

**Request for Consideration under the Urgent Action/ Early Warning  
Procedure to Prevent Irreparable Harm to Indigenous Peoples' Rights in  
Papua New Guinea**

**116th Session of the Committee on the Elimination of Racial Discrimination**

**Submitted by:**

**ACT NOW! and Jubilee Australia Research Centre**

**Endorsed by:**

**Bismarck Ramu Group**

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### i. Submitting Organisations

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

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**Jubilee Australia Research Centre (JARC)** partners with and amplifies the voices of local communities in the fight against an extractive and unequal economic system, produces quality investigative research and advocates for just solutions that centre communities.

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# **Request for consideration under the Urgent Action/Early Warning Procedures to Prevent Irreparable Harm to Indigenous Peoples' Rights in Papua New Guinea**

## **I. Introduction**

1. This request is respectfully submitted for consideration by the Committee on the Elimination of Racial Discrimination (“CERD”) pursuant to its urgent action and early warning procedures. Specific requests are set forth in paragraph 30 below. It is submitted by ACT NOW! and the Jubilee Australia Research Centre (“JARC”) (“the submitting organisations”). It is also endorsed by Bismarck Ramu Group.<sup>1</sup> It concerns two situations in the Independent State of Papua New Guinea (“Papua New Guinea” or “PNG”) which have the effect, singularly and cumulatively, of causing ongoing and irreparable harm to the rights of indigenous peoples to the continued use, enjoyment and ownership of their lands and resources and to judicial remedies.

2. The first situation concerns the wide-spread issuance of ‘Special Agriculture and Business Leases’ (“SABLs”) on customary lands, the real danger of land and resource alienation arising from SABLs and the state’s failure to revoke SABLs despite more than a decade after a 2013 Commission of Inquiry into SABLs finding that the vast majority of SABLs issued did not appear to comply with legal requirements. This situation was first presented to the CERD in 2011.<sup>2</sup> The second situation relates to the connected issue of logging licenses – specifically Forest Clearing Authorities (“FCAs”) - that undermine the rights of customary resource owners and deprive them of their natural resources.

3. The island of New Guinea is one of the most biodiverse places on the planet.<sup>3</sup> Papua New Guinea has over 800 languages and is also the most linguistically diverse country in the world – accounting for at least 10% of living languages.<sup>4</sup> The island of New Guinea is home to the world’s third largest contiguous rainforest on the planet – sometimes described as a ‘second Amazon’. This is part of inter-related ecological relationships – such as the health of watersheds, river systems, microclimates and plant and animal life; that are in turn determinants of the social, cultural and economic well-being of local people – with over 80% of the population living in

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<sup>1</sup> Bismarck Ramu Group is a non-governmental organisation that works with local communities, groups, organizations and individuals throughout Papua New Guinea to support them to protect and maintain control of their land, resources and livelihoods.

<sup>2</sup> The Centre for Law and Environmental Rights, the Bismarck Ramu Group, Greenpeace and Forest Peoples’ Programme (2011) Request for Consideration under the Urgent Action/ Early Warning Procedure to Prevent Irreparable Harm to Indigenous Peoples’ Rights in Papua New Guinea, February.  
<https://www.forestpeoples.org/publications-resources/reports/article/submission-to-the-committee-on-the-elimination-of-all-forms-of-racial-discrimination-cerd-concerning-threats-of-irreparable-harm-to-customary-land-and-resource-rights-in-papua-new-guinea-february-2011/>

<sup>3</sup> Convention on Biodiversity Secretariat (n.d.) Papua New Guinea: Country Profile.  
<https://www.cbd.int/countries/profile?country=pg>

<sup>4</sup> SIL Papua New Guinea (n.d.) Languages of Papua New Guinea.  
<https://pnglanguages.sil.org/resources>

rural areas, most of which are dependent on land-based livelihoods to meet most daily needs. The diversity and richness of PNG's customary communities – human and non-human – are viewed in PNG as deeply interconnected.

4. The importance accorded to the rights, relationships and responsibilities of indigenous peoples in PNG through local traditional governance was further recognised after independence in 1975. Early governments sought to formally return land to customary groups and/or their descendants – including via acquisition programs - this included plantation lands that had been under the control of foreigners who claimed ownership during the colonial era.<sup>5</sup> The Constitution and the Land Act both recognise customary tenure rights over land. Today, almost all land in PNG is under customary tenure.<sup>6</sup>

5. In February 2011, four organisations filed an urgent action request to CERD regarding concerns of large-scale land alienation via SABLs. Almost a decade and a half after that filing, it appears that most SABLs remain in effect. There is no transparent register of SABLs, including any that have been revoked. As documented herein, the ongoing failure to revoke SABLs given pervasive, systemic concerns of indigenous rights violations and related legal violations presents an urgent risk of intergenerational land alienation. The failure to disclose which SABLs may have been revoked, also denies customary land groups vital legal means to expel illegal land occupations and operations on their territories even in cases where they have been revoked. There is no national scheme for redress or remedy for any harms arising to customary land and resource owners due to SABLs issued without full respect of the law.

6. As detailed herein, forestry licenses – specifically FCAs – are in function, duplicating many issues of SABLs – including encroachment onto customary resource owners' land, as well as related acquisition of their timber resources without consent. While the form of the lease-leaseback scheme of SABLs is different from the issuance of FCAs – there are similarities in the failure to operate with prior, informed consent, the use of false promises of agriculture development and the inclusion of large expanses of customary land including areas unsuitable for either logging or agriculture.<sup>7</sup> PNG is currently the world's largest tropical log exporter, with 90% of exports going to China.<sup>8</sup> One report found that in 2019-2021, up to 70% of PNG's log exports were controlled by what appeared to be 10 corporate groups.<sup>9</sup> While FCAs are meant to

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<sup>5</sup> George M.S. Muroa (2003) Land reform policies in Papua New Guinea. 29 Melanesian Law Journal 5. <http://www.paclii.org/journals/MLJ/2003/5.html#fn1>

<sup>6</sup> This figure is often cited as 97%. Note, this is land under customary tenure – irrespective of whether there are attendant claims to land alienation, for example, under a SABL.

<sup>7</sup> ACT NOW! and JARC (2025) The FCA logging scandal. [https://actnowpng.org/sites/default/files/publications/The%20FCA%20Logging%20Scandal%20-%20compressed\\_0.pdf](https://actnowpng.org/sites/default/files/publications/The%20FCA%20Logging%20Scandal%20-%20compressed_0.pdf)

<sup>8</sup> International Tropical Timber Organization (2023) Biennial review and assessment of the world timber situation 2021-2022. p.10 [https://www.itto.int/direct/topics/topics\\_pdf\\_download/topics\\_id=7590&no=1](https://www.itto.int/direct/topics/topics_pdf_download/topics_id=7590&no=1)

<sup>9</sup> ACT NOW! and JARC (2022) The new timber barons. 6 October. <https://www.jubileeaustalia.org/storage/app/uploads/public/634/50b/7db/63450b7dbd782429620202.pdf>

allow those undertaking land clearing on discrete areas of forest for agricultural or other projects, the right to sell timber acquired through this process – in function FCA's are enabling large-scale selective logging over huge tracts of forest. There is no public database of forestry licenses, such as FCAs, denying customary resource owners, and others, easily accessible information on such basic points as the boundaries of timber licenses.

7. The situation describe herein threatens gross and irreparable harm to indigenous peoples in PNG and satisfies criteria for consideration under the CERD's early warning and urgent action procedures. It concerns serious "Encroachment on the traditional lands of indigenous peoples..., [including] for the purpose of exploitation of natural resources".<sup>10</sup> It thus represents a grave situation "requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention" and to reduce the risk of further racial discrimination."<sup>11</sup>

## **II. The recognition of traditional and customary land ownership in PNG**

8. For generations – if not since time immemorial - indigenous peoples' own jurisprudence and legal systems on the island of New Guinea have articulated their rights, responsibilities and relationships to land, forests and non-human kin. Pacific independence movements were particularly prescient on the importance of protecting their own local governance – often described as 'customary' or 'traditional'. This reflected a need for protection by the state but also, if necessary, from the state. This followed a colonial era which ignored, or was outright antagonistic to, pre-existing traditional jurisprudence in order to legitimise large-scale resource theft by foreigners.<sup>12</sup> Pacific independent movements were particularly articulate on the inter-relationship between culture, rights, land, nature, spiritual life and knowledge.

9. Customary land in PNG is governed by the traditional custom of the owning people. The Land Act 1996 Section 2(1) provides legal basis for this governance of customary land, with the definition of 'custom', 'customary lands' and 'customary rights'. This also reflects the spirit of the Preamble to the Constitution of PNG, which states that a national goal is the preservation of "Papua New Guinean ways" where the state will aim to "achieve development primarily through the use of Papua New Guinean forms of social, political and economic organisation" and where "traditional villages and communities [are] to remain as viable units of Papua New Guinean society."<sup>13</sup>

10. International law articulates that indigenous peoples' rights to 'property' including those articulated in customary tenure systems, are both guaranteed in law and effectively protected in

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<sup>10</sup> See *Guidelines for the Use of the Early Warning and Urgent Action Procedure*, August 2007, at p. 3, para. 12.

<sup>11</sup> *Prevention of Racial Discrimination, including early warning and urgent procedures: working paper adopted by the Committee on the Elimination of Racial Discrimination*. UN Doc. A/48/18, Annex III, at para. 8-9.

<sup>12</sup> George M.S. Muroa (2003) Land reform policies in Papua New Guinea. 29 *Melanesian Law Journal* 5.  
<http://www.pacii.org/journals/MLJ/2003/5.html#fn1>

<sup>13</sup> Preamble, National Goals 5(4) Constitution of the Independent State of Papua New Guinea.

practice. CERD's General Recommendation No. XXIII draws particular attention to the obligations of States parties "to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources".<sup>14</sup> The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) states in Article 32:

*"1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources."*

Key to Article 32.2 is that where indigenous peoples have withheld their free, prior and informed consent for projects on their land – either by an active choice or because no legitimate consent procedure has taken place – the state should respect their rights to make decisions over their land, territories and other resources. As discussed below, these rights have been seriously eroded in law and practice in PNG, in both situations raised herein. Indigenous peoples in PNG are threatened with irreparable harm and are in urgent need of international assistance to ensure that PNG complies with its obligations under, inter alia, the Convention on the Elimination of All Forms of Racial Discrimination.

### **III. Special Agriculture and Business Leases: Systemic encroachment on indigenous territories**

11. In 2011, four organizations filed a request to CERD regarding SABLs. On 14 December 2018, the then Chair of the CERD wrote to the Permanent Representative of the Independent State of Papua New Guinea to the United Nations Office, this followed previous correspondence on 11 March 2011 and 17 February 2016. The Chair noted:

*"According to the information at its disposal, the Committee is concerned about the fact that the government authorizes the continuing use of SABL by foreign companies to occupy and use indigenous land in Papua New Guinea. The Committee is also concerned about the fact that the government have not taken any steps towards the implementation of recommendations of its own Commission of Inquiry on SABLs. The Committee is further concerned about the current use of SABLs for logging and large-scale plantation on indigenous peoples' land, despite the reported adverse impact on thousands of peoples, mostly living in remote rural communities, including the destruction of their traditional subsistence lifestyles and environmental degradation. The Committee is concerned that, if the above allegations were corroborated, the maintenance and continuous use of SABLs would*

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<sup>14</sup> *General Recommendation XXIII (51) concerning indigenous peoples*. Adopted at the Committee's 1235th meeting, 18 August 1997. UN Doc. CERD/C/51/Misc.13/Rev.4, at para. 5.

*infringe indigenous peoples' rights protected under the International Convention on the Elimination of All Forms of Racial Discrimination.*"<sup>15</sup>

It is understood that the state has not responded to the correspondence.

12. There is no public record of the current status of SABLs. In June 2014, PNG's National Executive Council approved revoking all SABLs that had been recommended for revocation by the two Commission of Inquiry reports. It is unclear which leases this covers. In July 2014, the Department of Lands and Physical Planning (DLPP) published a list of 29 SABLs in The National newspaper, directing the leaseholders to return the original copies of their leases "for the purposes of deregistration/cancellation" in compliance with this cabinet decision. In 2022, the Lands Minister John Rosso told Parliament that 20 SABLs had been cancelled, with a further 20 to be investigated once court proceedings had ended. However, he did not issue a list of those SABLs.<sup>16</sup>

13. This failure to revoke SABLs or even disclose the current status of SABLs perpetuates the undermining of customary resource owners' rights. Customary resource owners opposing the ongoing operations of a company on their land cannot ascertain if an SABL over their territory has been revoked. This deprives them of legal means to end illegal logging, resource theft and encroachment on their territories. In cases where the court has ruled an SABL to be invalid, there appear to be cases where the state continues to legitimize the company's operations. In relation to the 2022 statement noted in paragraph 12, it's unclear if 'court proceedings' would cover cases where customary resource owners have brought legal action against an SABL and, if so, why the government would delay reviewing an SABL that customary resource owners themselves are trying to end. The Commission of Inquiry was tasked with examining over 70 SABLs and found only four to clearly align with legal requirements.<sup>17</sup> Over a decade after the findings, and at least fourteen years after any given SABL was issued, it appears likely that dozens of SABLs remain in effect. This includes almost a third of the 29 SABLs DLPP recommended for cancellation over a decade ago – assuming that public statements on the cancellation of 20 SABLs are accurate.

14. There is no systematic redress or remedy process available to indigenous peoples adversely impacted by SABLs. Even in the best-case scenario, beyond the invalidation of leases held over their land, there is no redress or remedy process to provide damages to the victims of the SABL scandal – such as remedies that relate to forest destruction, restitution of monies to customary resource owners of the company profits from timber taken from their land without their consent, and additional damages for the harm experienced.

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<sup>15</sup> CERD/EWUAP/Papua New Guinea/2018/JP/ks

<sup>16</sup> ACT NOW! and JARC (2023) Ten years without a crop. September. p.14  
<https://www.jubileeaustralia.org/resources/publications/ten-years-without-crop>

<sup>17</sup> Commission of Inquiry into Special Agriculture Business Leases (SABLs) Final reports, John Numapo, Chief Commissioner, Port Moresby, 24 June 2013.

#### IV. Forest Clearing Authorities: Rights violations at scale

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

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

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

16. Tropical forest experts were calling for FCAs, alongside SABLs, to be halted at least as far back as 2011 – almost a decade and a half ago.<sup>18</sup> A primary concern is the use of FCAs as a front for large-scale logging - where logging companies can avoid the more stringent requirements and application process under a Forest Management Authority (FMA), the primary license intended for the management of large-scale, long-term logging. While still hampered by a context of widespread lack of forest law enforcement, an FMA incorporates safeguards to ensure sustainable forest management and more rigorous measures to respect landowner rights.<sup>19</sup> While both the FCA and FMA require resource owner consent, the FMA process has stricter procedural requirements designed to ensure the consent is meaningful. It requires an intensive awareness process among customary owners, negotiation of terms with consultation at each stage of the process and stringent environmental assessments and sustainable annual logging quotas. The FMA process also places more restrictions on logging volumes than the FCA as the whole FMA concept is premised on the basis of sustainable forest management over a thirty-five-year logging cycle. FMAs accounted for only 23% of PNG’s logging exports in 2023. In contrast, FCAs accounted for 33%.<sup>20</sup> Much of the remainder was from licenses that predate the Forestry Act.<sup>21</sup>

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<sup>18</sup> The Cairns Declaration: The alarming social and environmental impacts of Special Agricultural and Business Leases (SABLs) in Papua New Guinea. March 2011.

<https://partnersinconservation.wordpress.com/wp-content/uploads/2011/04/cairnsdeclaration.pdf>

<sup>19</sup> See Forestry Act.

<sup>20</sup> SGS Annual Report 2023 (2024). Note the report included a graph listing FCAs at 38% but listed figures in Chapter 12 appear to amount to 33%.

<sup>21</sup> PNGi Forests (n.d.) Log exports by license type (2023 data). Accessed 6 February 2025.

<https://pngiforests.org/>



17. In 2023, the National Forest Board, which governs the operations of the PNGFA, enacted a moratorium on new Forest Clearing Authorities.<sup>22</sup> This came after the prolonged efforts of indigenous communities, civil society organisations, researchers, timber experts and lawyers to document concerns regarding resource owners' rights. These included: operating without resource-owner consent for logging or even any land access right that must underlie an FCA; what appear to be fraudulent claims of agricultural projects that did not appear viable and had failed to materialize for many years; illegal logging patterns such as encroachment onto areas outside an FCA and threats or violence to Indigenous Peoples seeking to defend their land and resources from logging.<sup>23</sup>

18. However, to date existing FCAs have not been revoked and the logging continues. The National Forest Board called for PNGFA to conduct an audit of existing FCA projects.<sup>24</sup> However, more than two years later no findings of any audit of existing FCAs have been published. This raises the concern that the PNGFA may be knowingly allowing the continued operation of illegal logging operations. This again likely deprives customary resource owners of an important means to defend their legal rights under PNG law.

## **V. Further observations and impacts**

19. The State's failure to revoke SABLs and FCAs also contributes to a risk of the potential criminalisation and harassment of customary resource owners seeking to defend their land and forests in the face of companies logging forests without their free, prior and informed consent. This could include criminalisation where the SABL has been revoked and the company has no land access right, but the SABL revocation has not been publicly disclosed. This similarly extends to FCAs.

20. In December 2024, police arrested, questioned and filed a criminal charge against ACT NOW!'s Campaign Manager at the apparent behest of the Managing Director of the PNGFA.<sup>25</sup> This followed ACT NOW! re-posting a Facebook post from a local radio station advertising an

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ACT NOW! observed a similar trend examining 2022 data.

ACT NOW! (2023) Is the Forest Authority breaching the FCA moratorium?, 7 December.

<https://actnowpng.org/blog/blog-entry-forest-authority-breaching-fca-moratorium>

<sup>22</sup> PNGFA (2023) Public notice: Moratorium on the issuance of new forest clearing authority projects. 23 February. Copy archived at ACT NOW! (2023) 'Moratorium on new FCAs a step in the right direction,' 9 March.

<https://actnowpng.org/blog/moratorium-on-new-fcas>

<sup>23</sup> For example, see sources cited in Table 1. Act Now and Jubilee Australia have also published a series of case studies examining individual FCAs, and a 2025 overview report on FCAs.

<sup>24</sup> PNGFA (2023) Public notice: Moratorium on the issuance of new forest clearing authority projects. 23 February. Copy archived at ACT NOW! (2023) 'Moratorium on new FCAs a step in the right direction,' 9 March.

<https://actnowpng.org/blog/moratorium-on-new-fcas>

<sup>25</sup> The PNGFA Managing Director reportedly provided media comment to the ABC that: "I call on ACT NOW! PNG and any international NGOs that you cannot feed the resource or landowners with any financial support therefore shut up and apologise to me before I make my decision." As reported by ABC, Environmental advocate potentially facing 15 years for re-posting the photo of PNG official". 22 January 2025.

<https://www.abc.net.au/pacific/programs/pacificbeat/environmental-advocate-charged-for-re-sharing-facebook-photo/104844916>

interview with the Managing Director of PNGFA, which included their photo. The 15 November 2024 ACT NOW! post read “@followers of ACT NOW!, tune into FM 100 Talkback and listen to PNG Forest Authority MD respond to ACT NOW concerns on the FCA Abuses.”<sup>26</sup> The Campaign Manager was charged under the PNG Cybercrime Criminal Code for ‘identity theft’ – which holds a maximum sentence of 10 year’s imprisonment.<sup>27</sup> The charge was later dismissed by the court.<sup>28</sup> Transparency International PNG and Civicus characterised the charge as undermining, or threatening, freedom of expression.<sup>29</sup> While a single incident, the extremity of the attached maximum prison sentence raises concerns about environmental defenders generally, but also the adverse impacts on support available to customary resource owners if PNGFA is viewed as intimidating an individual or organisation advocating on customary resource rights.

21. In 2024, the contract with the State for independent log export monitoring in place since 1993 was suspended after the PNGFA repeatedly failed to pay invoices on time and allowed large arrears for non-payment to accumulate– despite the contract being revenue generating for the state. The program generated an estimated K35 million a year in additional tax revenue against a cost of K7.3 million.<sup>30</sup> This is having adverse impacts on all forest enforcement and rule of law, and renders it is even more difficult for customary resource owners to identify revenues made by foreign-controlled companies for timber resources extracted from their lands without their free, prior and informed consent.

22. A 2022 report by the UN Office of Drugs and Crime and the PNG Conservation and Environment Protection Authority described a practice where ‘*illegally taken logs are retrospectively “authorised” by PNGFA [the PNG Forestry Authority] prior to export. PNGFA then collects royalties on these exports even though the logs have been taken outside of the*

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<sup>26</sup> ACT NOW! Facebook post 15 November 2024.

<https://www.facebook.com/ActNowpng1/posts/1047614817410244>

<sup>27</sup> ABC, Environmental advocate potentially facing 15 years for re-posting the photo of PNG official”. 22 January 2025. <https://www.abc.net.au/pacific/programs/pacificbeat/environmental-advocate-charged-for-re-sharing-facebook-photo/104844916> Note, initially it was believed that the charge was defamation - which holds a maximum of 15 years in prison.

<sup>28</sup> Post Courier, Court dismisses identity theft charge against ACT NOW!’s Eddie Tanago, 8 April 2025.

<https://www.postcourier.com.pg/court-dismisses-identity-theft-charge-against-act-s-eddie-tanago/>

<sup>29</sup> Civicus (n.d.) Papua New Guinea: Cybercrime law used to criminalise expression as government proceeds with restrictive media policy. <https://monitor.civicus.org/explore/papua-new-guinea-cybercrime-law-used-to-criminalise-expression-as-government-proceeds-with-restrictive-media-policy/>

ABC, Environmental advocate potentially facing 15 years for re-posting the photo of PNG official”. 22 January 2025. <https://www.abc.net.au/pacific/programs/pacificbeat/environmental-advocate-charged-for-re-sharing-facebook-photo/104844916>

JARC, ActionAid Australia, Uniting Church of Australia Synod of Victoria and Tasmania, Friends of the Earth Australia and Greenpeace Asia Pacific (2024) Statement: Call for charges to be dropped against ACT NOW! campaign manager and Australian agencies to investigate further. 19 December.

<https://www.jubileaustralia.org/news/latest-news-post/call-charges-be-dropped-and-australian-agencies-investigate>

<sup>30</sup> Log Export Monitoring Monthly Report for December 2023, SGS, available at <https://pngforests.com/sgs/>

*approvals issued under the Forestry Act.*<sup>31</sup> If true, this raises a concern that even where PNGFA staff are aware that companies are not meeting their legal requirements – on which resource owner consent, if given, would rely – they are knowingly acting against the legal rights of customary resource owners.

23. The (in)action of the international community on supply chains is exacerbating the encroachment on indigenous territories in PNG. Consumer campaigns have spurred some individual companies to drop timber or soft commodities from SABLs and FCAs from their supply chains. However, filing organisations are not aware of any import jurisdiction that has enacted heightened due diligence, investigations, inquiries or suspensions on timber or soft commodities from SABL or FCA lands on an ongoing basis. This is despite widespread evidence of illegality under PNG law and international law on indigenous rights. Importing states may be viewed as tacitly endorsing these activities, where they allow companies trading timber or soft commodities arising from SABLs and FCAs this allows companies to profit from their encroachment on Indigenous territories.

24. Forestry experts have consistently viewed that timber exported from PNG is, at minimum, more likely to be illegal than legal (Annex 1).

25. Several importing states and international organisations appear to have partnerships with PNG and/or the PNG Forest Authority related to forests – but without first securing any requirements from the PNG State such as basic transparency on SABLs or FCAs, or taking the further step of enacting import suspensions until such information is available.<sup>32</sup>

26. Murky corporate structures make it difficult to identify who is really behind the export of PNG's logs. Over the period 2019-2021, 80 separate companies exported logs from PNG. However, analysis by ACT NOW! and JARC found that over half of these companies belong to one of ten corporate groupings, based on their shareholding and directorships.<sup>33</sup> ACT NOW! / JARC estimated that a staggering 70% of PNG round log exports on 2019-2021 were linked to just 10 corporate groups.<sup>34</sup> Each of these 10 groups appear to be strongly linked to Malaysia, either through direct links to Sarawak-based logging and palm oil conglomerates or other Malaysian individuals and business interests. This lack of transparency further underlies the lack

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<sup>31</sup> UN Office of Drugs and Crime and PNG Conservation Environment and Protection Authority (2022) Rapid assessment: Criminal justice response to wildlife and forest crime in Papua New Guinea. Page 19  
[https://www.unodc.org/res/environment-climate/asia-pacific\\_html/PNG\\_Assessment.pdf](https://www.unodc.org/res/environment-climate/asia-pacific_html/PNG_Assessment.pdf)

<sup>32</sup> See further, for Australia: <https://www.agriculture.gov.au/about/news/australian-png-twinning-boost-forest-sustainability>

Food and Agriculture Organization of the United Nations: <https://www.fao.org/in-action/forest-data-partnership/news-and-events/news/news-detail/forests-and-innovation/en>

Agence Française de Développement: <https://www.afd.fr/en/ressources/afd-papua-new-guinea>

<sup>33</sup> ACT NOW! and JARC (2022) The new timber barons. 6 October.

<https://www.jubileeaustalia.org/storage/app/uploads/public/634/50b/7db/63450b7dbd782429620202.pdf>

<sup>34</sup> ACT NOW! and JARC (2022) The new timber barons. 6 October.

<https://www.jubileeaustalia.org/storage/app/uploads/public/634/50b/7db/63450b7dbd782429620202.pdf>

of appropriate consent procedures – as it is not possible for customary resource owners to be fully aware of the likely beneficial ownership structures or financial flows arising from profits from the logs.

27. PNG is the world's largest log exporter, with 90% of its exports going to China.<sup>35</sup> It's likely that at least some of this timber is re-exported to third countries, for example as manufactured goods. The scale and speed of PNG's forest degradation render urgent action necessary, to combat what appears to be an increasingly predictable, pervasive and systemic structure of resource theft from customary resource owners without their free, prior and informed consent. International corporate groups, supply chains and investment chains primarily profit from these harms.

## **VI. Conclusion and Request**

28. Traditional resource owners in PNG face irreparable harm if their rights to their lands and resources are not adequately protected. Actions taken by companies, and the role of the government of PNG in facilitating and allowing those actions, provide ample evidence of the threat to traditional landowners if the profits from resource extraction is allowed to override the legal protection of their rights to lands and resources. An intergovernmental body issuing a formal advice to importing jurisdictions and company groups appears warranted after well-over a decade of indigenous rights violations.

29. As CERD and others have repeatedly recognised, indigenous peoples' well-being and the exercise of a series of inextricable inter-connected rights, are severely threatened by acts and omissions that undermine the ownership of and control over their traditional lands, territories and resources. The SABLs and FCAs currently in effect in PNG fall into this category and threaten imminent and irreparable harm to indigenous peoples. Their pervasive and enduring nature also threaten intergenerational land alienation.

30. In light of the preceding, the submitting organisations respectfully request that CERD:

a) with consideration of the enduring, pervasive and unresolved issues of SABLs more than a decade after the findings of the 2013 Commission of Inquiry, recommends that Papua New Guinea urgently publish all leases, permits, licences and authorities affecting customary land or timber resources, including the evidence of appropriate and effective consent procedures, material provided relevant to consent procedures (such as information about a proposed project) submitted as part of the permit or lease process, and maps showing the lease/permit/license/authority boundaries;

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<sup>35</sup> International Tropical Timber Association (ITTO) (2018) Biennial Review and Assessment of the World Timber Situation, 2017-2018. p. 21, 94-95.  
[https://www.itto.int/annual\\_review](https://www.itto.int/annual_review)

- b) recommends that Papua New Guinea immediately cancel all existing SABLs, and provide alternate options for customary land holders to pursue economic development opportunities which centre their rights and decision-making, ensuring consent processes which are in line with international law such as the UN Declaration on the Rights of Indigenous Peoples;
- c) recommends that all timber importing jurisdictions issue a suspension or similar ban on timber or timber products originating from PNG. At minimum this recognises that there are systemic and pervasive issues, and widely documented legality concerns that undermine customary resource owner rights and rule of law – rendering it virtually impossible for companies or law enforcement to undertake legal due diligence to be satisfied whether a product is legal. This suspension should remain in effect, at minimum, until all of the following are met: i) PNG publishes a public register of timber permits and licenses as required under the Forestry Act; ii) PNG publicly discloses a register of commercial land leases; iii) PNG reinstitutes an operational timber export monitoring program; iv) PNG ends the ‘authorising’ of illegally logged timber if such practices remain in effect, and v) PNG publishes an audit of all FCA projects. A suspension should remain on any timber arising from SABLs.
- d) recommend that international organisations, including the International Tropical Timber Organisation, should further recommend to ITTO members a suspension or similar ban on timber or timber products originating from Papua New Guinea, until measures described at 30c) are met.
- e) provide advice on whether this case would warrant the creation of a redress and remedy scheme to customary resource owners – that should apply across the supply and finance chain. This firstly should recognise the important principle of justice for affected peoples by encroachment onto their Indigenous territories under SABLs or FCAs, secondly, it should seek to remove a key incentive for any company handling, financing, or profiting from the illegal timber trade and associated violations of the rights of customary resource owners.

## ANNEX 1

<b>Table 1: Sample of reports since 2017 discussing widespread timber illegality and related issues</b>	
2017	Preferred by Nature assessed PNG at high-risk of timber illegality, scoring 3 out of 10. <sup>36</sup>
2017	The Bank of PNG noted widespread corruption and illegal logging in the PNG forestry sector, and that various estimates put the value of between 70-90 percent of the total product exported. <sup>37</sup>
2018	Global Witness' 'A Major Liability' report drew on satellite imagery to show "hundreds of apparent violations of the country's Forestry Act in major logging operations". <sup>38</sup>
2021	Forest Trend's Timber Legality Risk dashboard ranked PNG in its highest risk category, scoring 83.4 out of 100. <sup>39</sup> It has noted that 'permits are frequently issued illegality and without transparency or due process, in particular violating laws around customary land rights.'
2022	A joint report by the UN Office on Drugs and Crime and the PNG Conservation and Environmental Protection Authority noted " <i>widespread illegal practices across the forestry sector</i> " and " <i>low (or no) penalties when violations are detected</i> ". <sup>40</sup>
2023	ACT NOW!'s 'Timber Legality Risk Assessment' found almost all logging in PNG to be unlawful. <sup>41</sup>
2024	A report on PNG money laundering reiterated illegal logging as one of the key risks linked to money-laundering. <sup>42</sup>

<sup>36</sup> Preferred by Nature (2017) Timber Legality Risk Assessment Papua New Guinea.

<https://www.preferredbynature.org/sites/default/files/library/2017-08/NEPCon-TIMBER-PapuaNewGuinea-Risk-Assessment-EN-V1.1.pdf>

<sup>37</sup> Bank of Papua New Guinea (2017) Money Laundering and Financing of Terrorism National Risk Assessment.

<https://www.bankpng.gov.pg/sites/default/files/2024-09/Money-Laundering-and-Financing-of-Terrorism-National-Risk-Assessment-4.pdf> p.93

<sup>38</sup> Global Witness (2018) A major liability.

<https://www.globalwitness.org/en/campaigns/forests/major-liability-illegal-logging-papua-new-guinea-threatens-chinas-timber-sector-and-global-reputation/>

<sup>39</sup> Forest Trends (2021) Timber legality risk dashboard: Papua New Guinea.

<https://www.forest-trends.org/publications/papua-new-guinea-timber-legality-risk-dashboard/>

<sup>40</sup> UN Office of Drugs and Crime and PNG Conservation and Protection Authority (2022) Rapid assessment: Criminal justice response to wildlife and forest crime in Papua New Guinea.

[https://www.unodc.org/res/environment-climate/asia-pacific\\_html/PNG\\_Assessment.pdf](https://www.unodc.org/res/environment-climate/asia-pacific_html/PNG_Assessment.pdf)

<sup>41</sup> ACT NOW! (2023) Papua New Guinea Timber Legality Risk Assessment.

<https://actnowpng.org/publications/publication-timber-legality-risk-assessment-2023>

<sup>42</sup> Asia Pacific Group on Money-Laundering (2024) Anti-money laundering and counter-terrorist financing measures - Papua New Guinea, Third round Mutual Evaluation Report.

<https://apgml.org/includes/handlers/get-document.ashx?d=25172d78-e774-4453-b2f9-e9bbc9c76415>

## ANNEX 2

Diagram showing the rate of log exports under FCAs from 2019-2023 compiled from data from SGS Log export monitoring monthly reports to the PNG Forest Authority (2020-2024).

