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THE POLITICAL CONSTRUCTION OF A LAND GRAB IN PAPUA NEW GUINEA

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INTRODUCTION

It is still commonly asserted that 97 per cent of the land in Papua New Guinea (PNG) remains under customary ownership, just as it was when PNG gained its independence from Australian colonial rule in 1975 (GPNG 2007b; AusAID 2008). Indeed, some commentators believe that this abiding reality is a major constraint on the country's economic development (Jones and McGavin 2001; Lea 2002; Gosarevski et al. 2004). But there is now some cause for these commentators to celebrate a new reality. Between the beginning of July 2003 and the end of April 2011, around 5 million hectares of customary land (11 per cent of PNG's total land area) passed into the hands of national and foreign corporate entities through a legal mechanism known as the 'lease-leaseback scheme'. This is twice the amount of land which one international study found to have been 'grabbed' by corporate interests across five different African countries over a comparable period of time (Cotula et al. 2010).

A study by the World Bank picks out sub-Saharan African countries with 'very weak land governance' as favoured targets for what it describes as the recent 'land rush' (World Bank 2010: 50). The Bank paid no particular attention to the recent land grab in PNG, but in this paper I will show that PNG also counts as a country with very weak land governance, despite the protection afforded to customary tenures by its own national constitution. The Bank also identifies the food price surge of 2008 as a key factor motivating the corporate acquisition of large areas of farmland in developing countries. This appears to resonate with a statement made by PNG's former Lands Minister and Deputy Prime Minister in 2010, when he spoke of foreign investors pestering his office with demands for 100 000-hectare blocks of land for future agricultural investment (*Post-Courier*, 3 May 2010). However, my argument in this paper will be that PNG's land grab began five years before the food price surge, and in order to understand the motivation behind it, we need to understand that what is being grabbed is not primarily 'farmland', but what the Bank describes as 'currently forested unprotected areas with low population density that are potentially suitable for rainfed crop production' (World Bank 2010: 53). As we shall see, it is a moot point whether the companies interested in the acquisition of such land in PNG have any genuine interest in its agricultural potential, or whether they are simply looking for new ways to log PNG's native forests without following the rather onerous procedures imposed by PNG's forestry legislation.

In the first section of this paper, I shall summarise the available evidence on the recent operation of the lease-leaseback scheme, with particular attention to its role in the promotion of so-called 'agroforestry' projects. I shall then document the operation of the scheme in more detail with three local case studies drawn from different parts of the country. In the third section of the paper, I shall use the insights drawn from these case studies to construct an ideal-typical model of the political and bureaucratic process through which the scheme has been applied to the alienation of customary land. In the fourth section, I question some of the ideological assumptions which have interfered with a pragmatic or realistic assessment of the social, political and economic forces at work in this process of alienation. And by way of conclusion, I shall briefly consider the chances of halting or reversing this process and the possible consequences of a failure to do so.

LAND ACQUISITION UNDER THE LEASE-LEASEBACK SCHEME

The history of land legislation in PNG, both in the colonial and post-colonial period, contains a number of legal innovations that signally failed to achieve their intended aims for many years after they were first introduced, yet were later used in ways that were not anticipated by their draftsmen. One such case is the so-called 'lease-leaseback scheme', which was originally devised in 1979, four years after Independence, as a stop-gap measure to compensate for the absence of any effective legal mechanism for the registration of customary land titles in a situation where land titles of some kind were seen as an essential precondition for commercial agricultural development, but 97 per cent of all the land in PNG was still unregistered customary land. This scheme was incorporated into PNG's *Land Act* in the form of specific provisions which enable the State to lease customary land from the customary landowners and then lease it back to these same landowners, or to other persons or organisations of which they approve, for periods of up to 99 years. In the current version of the *Land Act*, which dates from 1996, Section 11 says that the Minister 'may lease customary land for the purpose of granting a special agricultural and business lease of the land', while Section 102 says that 'a special agricultural and business lease shall be granted: (a) to a person or persons; or (b) to a land group, business group or other incorporated body, to whom the customary landowners have agreed that such a lease should be granted'. Section 11 also says that 'an instrument of lease in the approved form, executed by or on behalf of the customary landowners, is conclusive evidence that the State has a good title to the lease and that all customary rights in the land, except those which are specifically reserved in the lease, are suspended for the period of the lease to the State'.

In the first decade of its operation, the lease-leaseback scheme only achieved the conversion of around 6000 hectares of customary land, most of it in small parcels of 20 hectares, and the holders of Special Agricultural and Business Leases (SABLs) were often unable to defend their new assets against customary claims (Thompson and MacWilliam 1992: 145–8). In 1987, the scheme was streamlined by removing the need for proposals to be advertised for public comment (Larmour 1991: 61), but this made little immediate difference to the number of proposals that were actually implemented. It was only after two decades of inaction on the part of the Lands Department that PNG's oil palm industry started using the scheme to develop so-called 'mini-estates' on customary land around the margins of the government land on which the main ('nucleus') oil palm estates and associated land settlement schemes had previously been established. In this use of the scheme, the oil palm companies engaged expert consultants to organise customary landowners into incorporated land groups (ILGs) under the terms of the *Land Groups Incorporation Act 1974*, then arrange the lease of their land to the State, then arrange the grant of SABLs to these same ILGs, and finally arrange for the new leaseholders to grant sub-leases to the oil palm companies. By the end of 2000, mini-estates with a combined area of 10 401 hectares had been established in the vicinity of three of the five oil palm schemes in PNG, and plans were afoot to convert an additional 16 620 hectares under the lease-leaseback scheme (Oliver 2001: 69). However, it took several years for these plans to be implemented, and the total amount of customary land converted in this way only amounted to 32 000 hectares at the end of 2010 (Ian Orrell, personal communication, January 2011).

The phenomenon which I describe as the 'new land grab' is one in which SABLs are not issued to ILGs through the process supported by the oil palm industry, but rather to private

companies which supposedly count as ‘other incorporated bodies’ approved by the customary landowners under Section 102 of the *Land Act*. Evidence of this phenomenon is derived from the PNG government’s National Gazette, through which the public is notified of each SABL which has been granted by the Lands Department. These notices specify the number of hectares covered by each lease, its approximate location, its duration, and the name of the corporate body to which it has been granted (see Annex 1). Tables 1, 2 and 3 are based on the information provided in such notices since the start of 2003, which seems to be the year in which the new land grab began to take off.¹ Table 1 shows a steady increase in the amount of customary land which has apparently been ‘grabbed’ by private companies in subsequent years. Table 2 shows that nearly all of this land has been acquired in blocks of more than 1000 hectares, under 54 leases which fit the standard definition of a ‘large-scale’ acquisition (Cotula et al. 2010: 3).

Table 1: Leasebacks to private companies, 2003–2011.

Year	No.	Total area (ha)
2003	1	11,800
2004	2	365
2005	3	44,094
2006	6	125,901
2007	16	475,618
2008	10	402,906
2009	10	1,154,842
2010	16	1,959,307
2011 (part)	4	799,974
Total	68	4,974,587

Source: PNG National Gazette.

Table 2: Size of areas covered by leasebacks to private companies, 2003–2011.

Size of lease area	No.	Total area (ha)
Very small (< 100 ha)	6	330
Small (100 – 1000 ha)	8	2,150
Medium (1000 – 10,000 ha)	10	65,000
Large (10,000 – 100,000 ha)	30	834,591
Extra large (> 100,000 ha)	14	4,113,750
Total	68	4,974,587

Source: PNG National Gazette.

¹ These tables do not include an area of more than 200 000 hectares in Oro Province that was granted to a company called Musida Holdings Ltd in January 2009. That is because the lease was invalidated by an order of the National Court in February 2010, and the land in question was included in a larger area of more than 300 000 hectares that was leased to Musa Valley Management Company Ltd in September 2010 (see Annex 1). An additional difference from the national figures presented in my recent discussion of the land grab in New Ireland Province (Filer 2011) is explained by the removal of 41 234 hectares of land in West New Britain Province over which two SABLs have (mistakenly) been issued in the period under consideration. This second mistake is discussed in a subsequent section of the current paper.

Table 3 shows a significant degree of variation in the extent of the land grab in each of PNG's 19 provinces, with more than 20 per cent of the land being converted in PNG's largest and most thinly populated province (Western), and none at all in six provinces (three in the highlands and three in the lowlands).²

Table 3: Provincial land areas covered by leasebacks to private companies, 2003–2011.

Province	Total area (ha)	Leasebacks (ha)	Leasebacks (%)
Western	10,084,400	2,120,880	21.03
West Sepik	3,601,200	735,825	20.43
Oro	2,251,000	348,160	15.47
New Ireland	997,400	141,529	14.19
Gulf	6,220,000	784,206	12.61
E. New Britain	1,567,800	177,545	11.32
Central+NCD	2,995,700	299,750	10.01
East Sepik	4,475,200	196,933	4.40
Madang	2,873,200	112,400	3.91
W. New Britain	2,101,200	48,560	2.31
Morobe	3,309,000	8,374	0.25
S. Highlands	2,569,800	358	0.01
W. Highlands	889,700	65	0.01
Total		4,974,587	

Source: PNG National Gazette.

Unfortunately, the notices published in the National Gazette do not specify the development purpose for which each lease has been granted, even though the purpose is meant to be specified in a schedule attached to the instrument by which customary landowners lease their land to the State in the first instance. In a few cases, the purpose can be deduced from the fact that words like 'oil palm' occur in the name of the company to which an SABL has been granted, but in most cases, recourse must be had to other sources of information in order to establish the identities and motivations of the people involved in each project or scheme. It is not at all easy to determine the proportion of the total area converted under the lease-leaseback scheme which is dedicated to some form of agricultural development, rather than any other kind of 'special business'. Nor is it easy to determine the extent to which 'special agricultural' leases are being used to facilitate the logging of native forests without any serious or realistic plan to replace these forests with profitable capitalist farms.

The availability of additional evidence, whether from published or unpublished sources, tends to vary with the size of the land portion which has been converted, and to a lesser extent, with the period of time which has elapsed since the leaseback was granted. About half of the area covered by 'small' or 'very small' leases of less than 1000 hectares seems to have been leased for a variety of non-agricultural purposes. Of far greater significance is the largest single leaseback to date—an area of 790 800 hectares in Western Province that was leased

² The rural population of PNG is equally divided between 'highlanders', who traditionally live at altitudes above 1000 metres, and 'lowlanders' who traditionally live at lower altitudes, mostly below 300 metres. The political division between the five highland provinces and the fourteen lowland provinces does not quite match this geographical and demographic distinction, but the divergence is not significant at the level of national aggregate statistics relating to the rural population.

to a landowner company called Tumu Timber Development Ltd (TTDL) in April 2009. This lease covers the Kamula Doso forest area, which had previously been the subject of a Forest Management Agreement (FMA) between the State and the customary owners. This means that the PNG Forest Authority (PNGFA) should have been able to transfer the timber harvesting rights to a commercial logging company under a Timber Permit. However, the directors of TTDL took advantage of an ongoing legal dispute over the validity of the FMA³ to support a voluntary carbon trading scheme through which they would derive some financial benefit from keeping the forest intact. This is the only case to date in which the holders of an SABL are known to have expressed any preference for this form of land use. There are many other cases of large-scale land acquisitions in which their preferences are simply unknown because the Lands Department treats all the relevant schedules as state secrets and no other documentation is available. However, if the Kamula Doso forest area is taken out of the equation, the available evidence indicates that the rest of the areas covered by 'medium', 'large' or 'extra large' leasebacks are all meant to be used for some form of agricultural development, while many contain significant areas of native forest which have not yet been logged. And if logging is the real name of the game, the Kamula Doso lease may yet cease to be exceptional because the leaseholders seem to have decided that logging is a better economic option than the voluntary carbon market (*The National*, 7 February 2011).

The suspicion that logging is indeed the real name of the game is warranted by the fact that most of the areas in excess of 10 000 hectares which have been leased back to private companies appear to contain areas of forest which are defined by the PNGFA as 'Potential Areas for Future Development' (PFD areas). These are areas of primary forest where officers of the National Forest Service (the bureaucratic arm of the PNGFA) have identified a commercial timber resource which has yet to be exploited, but where the State has not yet acquired the timber harvesting rights through an FMA with the customary landowners. In most of these cases, the process of resource acquisition has stalled because the size of the resource does not meet the minimum requirements for what is defined as a 'sustainable forest management' (or selective logging) project under the terms of the National Forest Policy and the National Forestry Development Guidelines (GPNG 1991, 1993).

Anyone proposing to convert more than 50 hectares of native forest to some alternative form of land use is required to apply to the PNGFA for what is currently known as a Forest Clearing Authority (FCA) under Sections 90A-E of the *Forestry Act 1991*. These sections were first added to the Act in 2000, primarily at the instigation of the World Bank, in order to close a loophole which had enabled some large-scale logging operations to proceed on the basis of Timber Authorities (rather than Timber Permits) which should only have been granted to landowner companies for small-scale logging operations under Section 87. As we shall see, these amendments to the Act were not entirely effective in preventing large-scale logging operations from being disguised as agricultural development projects. Even so, their effectiveness was reduced in 2007, when Section 90B was amended in a way that increased the power of the Department of Agriculture and Livestock, and reduced the power of the PNGFA, to determine the fate of so-called 'agroforestry' projects, and also removed the need for evidence that forest clearance and agricultural development would be undertaken by different corporate entities (McCrea 2009). Between March 2007 and April 2010, the PNGFA received 23 applications for FCAs from proponents of what are typically described as

³ The FMA was invalidated by a ruling of the National Court in July 2010.

'integrated agriculture', 'integrated agro-forestry', or 'agro-forest development' projects, and 13 of these had already been granted (Table 4). Twelve of the applications were already associated with the grant of an SABL, including one rather odd case in which the FCA was granted more than a year before the SABL was gazetted. Of the ten applications that were not (or not yet) associated with a lease-leaseback arrangement, most, if not all, appear to be for projects on land previously purchased by the State or where the State has already purchased the timber harvesting rights from the customary owners.

Table 4: Status of applications for Forest Clearing Authorities by proponents of agricultural development projects, 2007–2010.

Status of application	No.	Area (ha)
FCA granted after SABL granted	6	475,413
FCA granted before SABL granted	1	30,830
FCA granted without grant of SABL	6	141,771
Application pending after SABL granted	5	284,156
Application pending without grant of SABL	5	431,950
All Applications	23	1,364,120

Source: PNG Forest Authority records, April 2010.

In most of the twelve cases where applications for an FCA were associated with the grant of an SABL, the leaseholder seems to be a landowner company of some kind, the lease is for the maximum period of 99 years, but the applicant for an FCA is a 'developer' with whom the leaseholder evidently has some sort of contractual relationship. For example, amongst the six cases in which an FCA had been granted following the gazettal of an SABL over the same area, the records show that:

- An SABL over 24 581 hectares of land in New Ireland Province was issued to Rakubana Development Ltd in October 2007, and an FCA over this same area was granted to Tutuman Development Ltd for development of the 'Danfu Integrated Agriculture Project' in September 2009.
- An SABL over 116 400 hectares of land in Central Province was issued to Mekeo Hinterland Holdings Ltd in November 2007, and an FCA over this same area was granted to Albright Ltd for development of the 'Mekeo Hinterland Integrated Agriculture Project' in June 2009.
- An SABL over 116 840 hectares of land in East Sepik Province was issued to Sepik Oil Palm Plantation Ltd in August 2008, and an FCA over 121 000 hectares (supposedly the same land portion) was granted to Wewak Agriculture Development Ltd for development of the 'Wewak-Turubu Integrated Agro-Forest Project' in March 2009.
- An SABL over 139 909 hectares of land in West Sepik (or Sandaun) Province was issued to Bewani Oil Palm Development Ltd in August 2008, and an FCA over this same area was granted to a different company called Bewani Palm Oil Development Ltd for development of the 'Bewani Oil Palm Development Project' in March 2009.

There are some exceptions to this rule. For example, an SABL over 47 626 hectares of land in West Sepik Province was issued jointly to One Uni Development Corporation (a landowner company) and Vanimo Jaya Ltd (a logging company) in July 2006. The logging company in

the partnership was then granted an FCA over the same area for development of the 'Aitape West Integrated Agriculture Project' in April 2008. There is also one case in which customary land has been leased directly to the project proponent. An SABL over 25 600 hectares of land in East Sepik Province was issued to Brilliant Investment Ltd (a Malaysian logging company) in February 2007, and this same company was then granted an FCA over the same area for development of the 'Angoram (Marienberg) Integrated Agriculture Project' in June 2009. A somewhat different arrangement seems to have occurred in the only case where the SABL was gazetted after an FCA had been granted over the same area. In January 2008, an FCA over an area of 30 830 hectares in East New Britain Province was granted to Toriu Timber Ltd for development of the 'Inland Lassul Baining Integrated Agriculture Project', and more than two years later, in February 2010, two SABLs over a combined area of 53 480 hectares, apparently including the area covered by the FCA, were simultaneously issued to a company called Tiri Timbers Ltd for a period of 99 years. In this instance, it seems that the SABLs and the FCA are held by a single landowner company which is registered with PNG's Investment Promotion Authority as Toriu Timbers Ltd. A logging company called KK Connections Ltd has been helping to clear the forest since the FCA was granted to this landowner company.

THREE LOCAL CASE STUDIES

I shall now illustrate the problems which confront the analyst of specific lease-leaseback arrangements by documenting the information which I and some of my colleagues have been able to assemble about three of the cases represented in Tables 1–3. None of these three cases is represented in Table 4, yet they are still amongst the best documented cases at this stage of our inquiries. I apologise in advance to readers who may find the level of geographical detail somewhat disconcerting, but the point of providing this detail is to indicate the manner in which we have gone about the business of solving the jigsaw puzzles with which we are confronted. Disconcerted readers may either reach for an atlas or skip this section of the paper.

In order to grasp the political significance of the stories contained in these case studies, the reader needs to bear in mind the current division of PNG's national political space. The country's 19 provinces, along with the National Capital District, are each represented by one elected member of the national parliament who normally functions as the provincial governor unless he or she is a minister in the national government. The other 89 members of parliament represent so-called 'open electorates', of which three are located within the National Capital District, one consists of PNG's second largest city (Lae), and three belong to the Autonomous Region of Bougainville.⁴ The MPs who represent the remaining 82 open electorates, which are also known as districts for administrative purposes, wield significant local power through their control of the bodies known as Joint District Planning and Budget Priorities Committees. In theory, these 'open' MPs dispose of substantial 'slush funds' distributed through something currently known as the District Services Improvement Program, but access to these funds is much easier for those who are members of the ruling government coalition. Each of these 82 open electorates is divided between three and five Local-Level Governments (LLGs), whose elected presidents have little choice but to support

⁴ Bougainville is still treated as one of PNG's 19 provinces for purposes of representation in the national parliament, but it has distinctive internal constitutional arrangements. There is no known case of a lease-leaseback arrangement in Bougainville.

their national MP if they wish to satisfy the demands of their constituents. LLG elections are conducted separately from elections to the national parliament, but both types of election are conducted at five-year intervals. The last elections were held in 2007.

The Baina Agro-Forestry Project

In October 2005, an SABL over 42 100 hectares of land in Central Province was issued to a company called Baina Agro-Forest Ltd for a period of 40 years. This was the second SABL granted over an area of more than 10 000 hectares since the current national government led by Michael Somare came to power after the elections of 2002. The lease covers a largely uninhabited area of lowland hill forest to the north of a group dilapidated rubber plantations located alongside the Hiritano Highway, about 60 kilometres northwest of the national capital, Port Moresby.⁵ Most of this area lies within Kairuku-Hiri Open Electorate, but the northeastern corner lies within the Goilala Open Electorate. Although Baina is described as a 'village' in several newspaper reports, no village of this name has so far been identified in national census records or on topographic maps of the area.

The area covered by the SABL intersects a forest area of 57 000 hectares that was called the Trans Vanapa PFD area in the 1996 National Forest Plan, but is no longer recognised as a 'potential FMA area' in PNGFA records. The national government's Independent Forestry Review Team investigated this area in 2000 as part of its review of all forest areas 'being developed towards a Timber Permit' and found that the prospects of a sustainable large-scale logging operation had already been diminished by the grant of several Timber Authorities for small-scale logging operations in the area (GPNG 2000b).

Even before the SABL was gazetted, the President of the Forest Industries Association (FIA) was complaining that officers of the National Forest Service (NFS) had breached the terms of the *Forestry Act* by granting a log export licence over this area to a company called Nasyl No. 98 Ltd—apparently a subsidiary of another logging company (Kerewara Ltd)—that was not itself a member of the Association. The President also complained that some of the foreigners employed by the logging company had entered the country on tourist visas, so the operation was also in breach of national labour laws. However, the Governor of Central Province, Alphonse Moroi, declared that his provincial government had invited the logging company to build roads and establish an oil palm plantation in the area, and this was why the NFS and the Department of National Planning had given their approval. He also claimed that the shareholders in the project included several villages in the Kairuku-Hiri and Goilala districts (through their landowner company) and the people of Central Province as a whole (through the provincial government) (*Post-Courier*, 26 September 2005). A search of company records apparently revealed the existence of a company called Baina Agriculture Development Ltd with six shareholders—two Malaysians with strangely similar names (Goh Kung Won and Won Goh Kung) and four Papua New Guineans, including the Administrator of Central Province, Raphael Yibmaramba. The same search apparently revealed that Nasyl No. 98 had seven shareholders—Goh Kung Won, one other Malaysian (not Won Goh Kung), and five Papua New Guineans (none of whom was also a shareholder in the first company).

⁵ The plantations themselves are located on state land that was alienated during the period of Australian colonial administration.

Mr Yibmaramba was reported as saying that Nasyl No. 98 had already spent K1.4 million⁶ on road construction and the import of Malaysian seedlings and equipment for the oil palm project, that more seedlings were due to be purchased from existing oil palm projects in PNG, and that this project would be 'the first of its kind in agro-forestry where oil palm seedlings will be planted after every 200 hectares of trees are felled' (*The National*, 10 October 2005). However, the newspaper article which reported these observations also reported that the National Forest Board (NFB) had ordered suspension of the logging operation until such time as Baina Agriculture Development Ltd had submitted a proper application for a Timber Authority to harvest trees along the road line and an operational plan to clear four 50-hectare blocks for the oil palm.

Whatever the reservations of the NFB, the subsequent grant of the SABL to Baina Agro-Forest Ltd was apparently celebrated by the Lands Minister, Puka Temu, when he signed a 'project agreement' between his own department, the Central Provincial Government, Nasyl No. 98, and 'the Baina landowners'. Baina Agro-Forest Ltd was described as a joint venture between the Central Provincial Government, the Kairuku LLG (in Kairuku-Hiri District) and the Woitape LLG (in Goilala District), which would jointly hold 70 per cent of the equity, and Nasyl No. 98, which would hold the remaining 30 per cent. The Minister reportedly told the local landowners that '[w]e need more examples, like yourselves around the country to put out their land to come up with these types of agreements that will bring development' (*The National*, 31 October 2005).

Governor Moroi had previously been reported as saying that there were '168 landowners in Baina village [who] gave away their trees to build a road for the Goilala people in exchange for development and economic benefits' (*The National*, 21 October 2005). It may seem rather odd that 168 landowners should have 'put out' or 'given away' more than 40 000 hectares of land for the benefit of a much wider community across two LLG areas. But their generosity may have been an illusion. Shortly after the SABL had been gazetted and the project agreement had been blessed by the politicians, an anonymous correspondent suggested that local landowners might not have given their informed consent to this arrangement. By this account, a landowner company called Baina Resources Ltd had collected certificates of registration from a number of incorporated land groups in the area 'for safekeeping', but instead of just keeping them safe, had negotiated the lease of all their land to the State without consulting the group executives or securing their participation as shareholders in the company which had now been granted a 40-year lease over their land. In the writer's opinion, the whole lease-leaseback process was therefore 'null and void' (*The National*, 8 November 2005).

Nevertheless, Nasyl No. 98 continued to cut down the trees, and Governor Moroi grew impatient with the obstacles which the NFB had tried to place in the path of his agroforestry project. One of these obstacles was a longstanding policy decision to ban raw log exports from anywhere within a 100-kilometre radius of the national capital. In July 2006, Forests Minister Patrick Pruaitch assured Governor Moroi and the rest of his parliamentary colleagues that this obstacle would shortly be overcome, 'so it's only a matter of time that you will see these logs that have been piling up exported' (*The National*, 26 July 2006). However, the Minister seems to have had some difficulty in keeping his promise. In November 2006, the Governor was still complaining that the absence of a log export permit

⁶ In the period since 2004, one PNG kina has been worth between 30 and 40 US cents.

was preventing his provincial government from using the proceeds of the log sales to build the road that would enable the Goilala people in the Woitape area to transport their coffee to the national capital. The Forests Minister now told Parliament that the Baina project would need to be checked by agricultural experts to establish its sustainability and consistency with the Government's 'green revolution programme', and reminded his colleagues that a previous 'agro-forestry' project in his own electorate had never produced any palm oil (*The National*, 13 November 2006).⁷

Meanwhile, in September 2006, the mysterious Malaysian partner, now described as 'Jack Goh, managing director of National No. 99 Ltd', had turned up at a public meeting hosted by Governor Moroi to launch 'six new public telephone lines' which had apparently been installed at the Aroa River base camp (close to the Hiritano Highway) after the provincial government and the logging company had agreed to share the installation cost of K60 000 (*Post-Courier* and *The National*, 22 September 2006). The Governor reportedly took this opportunity to thank other 'development partners', such as the World Bank, the European Union and the Australian Agency for International Development for recognising the priority which his government placed on the development of new transport and communication networks, while Mr Goh reportedly thanked the local people and the national telecommunications company for their 'cooperation and support' (*The National*, 22 September 2006).

No evidence has been found of a report by 'agricultural experts' on the feasibility of the Baina project, but in 2007, the PNGFA was finally persuaded to grant an export licence for the logs which had been harvested from the area. Official records show that Nasyl No. 98 exported almost 30 000 cubic metres of logs with a combined value of K4.9 million over the course of that year (SGS 2008). The logging company has since departed, the Woitape people still lack road access to Port Moresby, while the fate of the oil palm seedlings and the new telephone lines is unknown.

In February 2011, I checked the records of all companies beginning with the name 'Baina' which are currently registered with the Investment Promotion Authority. I could find no record of a company called Baina Resources Ltd, but Baina Agriculture Development Board Ltd (BADBL) and Baina Agro Forest Ltd (BAFL) are both still registered. The first of these companies roughly conforms with the earlier newspaper account of 'Baina Agriculture Development Ltd' (*Post-Courier*, 26 September 2005), but the second does not fit the earlier description of 'Baina Agro-Forest Ltd' (*The National*, 31 October 2005). BADBL was first incorporated in May 2005, and does indeed have six shareholders, including the two Malaysian gentlemen with remarkably similar names, who were apparently born on the same day, have the same residential address, and might conceivably be identical twins. Only one of them, Kung Won Goh, is listed as a director of the company, along with three of the Papua New Guinean shareholders, including the Provincial Administrator, Raphael Yibmaramba. The other two Papua New Guinean directors are also listed amongst the seven directors of BAFL, and one is listed amongst the seven shareholders as well. Altogether, there are 13 Papua New Guineans who are either listed as shareholders or directors of one or both of these two companies, of whom three appear to be brothers, seven appear to reside in the

⁷ He was referring to a project authorised by the National Executive Council (Cabinet) in 1996, which involved the grant of a Timber Authority to a Malaysian company without reference to the National Forest Board (Filer 1998: 195). The project area was not covered by a lease-leaseback arrangement.

National Capital District, while five appear to reside in 'Waima village' and one in 'Inaina village'. The name 'Waima' is commonly applied to a group of coastal villages located close to the border between Central and Gulf provinces, at least 50 kilometres away from any part of the Baina project area, and it seems likely that one or more of the Waima people involved in the two companies were meant to act as representatives of the Kairuku LLG. 'Inaina village', like 'Baina village', cannot be identified in national census records or on topographic maps of the area.

In February 2011 I also discovered an undated Environmental Impact Statement which was submitted by Nasyl No. 98 Ltd to the PNG Department of Environment and Conservation. This document includes a copy of the land survey map showing the boundaries of the area covered by the SABL (NN98L n.d.: 38), and claims that 'Inainna' is both a 'newly settled' village and the only settlement within the boundaries of the lease area (ibid.: 34). Attached to this document are copies of letters of endorsement from the Provincial Executive Council (June 2004), the Provincial Governor (August 2004), and the Provincial Administrator (October 2004), with a further note (from March 2005) to indicate that the Provincial Government would ask the Internal Revenue Commission to exempt the Baina project from national taxes. Another attachment contains statements of more or less qualified support from seven individual residents of Inaina village, all dated from December 2004 and January 2005. One of these statements is from Joe Bagoro, the Inaina man who still appears in company records as a director of both BADBL and BAFL, who declared himself to be the Chairman of BAFL at the time and to represent the interest of 6000 landowners with an interest in the project area. According to its current record, BAFL has not filed any annual returns or any other documents with the Investment Promotion Authority since his statement was signed.⁸

The Changhae Cassava Biofuel Project

In December 2006, an SABL over 20 000 hectares of land in the Kavieng District of New Ireland Province was issued to a company called Cassava Etagon Holdings Ltd for a period of 99 years. Two months later, in February 2007, SABLs over seven areas of land totalling 12 913 hectares in the Rigo District of Central Province were issued to a company called Changhae Tapioka (PNG) Ltd for a period of 40 years. The SABL in New Ireland Province seems to include the areas formerly covered by the East and West Kaut Timber Permits in the Tikana LLG area of Kavieng District. The East Kaut area (6410 hectares) was logged in the 1980s, and the West Kaut area (11 190 hectares) was logged in the 1990s. The areas covered by the SABLs in Central Province are located between Kwikila government station, the capital of Rigo District, and the Laulakalana agricultural station on the Kemp Welch River. There is no evidence of recent logging activity or commercial forestry potential in these areas. In both cases, the land covered by the SABLs was being made available to Changhae Ethanol Corporation of South Korea for the production of ethanol from cassava and other crops.

⁸ When my discussion of this case was reported in one of the national newspapers in April 2011, Mr Bagoro and his colleagues accused me of having a vested interest of some kind, and 'despite the adverse publicity', they were still 'adamant to find a new investor to assist them in developing their land' (*Post-Courier*, 14 April 2011).

This investment had apparently been under discussion since 2003 (*Post-Courier*, 25 July 2006). In February 2005, Prime Minister Michael Somare reportedly signed an agreement with Changhae that would grant the company 20 000 hectares of land in Central Province. Martin Aini, the MP for Kavieng District, reportedly expressed his confidence that local landowners in his electorate would make at least 40 000—perhaps as much as 80 000—hectares of land available for this purpose (*The National*, 7 February 2005). Shortly afterwards, surveyors were reportedly at work on the registration of 23 incorporated land groups (ILGs) so that 26 000 hectares of customary land could be part of a total of 43 000 hectares which the New Ireland Provincial Government would provide for the investment (*The National*, 21 February 2005; *Post-Courier*, 7 March 2005). In August that year, it was announced that similar work would be carried out in Central Province because the 6000 hectares of state land attached to the Laulakalana agricultural station would need to be supplemented by 14 000 hectares of customary land in order to meet the government's commitment to the investor (*The National*, 29 August 2005; *Post-Courier*, 31 August 2005). In November, it was reported that seven ILGs representing the people of Saroakeina village had leased 3248 hectares of land to the government for this purpose, and landowners from Bore village were expected to lease another 3800 hectares within a fortnight (*The National*, 1 November 2005).

When the project agreements were first announced in 2005, the size of Changhae's investment was valued at K82 million (or US\$26 million) (*The National*, 7 and 21 February 2005). In 2005 and 2006, Korean newspapers reported that the PNG government had agreed to grant Changhae a local monopoly over ethanol production, along with a government subsidy of K30 million and a variety of tax concessions into the bargain, while the company undertook to build five factories with a combined annual output of 200 million litres of ethanol (Moon Hong, personal communication, March 2009). Part of the government subsidy seems to have been provided by means of a loan from the Asian Development Bank (*Post-Courier*, 25 July 2006). In December 2006, the PNG newspapers reported that Changhae would invest US\$6 million in the commercial cultivation of cassava, to be followed by construction of the first bio-ethanol plant at a cost of US\$26 million, with the creation of 5000 jobs for local people. The Secretary of the Department of Agriculture and Livestock reportedly said that domestic consumption of ethanol would help PNG to meet its greenhouse gas targets under the Kyoto Protocol, while Changhae's chief executive officer reportedly said that the project would help local farmers to become 'biofuel sheiks' (*The National*, 12 December 2006). In 2007, the Government declared that the Changhae project in Central Province was the first project to be supported and financed under the terms of the National Agriculture Development Plan (*The National*, 23 April 2007). By that stage, the project in Central Province was said to have a total value of K283 million (or US\$90 million) (*The National*, 24 April 2007).

Although the national newspapers had reported an agreement by the PNG government to release 'about' 20 000 hectares of land around Launakalana agricultural station in December 2006 (*The National*, 12 December 2006), some local landowners claimed that they were not party to this agreement (*The National*, 25 January 2007). A 'ground-breaking ceremony' was held in Bore village in April 2007, with the Prime Minister, Lands Minister, Agriculture Minister and South Korean Ambassador all in attendance, partly to congratulate local villagers for releasing 2714 hectares of their own customary land (*Post-Courier*, 19 and 20 April 2007). A landowner representative at the ground-breaking ceremony applauded the Prime Minister's

promise of K23 million to upgrade the feeder road connecting Bore village to the Magi Highway, but also reportedly called for the government to carry out a 'social and environmental impact study' and to 'come up with more efficient ways of registering customary land' (*Post-Courier*, 23 April 2007).⁹ By that stage, it seems that 25 ILGs from seven villages (Saroakeina, Bore, Bigairuka, Niuiruka, Matairuka, Koulubu and Sivatana) had allocated land to the biofuel project (*The National*, 24 April 2007). A subsequent newspaper article claimed that the SABLs around Launakalana had in fact been issued to the customary landowners (*Post-Courier*, 19 October 2007), but the National Gazette tells a different story. Provincial government officials have denied sighting any land use agreements between Changhae and the customary landowners (Brian Aldrich, personal communication, November 2008).

Although Changhae seems to have gained access to a larger area of customary land in New Ireland Province, it has also met with some political opposition to its development plans for the area. When Prime Minister Michael Somare arrived to launch the project in April 2008, he was preceded by two other government ministers attempting to deal with 'outstanding land issues'. The Prime Minister was also obliged to conduct a reconciliation ceremony with Martin Aini, the local MP who had supported the project in 2005 but had been sacked from his ministerial position in 2007, while Provincial Governor Julius Chan simply absented himself from the proceedings (*Post-Courier*, 30 April 2008). Chan was later reported to oppose the project because 'illegal logging in his province had cost the province millions and he was considering imposing a suspension on logging for an indefinite period' (*Post-Courier*, 13 May 2008). This statement is somewhat ironic, since Chan had once been a champion of the logging industry in his own province, and the area now being leased for the biofuel project had already been degraded by logging operations. However, local landowners were also complaining about a lack of consultation over the new land use proposals (*Post-Courier*, 28 May 2008), and it is not clear what progress has since been made with the company's development plans.

More progress seems to have been made in Central Province, where the project nursery site near Bore village had already been established at the beginning of 2008 (*Post-Courier*, 15 February 2008). Later that year, Changhae was entertaining the possibility of a partnership with the larger Korean company, LG International Corporation (*The National*, 17 July 2008; *Post-Courier*, 18 July 2008). In September 2008, Changhae was said to have 40 staff employed on its nucleus estate, with eight local university students helping to develop the project as part of their studies. The plan was to export the first shipload of cassava chips to one of the company's Korean ethanol plants in 2009, and to finish construction of the local plant within five years (*Post-Courier*, 19 September 2008). The 20-hectare nursery was expected to yield 1000 tonnes of cassava, including the planting material required for the next 500 hectares of the nucleus estate to be planted in the following year (*The National*, 14 November 2008). The subsequent rate of progress has not been documented in the national newspapers, but there was a temporary setback in November 2009, when a number of local villagers were reportedly arrested by police after launching an attack on the project site when 'a village woman was prevented by a project site manager from selling her garden produce outside the project gates' (*The National*, 6 November 2009).

⁹ It appears that Changhae did submit an Environmental Impact Statement for its Central Province project to the Department of Environment and Conservation, but I have not yet found a copy of this document.

'Integrated Rural Development' in Pomio District

In July 2008, three SABLs over a combined total of 42 400 hectares of land in East New Britain Province were simultaneously issued to three landowner companies: Pomata Investment Ltd (15 000 hectares), Ralopal Investment Ltd (11 300 hectares), and Nakiura Investment Ltd (16 100 hectares). In August 2008, a fourth SABL over 68 300 hectares of land in the same province was issued to a landowner company called Rera Holdings Ltd, and in December 2009, a fifth SABL over 13 000 hectares of land was issued to another landowner company called Unung Sigite Ltd. All five leases were for the maximum period of 99 years.

The common denominator in this instance is that all five areas were at one time meant to be part of something known as the 'Sigite-Mukus Integrated Rural Development Project'. This was the subject of a project agreement, signed in May 2004, between a landowner company called Memalo Holdings Ltd (MHL), which had just been incorporated, Paul Tiensten, the Minister for National Planning and MP for Pomio District, and a logging company called Sumas Timber & Development International Ltd (STDIL). This project agreement was attached to an 'Environment Inception Report' prepared by MHL and STDIL and apparently submitted to the PNG Department of Environment and Conservation in July 2006 (MHL and STDIL 2006). This document in turn explains the derivation of the name 'Memalo' from the names of three 'tribes' (or language groups)—Mengen, Mamusi and Lote—whose members inhabit three of the five LLG areas in Pomio District; Central/Inland Pomio, West Pomio/Mamusi, and Melkol. According to this document, MHL was established as an umbrella company representing the interests of seven distinct groups of landowners, and a total of 121 'landowning clans' (or incorporated land groups), in this part of Pomio District.

The three LLG areas whose inhabitants were supposedly represented by MHL have a combined area of more than 600 000 hectares (ENBPA 2005). The original Sigite-Mukus project documents refer to a 'project area' of 286 180 hectares, of which 200 000 hectares is said to comprise 'productive forest' (MHL and STDIL 2006). The relevant forest area shown in the 1996 National Forest Plan is a cluster of six PFD areas which fall within the boundaries of the three LLG areas. One area of 65 000 hectares, formerly known as Tolo Mukus and now known as Mukus Tolo Block 4, is located within the boundaries of the Melkol LLG area, and is the subject of an FMA between the State and the customary landowners that was signed in 1996. Three of the other five PFD areas have since been renamed, but are still recognised as PFD areas, even though they are still without an FMA. These are Bairaman Wunung Block 1 (35 233 hectares), Tolo Bairaman Block 2 (22 795 hectares), and Melkoi Tolo Block 3 (49 741 hectares). Blocks 1 and 2 appear to be located within the boundaries of the West Pomio/Mamusi LLG area, while Block 3 appears to be split between this LLG area and the Melkol LLG area which contains Block 4. The other two forest areas that were recognised in the 1996 National Forest Plan—then known as the Lower and Upper Nakanai Plateau areas—also fall within the boundaries of the West Pomio/Mamusi LLG area, but are no longer recognised as PFD areas in PNGFA records. Provincial government records mention a seventh forest area, called the 'Unung Sigite Extension TRP area'

(ENBPA 2005),¹⁰ with an extent of 39 000 hectares, apparently located in the Central/Inland Pomio LLG area, but no trace of this forest area can be found in central PNGFA records.

The original Sigite-Mukus project agreement specified that the logging company (STDIL) would lend K300 000 to MHL and Paul Tiensten so that they could secure the cooperation of the local landowners and later arrange for the loan to be repaid from logging revenues. The Environment Inception Report indicates that the bulk of the local revenues secured from the logging operation would then be used to fund the construction of a 178-kilometre road from the Sigite Gorge to the Mukus River (hence the name of the project), a sawmill on the site of Unung (or Wunung) Plantation in Jacquinot Bay, a nucleus oil palm estate on the site of Rano Plantation on Cape Beechey, and an associated corridor of smallholder oil palm blocks between five and ten kilometres inland of the shoreline (MHL and STDIL 2006). Applications would be made to the PNGFA for two separate Timber Authorities for the road line and the agricultural components of the project, and it was said that the lease-leaseback scheme would be used to secure the land for the nucleus oil palm estate. The proposed road would have the effect of connecting most of the coastal villages in the three LLG areas to the Pomio District headquarters at Palmalmal, which is close to Unung Plantation on the shores of Jacquinot Bay, and would apparently involve an upgrade of the existing 'truck road' between Palmalmal and Sigite Gorge, which is located along the northern boundary of the Unung Sigite forest area (ENBPA 2005). The new road would traverse this forest area and then run southwest through Blocks 1, 2 and 3 before reaching the Mukus (or Melkoi) River, which constitutes the boundary between Blocks 3 and 4, where it would connect with an existing road to the headquarters of the Melkoi LLG area at Uvol.

Despite the claims made in the main text of the Environment Inception Report, the company record attached to it showed that MHL had six, not seven, landowner companies as its shareholders, as it still does today. These are Pomata Ltd, Ralopal Ltd, Nakiura Ltd, Unung Sigite Ltd, Ura-Mosi Ltd and Mosi-Ngelu Ltd. Rera Holdings Ltd is not and never has been a shareholder in MHL, but is a distinct umbrella company, first incorporated in July 2006, whose shareholders are three other landowner companies, Sipaele Ltd, Moseng Ltd and Lokamo Investment Ltd. Rera Holdings, which now holds an SABL over the PFD area known as Mukus Tolo Block 4, has turned out to be the proponent of a different project which is variously known as the Ania-Melkoi Integrated (Rural) Development Project or the Mukas-Melkoi Large-Scale Integrated Agriculture Project. The Mukus River has therefore come to mark the boundary between two distinct 'agroforestry' projects.

By April 2008, MHL had abandoned its former deal with STDIL and had entered into a tripartite agreement with the State and Rimbunan Hijau, PNG's biggest logging company, to develop what was now sometimes called the 'Memalo Integrated Agriculture Project', with plans to establish a combination of oil palm, cocoa and coconut plantations. At the ceremony held to mark the signing of the agreement, the Director of Customary Land in the Lands Department, Jacob Waffinduo, reportedly told the 15 directors of three landowner companies that the lease-leaseback arrangement 'would enable the landowners to have more control

¹⁰ A TRP area is an area covered by a Timber Rights Purchase agreement between the State and the customary owners. Agreements of this kind were signed before the current *Forestry Act* came into effect in 1992, and should therefore be regarded as the forerunners of FMAs. Several TRP agreements are still in effect because they bestowed timber harvesting rights on the State for a period of several decades.

over their land, unlike before', while the Chairman of MHL, John Parulria, reportedly 'urged the civil society to work hand in hand with the lands, forestry and public services sectors to get the projects going' (*Post-Courier*, 15 April 2008).

In October 2008, one of Rimbunan Hijau's subsidiary companies, Gilford Ltd, submitted a 'Development Plan for the Establishment of Oil Palm and Forest Plantations in the Sigite-Mukus Consolidated Land Area' to the Department of Agriculture and Livestock, the Department of Environment and Conservation, the PNG Forest Authority, the East New Britain Provincial Government and its Provincial Forest Management Committee (GL and MHL 2008). At some point the Department of Environment and Conservation also received an undated Environmental Impact Statement for what was still described as the Sigite-Mukus Integrated Rural Development Project (MHL and GL n.d.). The Development Plan includes copies of agreements by Pomata Ltd, Ralopal Ltd and Nakiura Ltd to sub-lease the coastal areas covered by their SABLs in Blocks 1, 2 and 3 respectively to Gilford Ltd. In both documents, the Unung-Sigite TRP area is now described as 'Block 4', and the 'consolidated land blocks' associated with the project are shown to cover all of the contiguous PFD areas identified in the 1996 National Forest Plan with the exception of the original Block 4.

A newspaper article in November 2010 announced that development of the project was now set to proceed in the areas covered by the three coastal leases in Block 1-3, 'while Uni Sikite, Uramosi lower plateau and Mosi Ngelu upper plateau, all in the Mamusi area, had yet to begin' (*The National*, 23 November 2010). Since this article stated that the project was approved by the East New Britain Provincial Forest Management Committee in September 2010, it is likely that the process of securing an FCA had already been initiated. However, the Vice Chairman of MHL, Joe Tali, was reported as saying that 'people were not consulted during the time of the sub-lease agreement on the selection criteria of the project developer, especially on oil palm', and that 'some non-governmental organisations and stakeholders had caused confusion and in-fighting among landowner companies on the fair distribution of benefits' (*The National*, 23 November 2010).¹¹

In-fighting amongst landowners and landowner companies is apparently not a new phenomenon in this part of Pomio District. When the national government's Independent Forestry Review Team investigated the Mukus Tolo (Block 4) FMA area in 2000, it found that the process of land group incorporation had been engineered by two local landowner companies (Sitala Ltd and Itara Ltd) without proper supervision by officers of the National Forest Service. Furthermore, there was evidence of conflict between the 'coastal' and 'inland' people in the area, some landowners had not consented to the FMA, and there was a general lack of awareness of what was entailed in an officially recognised Project Agreement that had been made with a logging company called Gasmata Holdings Ltd in 1997 (GPNG 2000a).¹² The team therefore recommended that the Project Agreement should be terminated and the process of resource acquisition prescribed by the *Forestry Act* should start all over again. Some national forestry officials have told me that local landowners asked

¹¹ This could have been an allusion to the fact that environmental organisations were already helping community groups in two of the six 'consolidated land blocks' to mount a legal challenge to the lease-leaseback arrangements which 'their' landowner companies had entered into (Peter Dam, personal communication, February 2011).

¹² The biggest single shareholder in Gasmata Holdings turned out to be a former Forests Minister in the national government.

the PNGFA to invalidate the original FMA, and that the PNGFA agreed to this request. However, the Department of Environment and Conservation is in possession of an 'Environmental Permit Application to Discharge Waste' from the 'Mukas-Melkoi' project, which was apparently received from a logging company, DD Lumber Ltd, in February 2010 (DDLL 2010).¹³ The attachments to this document include a letter from Rera Holdings to DD Lumber inviting the latter to develop the project and a letter of endorsement from Paul Tiensten to the East New Britain Provincial Administrator, both dating from September 2006, and a further letter of endorsement from the Department of Agriculture and Livestock to DD Lumber dating from March 2008. According to one informant, DD Lumber has already started to log the area (Basil Peutalo, personal communication, February 2011), but I have not been able to find evidence of the company being granted a Timber Permit or an FCA.

A new round of conflict over the Sigite-Mukus project erupted in April 2011, after Gilford was reported to have moved its logging equipment into the area, and dissident landowners complained of police harassment when they tried to organise a protest (*Post-Courier*, 8 April 2011). This prompted Paul Tiensten to announce that he would 'not allow any foreign elements to sabotage my projects', while conceding (or boasting) that he was indeed 'the main advocate for the special agriculture business lease that is part of the overall medium-term development plan to unlock customary land for development purposes' (*The National*, 19 April 2011). Although Tiensten had the public support of the Provincial Governor, Leo Dion, and a number of individuals associated with MHL, the argument between local supporters and opponents of the Sigite-Mukus project was evidently one of the factors that persuaded the National Executive Council to announce a Commission of Inquiry into the grant of all the SABLs and FCAs represented in Tables 1–4 (*Post-Courier*, 2 and 6 May 2011). The Acting Prime Minister, Sam Abal, specified the scope of this inquiry at the beginning of July 2011 (see Annex 2), and the terms of reference were formally gazetted three weeks later. Shortly afterwards, a majority of the MPs in the ruling national government coalition crossed the floor of Parliament and helped the Opposition to elect a new Prime Minister to replace Michael Somare, who was still recuperating from heart surgery in Singapore. Neither Abal nor Tiensten were amongst the defectors, but Leo Dion continued to lobby for his province to be granted an exemption from the Commission of Inquiry on the grounds that all its agroforestry projects were both popular and successful (*Post-Courier*, 1 September 2011).

VARIATIONS ON A SINGLE PROCESS

The Changhae and Pomio project case studies both serve to illustrate a deficiency in the way that Table 2 summarises the scale of the land acquisitions that have taken place under the lease-leaseback scheme. The Changhae project in Central Province is one of several cases in which separate leases over adjacent or proximate blocks of land have been granted to the same company at the same time, and should therefore be regarded as separate components in a single process of land acquisition. In the Changhae case, two out of seven SABLs in Central Province covered 'very small' areas of less than 100 hectares, while the other five covered 'medium' sized areas of between 1000 and 10 000 hectares, and they are shown as such in Table 4, but the total area of land acquired for this project through a single process

¹³ DD Lumber is a subsidiary of Brilliant Investment Ltd, the company which already holds an SABL in its own right in East Sepik Province.

was a 'large' area of more than 10 000 hectares (see Annex 1). The Sigite-Mukus case illustrates the further possibility that a single project may involve the grant of several SABLs to different corporate entities, on different dates, in respect of areas of land which may not be adjacent to each other, even if they are located in the same district. Unfortunately, we do not yet have sufficient information to determine the total number of projects which embrace the 73 SABLs recorded in Tables 1 and 2.

The three local case studies also serve to show that the dates on which SABLs are granted may not bear a constant relationship to the points in time at which the planning of specific projects actually started. It is not clear when the Governor of Central Province first conceived of the Baina project, but it is quite possible that this happened after the original plans for the Changhae and Sigite-Mukus projects had been put in place in the first two years following the national elections of 2002. So while Table 1 appears to show a steady increase in the rate of corporate land acquisition under the lease-leaseback scheme, this may partly reflect a differential rate of progress in the implementation of several projects conceived by key members of the ruling government coalition at roughly the same time.

Nevertheless, it should not be inferred that these three case studies are somehow representative of a larger bundle of projects initiated by the Somare government during the period between the national elections of 2002 and 2007. There are several reasons to regard the Changhae biofuel project as a unique experiment, rather like the carbon trading proposal over the Kamula Doso forest area, albeit covering a much smaller area of customary land. Although there are other project proponents who have talked about the production of biofuels, none has so far proposed the cultivation of cassava for this purpose, nor has any announced an intention to build an ethanol plant in PNG. Changhae is so far the only Korean company to associate itself with a project being developed under the lease-leaseback scheme, and this project is one of very few 'large' projects which cannot be counted as 'agroforestry' projects because the land covered by the leases does not contain any native forests with unexploited commercial timber resources. The Baina project and the two Pomio projects, by contrast, do bear a strong mutual resemblance, and do seem to be quite typical of a larger bundle of large-scale 'agroforestry' projects.

From what is known about this larger bundle of projects, it is possible to infer the normal form of a political and bureaucratic approval process which now leads towards the grant of a Forest Clearing Authority (FCA) under Section 90B of the *Forestry Act*. This begins with a process of land group incorporation. By the end of 2010, there were more than 16 000 incorporated land groups registered with the Lands Department under the terms of the *Land Groups Incorporation Act*. Most of these groups had been established in anticipation of a logging project, some with active support from officers of the National Forest Service working to comply with the terms of the *Forestry Act*, others under the influence of past, present or potential members of the national parliament, often working in alliance with the present or future directors of landowner companies in which the land groups themselves or other landowner companies may turn out to be shareholders, and sometimes working in alliance with logging companies or 'development partners' who already have an interest in the exploitation of local forest resources. Sitting members of parliament, especially those aligned with the ruling government coalition, often seem to have played a crucial role in facilitating the process through which a set of land group certificates is presented to the Lands Department in support of an application for 'their' land to be leased back to a company of 'their' choice. By the time this happens, the logging companies or 'development partners'

will almost certainly be party to the process. In theory, officers of the Lands Department should undertake a 'land investigation' in order to establish the connection between the land group certificates and the customary land under consideration before granting an SABL (Moore 2011). However, the relevant Land Investigation Reports have rarely, if ever, come to light, if indeed they exist at all, nor is it possible to establish the extent to which the purpose of the leaseback has been specified in the proposal submitted on behalf of the land groups who are leasing their land to the State.

Once the leaseback has been gazetted, if not before, the 'development partner' submits an 'agroforestry' project proposal to the Department of Agriculture and Livestock. Officers of this department may or may not consult the National Agriculture Development Plan (GPNG 2007a) to see if the proposal conforms with its priorities, but in any case, this plan does not set any location-specific priorities for the conversion of native forests to large-scale agricultural land use (McCrea 2009). However, in order to comply with Section 90B of the *Forestry Act*, officers of this department should conduct some form of 'awareness' activity with landowners and other stakeholders to establish the extent of local support for the project. There is some evidence of this activity being undertaken, but the outcomes are not clearly documented. These are likely to be occasions on which the local member of parliament delivers a speech of encouragement to his band of loyal supporters, preferably in the company of other political and bureaucratic heavyweights from the national and provincial centres of political power. If these ceremonies are well attended, the speeches may be reported in the national newspapers.

Once the Department of Agriculture and Livestock has placed its stamp of approval on an 'agroforestry' project proposal, the proponents attach this to their application for an FCA. The application should be vetted by officers of the NFS and then considered by members of the NFB in order to establish its compliance with the guidelines that pertain to Section 90B (GPNG 2008a). The project needs to be approved by the relevant Provincial Forest Management Committee, but this body is unlikely to dissent from the preferences of local members of parliament who are members of the ruling national government coalition. The Department of Environment and Conservation may also be asked to grant an Environment Permit for the project, but it is not clear who decides whether such a permit needs to be obtained.¹⁴ The records of the PNGFA show that an Environment Permit had been granted for nine of the 23 applications represented in Table 4, including eight of the twelve cases in which an application was associated with a lease-leaseback arrangement. Six FCAs had been granted in the absence of an Environment Permit, but none of these was associated with a lease-leaseback arrangement. In three cases where this association was present, the grant of an FCA had apparently been held up because an Environment Permit had not yet been granted.

When the National Forest Board decides that there are no further bureaucratic (or legal) obstacles to the grant of an FCA, it can still attach various conditions to the grant which specify how much of the area in question can be clear-felled for conversion to agricultural land use or logged selectively in order to provide additional finance for the proposed

¹⁴ Environment Permits are issued under the terms of the *Environment Act* of 2000. The Secretary for Environment and Conservation is notionally responsible for deciding whether project proponents need to submit an Environmental Impact Statement before such a permit is granted. Environmental Impact Statements are normally required for all large-scale logging operations.

development. PNGFA records indicate that performance bonds of between K100 000 and K890 000 had been levied on at least eight of the 14 'agroforestry' projects to which an FCA had been granted by April 2010. Officers of the NFS are meant to monitor the compliance of the developers with the conditions attached to each FCA, just as they are meant to monitor the compliance of mainstream logging operations with the PNG Logging Code of Practice (GPNG 1995). However, serious doubts remain over their capacity to perform either of these tasks with due diligence, and it is not clear whether the customary owners of the trees harvested under an FCA which is granted under a lease-leaseback arrangement receive any of the timber royalties to which they would be entitled under the conditions attached to the grant of a regular Timber Permit for a selective logging operation (Bob Tate, personal communication, October 2010).

According to reports from the company engaged by the PNG government to monitor raw log exports, about 920 000 cubic metres of logs with a combined value of roughly K190 million were exported from the areas represented in Table 4 over the four years from 2007 to 2010 (SGS 2008, 2009, 2010, 2011).¹⁵ About 70 per cent of these logs came from areas over which a leaseback has been gazetted, but in three cases (all in New Ireland Province), log exports seem to have begun before or without the grant of an FCA, which seems to be somewhat irregular. There is anecdotal evidence of logs being (illegally) harvested in some of the other areas over which a leaseback has been gazetted, whether or not an application has been made for an FCA, but the true extent of such activity is unknown. The 920 000 cubic metres recorded in official statistics represent less than 10 per cent of all the raw logs officially exported from PNG over that three-year period, so the logging associated with 'agroforestry' projects still seems far less significant than the selective logging operations authorised under regular Timber Permits. However, the PNGFA established a new incentive for logging companies to associate themselves with 'agroforestry' projects when it released a new version of the National Forestry Development Guidelines in 2010 (GPNG 2009). These guidelines state that Timber Permits will henceforth only be granted for selective logging operations in which the entire log harvest is processed onshore, whereas raw log exports will still be allowed under an FCA. Although there are some notable exceptions, the available evidence suggests that the average lapse of time between the gazettal of an SABL, the grant of an FCA, and the start of actual log export operations in an 'agroforestry' project is at least two years. Given the fact that three quarters of the total area of customary land leased back to private companies since 2003 has been converted since the beginning of 2009 (see Table 1), it would be reasonable to expect continued growth in the number of applications for FCAs over areas already covered by SABLs in the period after April 2010.

In March 2010, PNG's National Executive Council is thought to have endorsed a climate change policy document which called for a moratorium to be imposed on the further grant of SABLs pending the conduct of an inquiry into the political and bureaucratic process through which existing leases had been granted (GPNG 2010a: 29). The reason for this recommendation was that the PNG government has played a leading role in seeking compensation from the international community for actions taken to reduce carbon dioxide emissions from the process of deforestation and forest degradation in so-called 'rainforest

¹⁵ These figures do not include the 30 000 cubic metres exported by Nasyf No. 98 from the Baina project area.

nations'. If it were to seem that the government was actively promoting this very process through its endorsement of a new generation of 'agroforestry' projects, it might be harder to convince the international community that it was acting in good faith (Filer 2010). An Agriculture Sector Working Group was indeed established to investigate the workings of the lease-leaseback scheme in the promotion of 'agroforestry' projects, and three of the four government agencies involved in the process sent representatives to its meetings, while the Lands Department was notable by its absence (Valentine Thurairajah, personal communication, May 2010). I have not sighted any documentary record of the group's deliberations, but between April 2010 and April 2011 the Lands Department granted 16 SABLs to private companies over a combined area of 2.7 million hectares of what had formerly been customary land. In November 2010, a newspaper article quoted the Secretary for Justice making a public declaration that the Department's actions in this regard were 'totally corrupt', because '[o]fficers and certain rouge [sic] landowners are colluding and conniving with each other to sell off customary land for their own benefit and interest while the majority of landowners are left out' (*Post-Courier*, 11 November 2010).

SPECTRES OF CORRUPTION AND CONSPIRACY

Whatever the Secretary for Justice might think about the Lands Department, the corruption or incompetence of that agency's officers is not sufficient to explain the rising tide of land tenure conversions under the lease-leaseback scheme since 2003. So what are the larger political and economic forces behind this recent land grab? There is a pervasive populist policy narrative in PNG which simply blames the foreign agents of global capitalism—especially the logging industry, the oil palm industry, the World Bank and other members of the 'donor community'. By this account, a treacherous band of national politicians and public servants has been corrupted by an international conspiracy to steal the birthright of the rural masses, and the task of exposing and defeating this conspiracy now lies with a small but heroic band of true nationalists who know that genuine rural development entails the maintenance of customary land rights. Behind this policy narrative there are three key assumptions: the assumption of a common capitalist interest in the process of globalisation, the assumption of dependency at the level of the nation-state, and the assumption of innocence or ignorance at the level of the rural community. But closer scrutiny of the political forces at work around the lease-leaseback scheme reveals some interesting points of weakness in all three of these assumptions, and therefore suggests the need for a rather more complex policy narrative.

Let us begin with the oil palm industry. It may be true that the established operators of PNG's five major oil palm schemes were partly responsible for inspiring the recent land grab through their innovative use of the lease-leaseback scheme to establish 'mini-estates' on customary land in the late-1990s. However, their use of the scheme has consistently placed all SABLs in the hands of incorporated land groups representing relatively small groups of customary landowners, and not in the hands of landowner companies (let alone foreign companies) whose directors purport to represent the interests of much larger groups. Oil palm industry representatives and consultants have played a significant role in opposing what they perceive as a perversion of the same scheme, not only because it seems to entail the alienation of much larger areas over longer periods of time, but also because the perpetrators seem to have saved themselves the very considerable expense of securing the informed consent of all the customary owners.

Abuse of the lease-leaseback scheme by third parties puts another weapon in the hands of populists who already believe that foreign oil palm companies are enemies of the people and their natural environment. But it also poses another threat to the established oil palm industry because some of these third parties justify their abuse of the lease-leaseback scheme in terms of a national ambition to expand the ranks of the oil palm establishment, which is accompanied by an expectation that current members will sell them oil palm seedlings to start their new business ventures. However, the two companies currently responsible for the whole of PNG's palm oil exports—New Britain Palm Oil Ltd (NBPOL) and Hargy Oil Palms Ltd—have recently been certified for their compliance with the national version of the standards established by the Roundtable on Sustainable Palm Oil (RSPO 2008). This means that both companies have placed themselves under an obligation to ensure that their activities do not lead, directly or indirectly, to the clearance of native forests, especially those with high conservation value. This creates a particular problem for NBPOL, for it is not only the dominant player in the current palm oil export industry, but also a major producer and exporter of oil palm seed. NBPOL therefore faces another form of reputational risk if it agrees to sell seed or seedlings to the promoters of so-called 'agroforestry' projects which not only involve the clearance of native forests under Forest Clearing Authorities, but might turn out to be little more than short-term logging projects approved on a false pretext. The established industry's concern about the true motives of the companies which have secured SABLs for the development of such projects is not only based on suspicion of the methods by which they have gained access to customary land, but also on doubts about the technical and economic feasibility of their agricultural project proposals.¹⁶ The new land grab therefore constitutes a form of double jeopardy for PNG's oil palm industry.

If representatives of the oil palm industry believe that the new land grab is a ploy by the logging industry to gain rapid access to additional areas of native forest by circumventing the normal process of resource allocation prescribed by the *Forestry Act*, their suspicions may have been amplified by a recent report commissioned by PNG's Forest Industries Association (FIA). This report argues that the economic interests of the rural population will best be served by a substantial increase in the area of native forest replaced by oil palm estates, regardless of the self-serving postures adopted by the Roundtable on Sustainable Palm Oil, and applauds a project somewhere in East New Britain Province where local landowners wish to 'lease back forest land of 45 000 hectares for planned development, including an initial 12 000 hectares of oil palm over 5 years' (ITS Global 2010: 11).¹⁷ Now this might count as evidence of a rift between the logging industry and the oil palm industry on the question of native forest clearance, but does it count as evidence that the logging industry is responsible for the new land grab?

In the populist policy narrative, PNG's logging industry is commonly represented as a sort of criminal syndicate whose godfather or mastermind is the Malaysian company, Rimbunan Hijau (RH) (Greenpeace 2004; CELCOR and ACF 2006). For their part, RH and the FIA have produced a counter-narrative which portrays the industry's opponents as an equally united, and equally sinister, consortium whose godfather or mastermind is the World Bank

¹⁶ Industry sources estimate that the capital cost of an entirely new oil palm scheme in PNG would be close to US\$100 million, and the investment would only make sense if the investor had guaranteed access to 30 000 hectares of land (Ian Orrell, personal communication, February 2011).

¹⁷ This is apparently a reference to the Sigite-Mukus project.

(ITS Global 2006). These two narratives conspire to represent PNG's forest policy domain as the site of a war between two foreign armies which began with the report of a national commission of inquiry into forest industry corruption in 1989, and rapidly gathered steam as the World Bank assumed responsibility for coordinating donor inputs to PNG's forest policy reform process in the early 1990s, while RH established its current position as the country's biggest logging company at the same time (Filer 1998, 2000). In this representation of the policy process, the World Bank and its allies suffered a significant defeat in 2005, when the Somare government's refusal to implement all of the recommendations made by the donor-funded Independent Forestry Review Team led to the cancellation of the PNG Forestry and Conservation Project.¹⁸ With the Bank's leverage lost and its local allies in disarray, RH and its allies in the logging industry have successfully lobbied for a number of changes in the legal and fiscal regime which governs their operations. However, it is much harder to demonstrate that RH and the other big logging companies which belong to the FIA have stood to benefit from the new land grab, nor is there any evidence that they were instrumental in securing the amendments made to the *Forestry Act* in 2007 to facilitate the grant of Forest Clearing Authorities.

The Sigite-Mukus project in East New Britain is the only 'agroforestry' project in which an RH subsidiary has so far been identified as the 'development partner' responsible for securing an FCA. There are two other potential projects in which RH seems to be involved in a partnership with landowner companies holding SABLs, but to the best of my knowledge, neither has so far resulted in a formal development proposal.

In June 2006, an SABL over 46 233 hectares of land in West New Britain Province was issued to a landowner company called Pulie-Anu Plantation Ltd (PAPL) for a period of 99 years, for what was described at the time as an 'agro enterprise project' (*The National*, 10 April 2006). Towards the end of 2008, PAPL and RH subsidiary Monarch Investments Ltd submitted an Environment Inception Report to the PNG Department of Environment and Conservation for an oil palm scheme in the area. This report specified the area covered by the SABL as 41 231 hectares, not 46 233 hectares, and declared that PAPL had five 'affiliate companies' (PAPL and MIL n.d.: 1). It seems very likely that these five affiliates were the five landowner companies to which separate SABLs over a combined total of 41 234 hectares were issued on the same day in September 2008 (see Annex 1). In that case, the five new SABLs may in fact have been sub-leases from PAPL to its five corporate shareholders,¹⁹ and the same area would then have been counted twice in Tables 1–4. Since the project partners had not applied for an FCA by April 2010, nor submitted a full Environmental Impact Statement by February 2011, it seems quite possible that RH decided to focus its attention on the Sigite-Mukus project instead. This would make sense if the feasibility of an 'agroforestry' project is dependent on revenues from a large-scale logging operation in an area which has not been logged already. Another logging company (not an RH subsidiary) had already extracted the most valuable timber from the Pulie-Anu forest area during the course of the 1990s (Filer 1997: 241–8).

¹⁸ Implementation of this project had been a condition of the Governance Promotion Adjustment Loan which the Bank provided to Somare's predecessor in 2000 (Filer 2004; World Bank 2006).

¹⁹ This would explain why the five land portion numbers in the gazettal notices do not have the letter 'C' attached to them. The absence of this letter normally means that the land in question is no longer customary land.

On the same day in October 2009, five SABLs over a combined area of 77 783 hectares of land in Western Province were issued to four landowner companies and one incorporated land group for a period of 70 years (see Annex 1). The areas covered by these SABLs are part of the much larger Wawoi-Guavi forest area, over which an RH subsidiary has held a Timber Permit for more than twenty years. Local people believe that RH must have been involved in this lease-leaseback arrangement, and may well have plans for some sort of 'agroforestry' project in partnership with the leaseholders (Michael Wood, personal communication, March 2011). However, I have not been able to find an Environment Inception Report or any other formal project proposals to a national government agency, so there is no official record of the company's intentions.

Most of the logging companies which have entered into partnerships with landowner companies holding SABLs are not members of the FIA, and many have never been granted a Timber Permit by the PNGFA. It is true that most of these companies have Malaysian directors or shareholders with Chinese names, just like RH and some of the other well-established logging companies in PNG, but this does not prove that all such individuals are officers in an underground army commanded by Datuk Tiong Hiew King and his family from their base in Sarawak. There are several recent cases in which Malaysian logging companies have been in competition for Timber Permits, and the bigger companies have not been consistently victorious. The selection of development partners (or logging contractors) in areas covered by SABLs is apparently subject to a similar form of competition. In the largest single area so far covered by an SABL, the Kamula Doso forest area in Western Province, it is clear that the lease-leaseback arrangement was part of a scheme to prevent RH from gaining control of its timber resources. RH has made no secret of its agricultural investments in other countries, including three oil palm schemes in Sarawak, but the balance of its PNG portfolio has been moving from rural to urban areas. The company's most recent investment in PNG's national capital is a 'billion-kina project' known as Vision City, which already contains the largest shopping mall in the Pacific island region, and will shortly be expanded to include 'an office tower block, service apartments, a hotel and convention centre' (*The National*, 14 September 2010).²⁰ Whatever the ultimate cost of this investment, it far outweighs the profits which the company makes from exporting about 100 million US dollars' worth of raw logs and processed timber products each year.²¹

In its capacity as a logging company, RH might be thought to share the interest of other well-established logging companies in maintaining the process of centralised resource acquisition and allocation prescribed under the *Forestry Act*. Members of the FIA have some influence over this process because their peak body has a seat on the National Forest Board. The party line espoused by the FIA is that its own members are pillars of industrial respectability whose own interests are best served if they can help the PNGFA to stop the dodgy operators outside the association from bending or breaking the rules to their own advantage. Needless to say, this argument has no traction with conspiracy theorists on the other side of the policy war, but the history of the Baina 'agroforestry' project suggests that it does have some merit. The objections made to that project by members of the FIA and the NFB seem to have been

²⁰ RH also owns the newspaper in which this story was published.

²¹ In 2006, the company's exports of processed timber products had an FOB value of more than US\$26 million, while the value of its raw log exports (about 40 per cent of PNG's total log exports in 2006) was about US\$68 million (ITS Global 2007).

the main trigger for the amendments made to Sections 90A-E of the *Forestry Act* in 2007. For the mainstream logging companies, the approval of FCAs represents a continual reduction in the size of the national forest estate that might be made available for selective logging on a 'sustainable' (rotational) basis through the grant of Timber Permits under Forest Management Agreements. The rules governing the allocation of Timber Permits are fairly clear and fairly familiar to the logging industry, but there is no equivalent set of rules to govern the choice of logging contractors by holders of SABLs. This does not necessarily mean that the big logging companies have a vested interest in slowing down the rate of native forest clearance; it only means that they would like to have a National Forest Plan that clearly tells them which native forest areas belong to a semi-permanent national forest estate, and which areas can be clear-felled and converted to agricultural use (Bob Tate, personal communication, October 2010). It is true that the new set of National Forestry Development Guidelines (GPNG 2009) have created a new incentive for all logging companies to compete for FCAs if they want to carry on exporting raw logs and save themselves the cost of building more plywood or veneer factories, but there is no reason to suppose that the logging industry itself has lobbied for this change in national policy.

Given the history of antagonism between RH and the World Bank, or between the logging industry and the 'donor community', it might seem rather odd that a populist policy narrative paints both sides into the same corner when it seeks to explain the recent land grab. The explanation can be found in a widespread belief that the World Bank has been pushing the PNG government to alienate or 'mobilize' customary land for more than three decades (Anderson 2003). It is certainly true that the World Bank supported the original invention of the lease-leaseback scheme in 1979, but of far greater significance is the memory of an epic struggle over the 'land reform condition' supposedly attached to the Bank's Economic Recovery Program loan to the PNG government in 1995. The condition in question supposedly called for the completion of 'framework legislation for customary land registration' and the completion of programs to register customary land in two provinces (East Sepik and East New Britain). A number of academic commentators have suggested that the Bank would have got its way with the government if it had not been for a storm of popular protest (Lakau 1997, Holzknicht 1999, Ploeg 1999). There was also speculation that proposed amendments to the *Land Registration Act 1981* were part of a plot by national politicians to use the amended law to lease huge tracts of customary land to foreign companies (Aid/Watch 1995) or even to offer it up as security for the World Bank loan itself (Kavanamur 1998).

There is evidence that the relevant policy condition had been dropped from the structural adjustment loan before the popular protest erupted, but the organisers of this protest still saw it as a way to mobilise opposition to the whole of the structural adjustment program (Filer 2000: 32–3). Be that as it may, the Bank's interest in this particular piece of conditionality can be ascribed to a certain level of impatience at the slow progress made by the Lands Department in the implementation of a Land Evaluation and Demarcation Project, followed by a Land Mobilisation Program, which had been substantially financed by the Bank and the Australian government since 1986 (*ibid.*: 34). This might seem to confirm that there was indeed a longstanding donor conspiracy to create a new market in titles over customary land. However, the conspiracy theorists tend to overlook the fact that a legal mechanism for the voluntary registration of customary land by incorporated land groups had been recommended in 1973 by a Commission of Inquiry into Land Matters whose mandate was to

establish an indigenous alternative to the body of land laws inherited from the Australian colonial administration (GPNG 1973; Bredmeyer 1975; Ward 1983). A substantial new body of land laws, including the *Land Groups Incorporation Act 1974*, was enacted shortly afterwards, but no changes were made to colonial legislation relating to the registration or alienation of customary land, and that is why the lease-leaseback scheme was introduced as a stop-gap measure in 1979.

Thirty years later, in March 2009, PNG's national parliament finally passed a series of amendments to the *Land Registration Act 1981* and the *Land Groups Incorporation Act 1974* which promised to complete the process of land reform recommended by the Commission of Inquiry. After the events of 1995, the World Bank and the Australian government were both careful to distance themselves from the policy process which led to these legal innovations. The Australian government aid agency has continued to make noises about the need to bridge the gap between modern and customary forms of land tenure in order to meet the needs of indigenous people and 'potential investors' in the Pacific island region (AusAID 2006: 81–8), and even commissioned a two-volume study on this subject as part of its 'Pacific Land Program' (AusAID 2008). However, the National Land Development Taskforce (NLDT) that was instituted by the PNG government in 2005 adopted the same nationalist mantle as the earlier Commission of Inquiry, and was equally keen to avoid the spectre of subordination to any foreign influence (Levantis and Yala 2008; Manning 2008). Some members of the donor community were no doubt very pleased when the report of the NLDT re-emphasised the need to mobilise customary land for the achievement of national development objectives (GPNG 2007b), but there is no sign of a foreign hand in the drafting of the legislation that followed (GPNG 2008b). This was largely the work of the present Secretary for Justice, in his previous incarnation as the head of the PNG's Constitutional and Law Reform Commission. And one likely reason for his recent outburst about the corruption of the Lands Department is that his new legislation should have made the lease-leaseback scheme redundant, since customary landowners should now be able to register their own titles to their own customary land without granting any sort of title to the State (Moore 2011).

In the populist policy narrative, no amount of nationalist sentiment can save the PNG government from its role as a neocolonial agent of foreign capital. A Lands Department which cannot be trusted to manage the lease-leaseback scheme for the benefit of customary landowners could surely not be trusted to manage a new scheme for the registration of customary land titles, and even if it could, registration would only be another stage in the process of alienation (Anderson and Lee 2010). However, one does not have to be an outright opponent of registration to question the Department's capacity to implement the newly amended legislation. Several members of the NLDT are known to share this concern, and elements within the PNG government have quietly diluted some of their nationalist sentiment by asking the Australian government to assist in reforming the current system of land administration. To which the response of the Australian government has so far been to say that it can only lend a hand if the hand stays out of sight, especially while the World Bank's hands are still firmly tied behind its back.

Domestic political champions of the land grab may also have come to realise that the Lands Department currently lacks the capacity to mobilise large areas of customary land by assigning registered titles to hundreds or thousands of incorporated land groups, because the amendments made to the *Land Groups Incorporation Act* require that all existing land groups be reincorporated within a five-year period, and their reincorporation entails the

production of far more information about their membership, their assets, and their internal deliberations than was previously necessary. Under the amendments made to the *Land Registration Act*, a land group wishing to register all or part of its land then has to submit a 'registration plan' to the newly created office of the Director of Customary Land Registration in the Lands Department. The plan has to include a description of 'the land or parcels of land owned absolutely under customary tenure by the customary group' and (where necessary) 'the names of such individuals or customary groups which established derivative interests in the land, including the boundaries of the parcels of such land and the nature of the interest'. On receipt of an ILG's registration plan, the Director then has to 'conduct such investigations as are necessary to verify the membership of customary groups' and 'make such inspections of the land, together with appointed representatives of such customary groups as are necessary to verify the identity and the boundaries of parcels of land claimed by such customary land group as stated in the registration plan'. He or she will then make any necessary revisions to the registration plan in consultation with the Regional Surveyor (mainly to ensure there are no existing titles over the land in question) and notify the public in case of any objections. If there are no objections, the Director will then issue a Certificate of Title to the land group on the basis of the Final Registration Plan, and customary law will then cease to apply to the land in question except in matters of inheritance. All this makes the lease-leaseback scheme look like a proven method of releasing land from the constraints of customary law with a lot less fuss and bother, even if officers of the Lands Department honestly perform the roles assigned to them by the relevant provisions of the *Land Act*.

The public statements made by the domestic champions of the new land grab make it quite clear that they believe themselves to be the agents of a genuine agricultural revolution in PNG. Furthermore, the way in which senior ministers in the Somare government have gone about the business of inserting this land grab into national and sectoral development strategies is testament to the liberating effects of the country's mineral resource boom, because the surge in tax revenues from the extractive industry sector has enabled them to ignore the policy prescriptions of foreign experts employed by the aid industry.²² The policy and planning documents which authorise the National Land Development Program and the National Agriculture Development Program are both presented to the public as home-grown charters for the liberation of rural land and labour from the inefficiencies of subsistence agriculture (GPNG 2007a, 2007b). Both documents express a preference for land to be liberated by the voluntary registration of group titles, but both also stress the need for rapid conversion on a large scale, and neither makes any negative statement about the potential uses of the lease-leaseback scheme. The same silence is present in the Development Strategic Plan produced by the Department of National Planning, which anticipates a K12.7 billion increase in national income by 2030 as a result of undertaking land reforms that will establish registered titles over 20 per cent of the country's total land area (GPNG 2010b: 42-3). While some of the other development targets mooted in this document seem remarkably ambitious, the land reform target could be met within the next five years if the Lands Department continues to grant SABLs to private companies at the rate and scale already documented in this paper. And once this short cut is taken, the longer route would seem to be superfluous.

²² In 2002, the year in which the Somare government came to power, the value of PNG's mineral exports was just over K4.4 billion (US\$1.1 billion.). In 2007, the year in which it returned to office after national elections, the value of mineral exports was almost K10.9 billion (US\$3.8 billion).

The Secretary for Justice is not alone amongst senior public servants who are deeply troubled by the recent operation of the lease-leaseback scheme, especially when leases are granted over customary land belonging to their own communities. However, their voices of dissent were largely stifled by the enthusiasm of their political masters. A number of non-government organisations have voiced their dissent more openly, and some have been helping local groups of dissident landowners to mount legal challenges to specific transactions. In their role as champions of the populist policy narrative, members of these organisations have been somewhat reluctant to forge an open alliance with other dissenters in the public service or the private sector, let alone to make public appeals for support from the donor community. Nevertheless, the speed and scale of the land grab has now persuaded most of the dissenters to quietly put aside their ideological differences and collaborate in their practical efforts to reverse the process. That is what ultimately led to the establishment of a Commission of Inquiry in the middle of 2011.

Most of the 'civil society' representatives in this oppositional network now recognise that the established oil palm industry is on their side of the fence, and some would even extend this courtesy to the extractive industry sector, knowing that mining and petroleum companies have good reason to fear that the land grab is now extending into areas covered by their own exploration and development licences. On the other hand, all members of the network are united in a belief that the logging industry as a whole is too deeply implicated in the land grab for any of its member companies to be trusted if they claim to oppose it, and that in turn might help to explain why the FIA had already begun to champion the cause of agricultural conversion before the end of 2010 (ITS Global 2010). If the assumption of a common capitalist interest in the process of 'land reform' has therefore been laid aside, it may not matter whether national politicians or logging companies are masterminding the new generation of 'agroforestry' projects if both are equally enamoured of their 'public-private partnerships'. What does still matter is the third assumption behind the populist policy narrative, which is that local villagers have been the innocent dupes of a conspiracy forged behind their backs, without their knowledge or participation.

Proponents and opponents of the logging industry, the oil palm industry, and all other industries that seek access to customary land are equally aware of the political divisions which exist in most rural areas. These divisions are manifest in each successive set of national elections, when the numerous candidates standing in each electorate seek to persuade rural voters of their own capacity to deliver some form of 'development'. The winner rarely captures a majority of the primary vote, but still has to deliver on the promises made to his own supporters if he wants to be re-elected, while the losing candidates and their primary supporters will commonly try to prevent him from doing so. As a result, no single development proposal is likely to win the support of *all* the landowners or villagers in any given area, but *any* development proposal—however implausible—has a chance of gaining some popular support. All the available evidence suggests that some rural villagers have been persuaded to go along with each of the land grabs documented in this paper, even if they do not fully realise the consequences of their acquiescence. However, it also suggests that most of the 'community leaders' who take the lead in either promoting or opposing each of these transactions are not themselves rural villagers, but are so-called 'paper landowners' who normally live in town. In this context, 'paper landowners' are not necessarily people who make false claims to the ownership of some customary land in the area subject to a land grab, but rather people whose level of education enables them to

construct, interpret or manipulate the documentation of landed property (Weiner 2007; Bell 2009). It is also this level of education that qualifies them to contest national elections, since most rural villagers know that a good education enhances the capacity of politicians to secure the benefits of 'development' for themselves and their supporters, while the capacity of rural villagers to secure a good education for their own children has been diminishing for many years.²³

CONCLUSION

The recent decision of the National Executive Council (NEC) to impose a moratorium on the grant of new SABLs and institute a Commission of Inquiry into those which have already been granted has clearly put a temporary halt to the rate at which customary land is being alienated through the operation of the lease-leaseback scheme. Before that decision was made, legal challenges to some of the individual conversions had already been working their way through the National Court, but the eventual outcome of these proceedings remains uncertain, as does the outcome of the Commission of Inquiry itself. It is not clear whether the NEC decision was influenced by the complaint that one of PNG's non-government organisations had already lodged with the United Nations' Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People (CELCOR and FPP 2011), since appeals of this kind have not previously made much difference to the behavior of PNG's national government. Greater leverage might have been exercised by submissions from the Department of Environment and Conservation and the Office of Climate Change, which called for a moratorium on the grant of SABLs on the grounds that continual approval of new 'agroforestry' projects was damaging the country's credibility as a leading member of the Coalition for Rainforest Nations, and hence its chances of securing large amounts of money from the international community for actions taken to reduce greenhouse gas emissions from the process of deforestation and forest degradation. On this score, it appears that the National Climate Change Committee and the Ministerial Economic Committee (both being sub-committees of the NEC) had already approved a moratorium in principle during the course of 2010. On the other hand, the number of politicians with a vested interest in the recent land grab (including some ministers in the new government of Peter O'Neill) must raise some doubt about the future prospect of both halting and reversing the process of alienation.

So what is likely to be the social, economic and political impact of the recent land grab in the medium and longer term? There does not seem to be any great risk that private companies in possession of SABLs will emulate the example of European landlords who forcibly evicted customary landowners from their land in the eighteenth and nineteenth centuries. There are a number of documented instances in which the police powers of the PNG government have been used to enforce the property rights of companies operating in rural areas against groups of dissident customary landowners, but there is little evidence to date that the holders of SABLs or FCAs will be able to mobilise the police force in a concerted campaign against the customary owners of 5 million hectares of land. In many of the lease areas, there may be

²³ Most of the members of PNG's political and business elite who were born between 1945 and 1965 were born in rural villages, and most still retain some social connections to their communities of origin. However, the rural education system has been steadily deteriorating in the period since Independence, so the younger generation of national leaders consists largely of individuals who were born in town.

little in the way of long-term change to current patterns of land use by the customary owners, especially in those areas where ‘agroforestry’ projects turn out to involve a year or two of logging and nothing much else. If the promise of large-scale agricultural development does not materialise, those customary landowners who were persuaded to part with their land will surely be disappointed, while those who never gave their informed consent in the first place will have the opportunity to ridicule their more gullible neighbours. The main problem is that the State is accustomed to grant Timber Permits, Mining Leases, and Petroleum Development Licences to foreign investors for long periods of time, and has evolved a set of policies which entail the redistribution of a substantial proportion of its tax revenues from these forms of investment to the customary owners of the land on which they occur (Filer 1998, 2005). It is not clear whether Section 11 of the *Land Act* entails the transfer of such entitlements to the holders of SABLs, but if the rights are not reserved in the original leases granted to the State, and if the leaseholders are able to maintain their political connections, the transfer may well be accomplished. If abuse of the lease-leaseback scheme then enables a few individuals to capture the lion’s share of such ‘landowner benefits’ to the exclusion of the vast majority of the customary owners for any length of time, this will almost certainly provoke an upsurge of rural social unrest and civil disorder.

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ANNEX 1: Leasebacks to private companies from July 2003 to April 2011.

Province	Gazettal	Grantee	Hectares	Yrs
WESTERN	28/04/09 (G78)	Tumu Timber Development Ltd	790,800.00	99
	30/10/09 (G217)	La-ali Investments Ltd	7,170.00	70
	30/10/09 (G217)	Mudau Investment Ltd	10,450.00	70
	30/10/09 (G217) ¹	Godai Land Group Inc.	15,153.00	70
	30/10/09 (G217)	Hauwabe Holdings Ltd	11,110.00	70
	30/10/09 (G217)	Foifoi Ltd	33,900.00	70
	24/09/10 (G218)	Tosigiba Investments Ltd	632,538.00	99
	24/09/10 (G218) ²	Northeast West Investments Ltd	619,759.00	99
GULF	03/07/03 (G86)	Vailala Oil Palm Ltd	11,800	99
	22/09/06 (G186)	Perpetual Shipping Ltd	283.29	50
	03/08/07 (G115)	Koaru Resource Owners Co. Ltd	59,460.00	99
	09/01/08 (G3)	Wowobo Oil Palm Ltd	23,180.00	99
	18/02/09 (G31)	East Wai Oil Palm Ltd	21,108.00	99
	18/02/09 (G31)	Arowa Oil Palm Ltd	12,341.00	99
	25/01/11 (G19)	Purari Development Association Ltd	656,034.00	99
	CENTRAL	28/10/05 (G157)	Baina Agro-Forest Ltd	42,100.00
01/02/07 (G15) ³		Changhae Tapioka (PNG) Ltd	12,912.64	40
03/05/07 (G68)		Yumi Resources Ltd	115,000.00	99
22/11/07 (G182)		Mekeo Hinterland Holdings Ltd	116,400.00	99
01/09/08 (G152)		Atabeda Agro Forest Ltd	11,700.00	99
29/07/10 (G170)		Veadi Holdings Ltd	1,057.45	99
NAT. CAPITAL	12/12/05 (G184)	Roselaw Ltd	25.11	99
	14/01/10 (G7) ²	Konekaru Holdings Ltd	555.00	99
ORO	19/02/07 (G23)	Okena Goto Karato Dev. Corp. Ltd	28,100.00	99
	08/01/09 (G4) ⁴	Musida Holdings Ltd	211,600.00	99
	30/09/10 (G228)	Musa Valley Management Co. Ltd	320,060.00	99
S. HIGHLANDS	16/12/10 (G305)	Hewai Investment Ltd	358.00	99
W. HIGHLANDS	29/07/10 (G160)	Porom Coffee Ltd	24.10	99
	05/08/10 (G170)	Kemend Kelba Kei Investment Ltd	41.30	99
MOROBE	21/09/06 (G83) ⁵	Zifasing Cattle Ranch	8,374.23	50
MADANG	14/03/11 (G67)	Urasir Resources Ltd	112,400.00	99
EAST SEPIK	15/02/07 (G22)	Brilliant Investment Ltd	25,600.00	99
	14/08/08 (G145) ⁶	Sepik Oil Palm Plantation Ltd	116,840.00	99
	23/04/10 (G38)	Mapsera Development Corp. Ltd	54,384.00	99
	04/04/11 (G86)	Nungawa Rainforest Management Ltd	109.58	99

ANNEX 1 (continued).

Province	Gazettal	Grantee	Hectares	Yrs
WEST SEPIK	20/07/06 (G143)	Vanimo Jaya Ltd & One Uni Dev. Corp.	47,626.00	99
	14/07/08 (G124)	Bewani Oil Palm Development Ltd	139,909.00	99
	01/04/09 (G58)	Nuku Resources Ltd	239,810.00	99
	23/04/10 (G38)	West Maimai Investments Ltd et al.	149,000.00	99
	15/10/10 (G243)	Wammy Ltd	105,200.00	99
	30/11/10 (G284)	Ainbai-Elis Holding Ltd	22,850.00	99
	27/01/11 (G22)	Ossima Resources Ltd	31,430.00	99
NEW IRELAND	07/12/06 (G224)	Cassava Etagon Holdings Ltd	20,000.00	99
	28/12/06 (G234)	Emirau Trust Ltd	3,384.38	99
	17/10/07 (G161)	Rakubana Development Pty Ltd	24,581.00	99
	17/10/07 (G161)	Tabut Ltd	11,864.00	99
	17/10/07 (G161)	Umbakul Ltd	25,108.00	99
	17/10/07 (G161)	Central New Hanover Ltd	56,592.00	99
E.N. BRITAIN	03/05/04 (G42) ⁵	Trukake Ltd	120.70	99
	14/10/04 (G113) ⁵	Barava Ltd	244.70	??
	09/07/08 (G120)	Pomata Investment Ltd	15,000.00	99
	09/07/08 (G120)	Nakiura Investment Ltd	16,100.00	99
	09/07/08 (G120)	Ralopal Investment Ltd	11,300.00	99
	14/08/08 (G145)	Rera Holdings Ltd	68,300.00	99
	10/12/09 (G245)	Unung Sigite Ltd	13,000.00	99
	26/02/10 (G37) ²	Tiriu Timbers Ltd	53,480.00	99
W.N. BRITAIN	06/01/05 (G1)	Lolokoru Estates Ltd	1,750.00	45
	16/06/06 (G120)	Pulie Anu Plantation Ltd	46,233.00	99
	18/03/08 (G45)	Akami Oil Palm Estate Ltd	231.20	99
	07/04/08 (G54)	Akami Oil Palm Estate Ltd	345.75	99
	25/09/08 (G174) ⁷	Akivriu Ltd	6,111.00	99
	25/09/08 (G174) ⁷	Ivaga Ourouino–Masinamta Ltd	10,741.00	99
	25/09/08 (G174) ⁷	Polopo Ltd	8,328.00	99
	25/09/08 (G174) ⁷	Kavun Ltd	7,161.00	99
	25/09/08 (G174) ⁷	Gogoranto Ltd	8,893.00	99

Notes

¹ Apparent leaseback to ILG but evidently part of larger package leased back to private companies.

² Two separate leases with combined area shown in table.

³ Seven separate leases with combined area shown in table.

⁴ Revoked by order of National Court (10/02/10).

⁵ Land in question may not be customary land.

⁶ Leaseback repeated by G154 (02/09/08).

⁷ Land in question appears to be covered by previous lease to Pulie Anu Plantation Ltd (16/06/06).

ANNEX 2: Extract from press statement issued by the Office of the Acting Prime Minister and Minister for Immigration, Honourable Sam Abal, as published in the *Sunday Chronicle*, 3 July 2011.

Acting Prime Minister Sam Abal today announced brief details of the Commission of Inquiry (COI) into the controversial Special Agriculture Business Leases (SABL).....

“The Commission is given three (3) months to complete this task and present their Report to me for presentation to Parliament as required under the Commission of Inquiry Act.

“I have given direction for the Commission to commence the inquiry on the 12 of July and complete the inquiry at the end of September 2011. I have instructed the Chief Secretary to Government to facilitate this task,” he said.

The Department of Prime Minister and NEC under the newly created Commission of Inquiry & Investigation Branch will provide all the necessary administrative and secretariat support to the SPABLS [sic] Commission of Inquiry while the Department of Justice will be called up to provide legal expertise during the course of this inquiry. This is an important government initiative and I want total support from the bureaucrats.....

The Acting Prime Minister said given the controversial nature of SABL issue and impact on cultural ownership rights of the people of Papua New Guinea as well as the extent of abuse and public outcry it has attracted, the government has considered it necessary to institute a COI.

The Terms of Reference (TOR) for the Commission of Inquiry are as follows:

- 1) Determine the legal authority for the issuance of SABL.
- 2) Determine the procedure for the issuance of SABL in accordance with the legal authority if any.
- 3) Inquire into and confirm the number of SABL issued to date and particulars of each including:
 - i. Location;
 - ii. Customary ownership whether there are any disputes regarding SABL;
 - iii. Prior consent and approval by customary landowners for the issue of SABL over the particular customary land the subject of each SABL;
 - iv. In whose name the title to the SABL is held;
 - v. If not in the customary landowners name then in whose name is the particular SABL title held;
 - vi. If not in the customary landowners name then by what authority whether lawful for the title to be held by a non-customary landowner of the land the subject of the particular SABL; and
 - vii. If all of the matters in the preceding subparagraphs (i) to (vi) involved duly granted approvals and permits from the Department of Agriculture and Livestock; Environment and Conservation; Lands and Physical Planning; and the Papua New Guinea Forest Authority.
- 4) Inquire into and determine if the requisite or subsequent approvals determine[d] under preceding Sub-paragraph 3(vi) were lawfully and duly obtained.
- 5) Inquire into and determine if Forest Clearance Authority (or FCA) in respect of each SABL complied [sic] with the proportionate agriculture development input.
- 6) Inquire into and determine if FCA in respect of each SABL complied [sic] with the [E]nvironmental Permit terms and conditions.

- 7) Inquire into and determine if any official or individuals, both citizens and foreigners, have engaged in unethical and/or criminal conduct in the course of the operation of each SABL including:
 - i. Employment of illegal Immigrants;
 - ii. Engagement in illicit or illegal trade including sale and consumption of drugs; prostitution; fire-arms and pornography;
 - iii. Unethical conduct in the disregard for the customs and traditions of the local area, and sacred grounds; and unlawful and unethical mistreatment of the local people in undermining their dignity and respect.
- 8) Inquire into and assess the effectiveness of existing legal and policy framework in the improved management of SABL in future including facilitating the applications from legitimate applicants.
- 9) Inquire into and determine if all of the seventy-two (72) SABL covering approximately 5.2 million hectares of customary land in PNG has complied [sic] with the existing legal and policy frameworks, the [I]ncorporation of Land Groups Act 1974, the Land Act 1996, the Forestry Act 1991, and the Environment Act 2000.
- 10) To take all steps and to exercise powers under enabling legislations[,] inter alia, the Commission of Inquiry Act to complete the Inquiry and to Report to the Prime Minister for tabling in the National Parliament including all Recommendations, as well as to refer to appropriate law enforcement authorities any incidences of criminal conducts this Commission of Inquiry may become aware of in the course of this Inquiry.

Mr. Abal said the objectives of the Commission of Inquiry are as follows:

- To undertake compliance audit of all the SABL that had obtained a Forest Clearance Authority. This will determine the legality and legitimacy of SABL and ensure that developers are investing in real agricultural development while preserving landowners rights and obtaining high economic returns from the land;
- To determine whether or not all SABL (74) totaling over 5.2 million hectares and others obtained between March 2003 to end April 2011 had complied [sic] with the existing government policy guidelines, legislative frameworks including Land Groups Incorporation Act 1974, Land Act 1996, Forestry Act 1991, Environment Act 2000 and other relevant requirements;
- To assess the effectiveness and efficiency of existing policy guidelines, administrative and legislative frameworks for improved management of customary land SABL in the future facilitating applications from legitimate applicants; and
- To impose a temporary suspension on accepting new applications and processing of existing applications for SABL, EP, FCA and related permits. This will put an immediate stop to the issues mentioned, and prevent a rush for approvals by developers during the review mentioned, allowing departments to concentrate on the review process, and implementation of findings. The temporary suspension will also send a strong signal of the Government's commitment to development partners and the international community.

"The TOR of the COI which I have approved is very clear on this.

"It does not discriminate SABL holders and the logging companies. Rather it has been designed to help the Government improve operation in this important sector and see greater benefits in terms of agriculture sector expansion and development, while maintaining some control over the rate of forest degradation in Papua New Guinea," he said.