	G170	KEMEND KELBA KEI INVESTMENT LTD	99	41.30	155C	BAIYER	RAMU	WHP
24-09-10	G218	TOSIGIBA INVESTMENTS LIMITED	99	632,538.00	14C	CARRINGTON KARIUS, STRICKLAND BOSAVI, CAMPBELL AIEMA, TOMU & SISA	KUTUBU WABAG BLUCHER & RAGGI	WESTERN
24-09-10	G218	NORTH EAST WEST INVESTMENTS LTD (NEWIL)	99	470,642.00	1C	PALMER SARI, MULLER, CARRINGTON ALICE ELEVAGA, STRICKLAND & TOMU	BLUCHER & RAGGI	WESTERN
24-09-10	G218	NORTH EAST WEST INVESTMENTS LTD (NEWIL)	99	149,117.00	27C	ALICE, TEDI, SARI PALMER & KIUNGA	BLUCHER & RAGGI	WESTERN
30-09-10	G228	MUSA VALLEY MANAGEMENT COMPANY LIMITED	99	320,060.00	17C	SORA & SAFUA (NW) BIBIRA (NE & SE)	TUFI & MORESBY	ORO
15-10-10	G243	WAMMY LIMITED	99	105,200.00	27C	MAINAI (SW)	AITAPE	WSP
30-11-10	G284	AINBAI-ELIS HOLDING LTD	99	22,850.00	40C	BEWANI (NW)	AITAPE	WSP
16-12-10	G305	HEWAI INVESTMENT LTD	99	358.00	351C	KARIUS, STRICKLAND	WABAG	SHP
25-01-2011	G19	PURARI DEVELOPMENT ASSOCIATION INC.	99	656,034.00	8C	AURI	KIKORI & KARIMUI	SULF
27-01-2011	G22	OSSIMA RESOURCES LIMITED	99	31,430.00	163C	BEWANI & OENAKE	AITAPE & VANIMO	WSP
01-03-2011	G56	VAILALA OIL PALM LIMITED	99	11,800.00	377C	HU & KEREMA	KIKORI & WAU	SULF
14-03-2011	G67	JRASIR RESOURCES LIMITED	99	112,400.00	16C	SANAI & ANNANBERG	BOGIA & RAMU	MOROBE & MADANG
04-04-2011	G86	NUNGAWA RAINFOREST MANAGEMENT ALLIANCE LIMITED	99	109.58	55C	MASALAGA	WEWAK	ESP