

APEC Experts Group on Illegal Logging and Associated Trade (EGILAT)

Timber legality guidance template for **Papua New Guinea** (January 2021)

The purpose of this guidance template document is to provide APEC member economies with guidance on compiling the appropriate information for businesses and governments within the APEC region regarding timber legality laws and regulations in place in Papua New Guinea. It follows from multiple discussions at EGILAT meetings in which it was recognised that it would be beneficial to compile an APEC compendium of laws and regulations governing timber production and trade with a goal of supporting legal timber trade between APEC members.



PAPUA NEW GUINEA TIMBER LEGALITY GUIDE

January 2021

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ACRONYMS AND DEFINITIONS

| | | |
|-----|-------------------------|--|
| 1. | PNG: | Papua New Guinea |
| 2. | PNGFA: | Papua New Guinea Forest Authority |
| 3. | PNG IPA: | Papua New Guinea Investment Promotion Authority |
| 4. | PNG IRC: | Papua New Guinea Internal Revenue Commission |
| 5. | FIP: | Forest Industry Participant |
| 6. | TIN: | Tax Identification Number |
| 7. | PFMC: | Provincial Forest Management Committee |
| 8. | FMA: | Forest Management Agreement |
| 9. | LFA: | Local Forest Area |
| 10. | TA: | Timber Authority |
| 11. | FCA: | Forest Clearing Authority |
| 12. | TRP: | Timber Rights Purchase |
| 13. | ILG: | Incorporated Land Group |
| 14. | PNGFAL: | Papua New Guinea Forest Authority License |
| 15. | CSG: | Country Specific Guidelines |
| 16. | The Act: | Refers to the Forestry Act 1991 (amended) |
| 17. | PFMC: | Provincial Forest Management Committee |
| 18. | ILG ACT: | Land Group Incorporation Act 2009 |
| 19. | Authorised Area: | Any timber area which has a valid Timber Permit, Timber Authority and Forest Clearing Authority issued by PNGFA |
| 20. | DoW: | Department of Works |
| 21. | PNG TLG: | Papua New Guinea Timber Legality Guide |
| 22. | PNG FIMS: | Papua New Guinea Forest Inventory and Mapping System |
| 23. | CSIRO-PNG RIS: | Commonwealth Scientific and Industrial Research Organisation – Papua New Guinea Resource Information System |
| 24. | NFS: | Papua New Guinea Forest Service |
| 25. | NFB: | National Forest Board |

1.0 INTRODUCTION

The government has remained positive and continues to improve its systems and processes to demonstrate its credibility in addressing legality, governance, transparency, sustainable practices, legal production and legal trade of PNG wood products through various mechanisms including; bilateral and multilateral initiatives, policy mechanisms such as the PNG Timber Legality Standards¹ (TLS) as part of its broader Timber Legality Verification System (TLVS) which is nearing completion. The government also recognizes other international schemes and initiatives such as the Forest Stewardship Council (FSC) and the Program for the Endorsement of Forest Certification (PEFC) which are voluntarily adopted and applied by the industry participants.

This Timber Legality Guide will provide clarity and transparency for businesses, governments, civil groups and other relevant stakeholders in the legal framework governing the legal production and trade of Papua New Guinea's forest products. It is expected to support due diligence efforts by exporters, buyers and importers of PNG timber throughout the APEC region and beyond. The *Guide* should also assist producers and suppliers to improve legal practices in meeting market access requirements. This document as agreed by the APEC Experts Group on Illegal Logging and Associated Trade (EGILAT) in 2014, will form part of a compendium of timber legality guidance documents.

¹ This Papua New Guinea Timber Legality Standard provides an agreed definition of what constitutes legal timber sourced from PNG. (www.itto.int)

2.0 OVERVIEW OF THE FOREST SECTOR IN PAPUA NEW GUINEA

Papua New Guinea's vast areas of natural tropical rainforest cover approximately 33.6 million hectares that is equivalent to 72.5% of its landmass and is home to the world's third-largest tropical rain forest in the world which is ecologically rich and home to between 5-7% of the world's species majority of which are not found anywhere else in the world².

Generally, it is estimated that eighty-seven percent (87%)³ of Papua New Guinea's population is rural-based and is heavily dependent on forests for their livelihood, food and dietary needs, pharmaceutical products, and building materials. It is, therefore, imperative for PNG to manage and maximize the benefits from its forest resources whilst sustainably managing the environment for the benefit of the current and future generations.

The development and management of forest resources are overseen by the PNG Forest Authority – National Forest Service under the Ministry of Forests and is legislated through the ***Forestry Act, 1991*** (amended). The main focus of the PNG Forest Authority is inherently embedded in the National Goals and Directive Principles of the National Constitution and as aspired to in the *National Forest Policy 1991* and the *2009 National Forest Development Guidelines* – “to manage and protect the nations forest resources as a renewable natural asset and to utilize these resources to achieve economic growth and greater Papua New Guinea participation in the industry”.

Almost, 97 per cent of Papua New Guinea's total landmass is owned by indigenous Papua New Guineans under customary ownership, the land tenure system for which predominantly there is no formally recorded title. Given Papua New Guinea's unique legal system which recognizes both *customary and common law land rights*, the issue of customary land ownership and the specifics of boundaries are determined through traditional mediation processes or in the courts where and when the need arises. The remaining three percent (3%) of the land is owned either by the State, private companies, individuals or religious groups under leasehold and freehold titles.

The Act permits forest industry activities on Government land, State Leasehold land, Private Leasehold land, Private Freehold land and customary land. Overwhelmingly, over ninety-nine per cent (99%) of forestry projects are developed over customary land. Under this same legislation, a forest industry participant is permitted to exercise *timber rights*⁴ on customary land, where there exist; a *Forest*

² PNG Forests key to fighting climate change and advancing development, Food and Agriculture Organisation of the United Nations, 2015 (www.pg.undp.org)

³ Papua New Guinea Rural Population, the World Bank Collection of Development Indicators. (www.tradingeconomics.com)

⁴ ‘Timber rights’ refers to the rights either of the State through the Forest Management Agreement or rights of the forest industry participant through the Timber Authority and Forest Clearing Authority over timber in the prescribed area covered under; the FMA, TA or FCA. Where the Authority (State) enters into a Forest Management Agreement, the

Management Agreement (FMA), a Timber Authority (TA) or a Forest Clearing Authority (FCA). Forestry activities by the forest industry participant can only be carried out under a Timber permit, a Timber License, a Timber Authority or a Forest Clearing Authority. These are further detailed in Section 6 of these guidelines.

Section 57 of the Act, calls for the application of the *Land Groups Incorporation Act 1974* to facilitate the process of obtaining the consent of customary owners to a FMA. The recent Land Groups Incorporation Amendment Act of 2009 further empowers landowners within a group to form a single legally constituted body, the Incorporated Land Group (ILG)⁵. The *ILG Act* empowers customary groups to do business, hold, dispose of, manage and deal with land in their customary name. This legislation is used in resource sectors such as mining, agriculture and forestry and is a reliable mechanism in establishing legal ownership, and the correct disbursement of landowner royalties and benefits.

The overall responsibility for the regulation and supervision of the forestry sector is shared between the national and provincial governments. A list of key institutions governing the forest industry is illustrated in *table 1: Key Government Institution with their Roles and Responsibilities*.

Table 1: Key Government Institutions with their Roles & Responsibilities.

| Institution | Roles |
|--|---|
| <u>PNG Forest Authority (PNGFA)</u> | <p>The PNGFA comprises the National Forest Board, the National Forest Service and the respective provincial forest management committees.</p> <p>It is mandated under the <i>Forestry Act 1991 (as amended)</i>, to carry out the objectives as enshrined in Section 6 of the Act including the sustainable management of the forest resources for the future generations of PNG.</p> |

Authority may assign its timber rights acquired under the Agreement to one or more other persons, subject to the Act & terms and conditions of the Agreement.

⁵ The Department of Lands & Physical Planning is the PNG government department responsible in administering the ILG Act (2009) and subordinate legislation. It is an amendment to the Land Groups Incorporation Act of 1974.

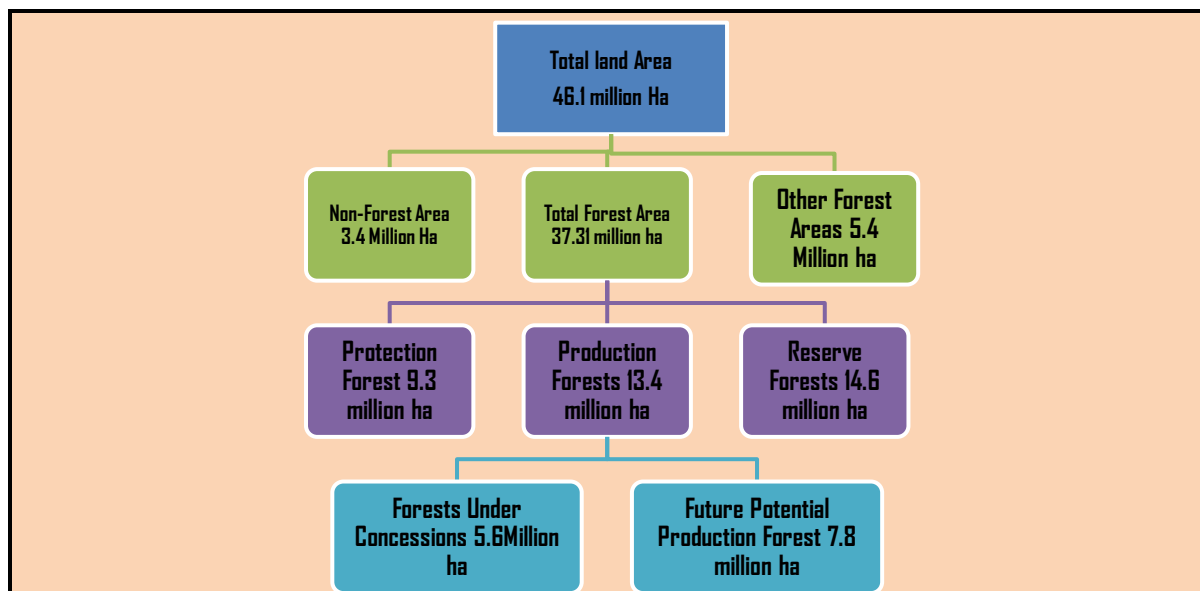
| Institution | Roles |
|--|--|
| <u>National Forest Board (NFB)</u> | <p>The National Forest Board is established under Section (9) of the <i>Forestry Act 1991 (as amended)</i>. It carries out all functions and objectives, manages the affairs and exercises the powers of the PNGFA.</p> <p>The Board amongst other major functions provides advice to the Minister on forest policies and legislative frameworks pertinent to forestry matters.</p> <p>The Board is comprised of ten (10) members who represent various national and provincial government agencies, forest industry, the National Council of Women, civil society and landowners.</p> |
| <u>Provincial Forest Management Committees (PFMC)</u> | <p>The Provincial Forest Management Committee (PFMC) provides a forum for consultation and coordination on forestry matters between the national and provincial governments and provides recommendations to the NFB on matters regarding forestry.</p> <p>The 21 provinces (excludes the National Capital District) each have a PFMC and the committee has six members representing the provincial & local level governments, landowners and the civil society.</p> |
| <u>Papua New Guinea Forest Service</u> | <p>The Papua New Guinea Forest Service is the implementation and operational arm of the PNGFA and it is headed by a Managing Director.</p> <p>Its Headquarters is located in the Capital City, Port Moresby with five regional offices and twenty-one (21) provincial offices.</p> |

3.0 Forest Resource of Papua New Guinea

In 2014, the National Executive Council endorsed a definition of forests within Papua New Guinea, this being: “*land spanning more than one (1) hectare with trees higher than three (3) metres and the canopy cover of more than ten (10) per cent.*” Within the parameters of this definition, PNG has a total of 35.9 million hectares of forest land. These include low altitude and montane forest, swamp, woodland, savannah and scrub forest types. The production forest area has been estimated to be 21.3 million hectares and the PNG Government through PNGFA has acquired timber rights over 8.4 million hectares

of the forested land from the customary owners for economic development, while 12.9 million hectares are considered potential production forests. *Figure 1* indicates forest use classification of the current forest cover for PNG.

Figure 1: The forest classifications (Hitofumi Abe, 2016).



The forest classification in PNG is based on the Forest Inventory & Mapping System (FIMS) and CSIRO-PNGRIS Publication No. 4 (Hammermaster & Saunders, 1995).

Forest lands are further classified into land-use subdivisions based on the vegetation type and forest plantations. Vegetation type was classified based on the structural formation and described in PNGRIS Publication No.4 (Hammermaster & Saunders, 1995). There are 12 vegetation types in PNG forest. “Mountain coniferous forest” was later added due to the high conservation value of that specific forest type.

Table 2: Forest vegetation classification in PNG and their short description⁶

| Forest types | Short description |
|---|--|
| Low Altitude Forest on Plains and Fans | Below 1000 m above sea level. |
| Low Altitude Forest on Uplands | Below 1000 m above sea level. |
| Lower Montane Forest | Above 1000 below 3000 m above sea level. |
| Montane Forest | Above 3000 m above sea level. |
| Dry Seasonal Forest | Restricted to southwest PNG in a low-rainfall area (1800-2500 mm). |
| Littoral Forest | Dry or inundated beach. |
| Seral Forest | River line, upper stream, river plains and volcano blast area. |

⁶ Hammermaster and Sanders, 1995, provide full description of PNG’s forest vegetation classification

| Forest types | Short description |
|--------------|---|
| Swamp Forest | Swamp area. |
| Woodland | Low and open tree layer. |
| Savannah | Low (< 6m) and open tree layer in low rainfall area with a marked dry season. |
| Scrub | A community of dense shrubs up to 6 m. |
| Mangrove | Along the coastline and in the deltas of large rivers. |

4.0 PNG'S LEGISLATION AND POLICIES THAT REGULATE FOREST RESOURCE MANAGEMENT AND UTILISATION.

This section provides a list of laws, regulations, legislations and procedures in *Tables 3 and 4* that govern the management and utilization of PNG's Forest Resources.

Table 3: Forestry Legal Framework

| | |
|--|--|
| <i>Forestry Act 1991 (as amended).</i> | The Forestry Act provides the framework for the acquisition of forest management rights from customary landowners, allocate to forestry developers and provides procedures for forest operations and governance of the forestry sector. |
| The National Forest Policy, 1991 | The National Forest Policy is the national blueprint for the sustainable management and utilisation of forest resources. |
| Forestry Regulations, 1998 was amended in 2001 & 2008 | This Regulation provides guidance and explains how any individual, corporate body, business group or any affected forest industry player including the Board, PFMCs and NFS should apply the provisions of the <i>Forestry Act, 1991 (as Amended)</i> . |
| Papua New Guinea Forest Plan⁷ | The Papua New Guinea Forest Plan was approved by Parliament in 1996. It sets out how the national and provincial governments intend to manage and utilise PNG's forest resources. It guides the development of forest projects. |
| PNG Logging Code of Practice (LCOP) | The LCOP sets out mandatory minimum standards for planning and layout of logging coupes, road clearing and harvesting operations, post-harvesting activities and waste management on log ponds. |
| National Forest Development Guidelines (NFDG) 2009 | NFDG sets out broad objectives and gives significant directions to the National Forest Plan, which underpins all forest-based activities in PNG. |
| Two (2) key PNGFA operational manuals and guidelines provide for the implementation of the legal framework set out above. They are: | |

⁷ For the purpose of this document the National Forest Plan is referred to as Papua New Guinea National Forest Plan

| | |
|--|--|
| Forestry Act 1991 (as amended). | The Forestry Act provides the framework for the acquisition of forest management rights from customary landowners, allocate to forestry developers and provides procedures for forest operations and governance of the forestry sector. |
| Manual on Planning, Monitoring and Control Procedures for Natural Forest Logging Operations under Timber Permits. | This manual provides the benchmark for planning, monitoring and controlling procedures for forestry operations in natural forests. It sets out the procedures for preparation and submission of forest working plans, annual logging plans and set up plans, log ponds and logging base camps. |
| PNG Forest Authority Procedures for Exporting Logs. | This manual describes the procedures that log exporters must follow to obtain approved statutory export documents, monitoring of loading and outward log export clearance of log ships. It also incorporated the log export monitoring by SGS (PNG) Ltd, which is part of Society Generale de Surveillance Group, a leading inspection and verification company. |

Table 4: Other Relevant Legislations Applicable to Forest Development

| Agency Responsible for implementation | Legislation & Policies | Activities monitored or regulated by the legislation & Policy |
|---|---|--|
| The PNG Government & its Agencies | <ul style="list-style-type: none"> i. PNG National Constitution. ii. Organic Law on Provincial & Local Level Governments. iii. Public Finances Management Act, 1995. iv. PNG Development Strategic Plan 2010-2030. v. PNG Vision 2050. | The cornerstone and pillars that provide a roadmap enhancing the creation of employment opportunities and national advancement through economic growth using the renewable resources of PNG. |
| The PNG Investment Promotion Authority (IPA) | <ul style="list-style-type: none"> i. Companies Act 1991 (amended). ii. Investment Promotion Authority (IPA) Act 1992. iii. IPA Regulation 1992. iv. Companies Act 2014. v. Business Name Act of 2014. | The PNG Investment Promotion Authority (IPA) under the Companies Act and the IPA legislation to register and certify companies or entities, both national and foreign enterprises. |

| | | |
|--|---|---|
| PNG Conservation and Environment Protection Authority | <ul style="list-style-type: none"> i. Environment Act of 2000. ii. Conservation and Environment Protection Authority Act 2014. iii. Fauna (Protection & Control) Act 1966. | <p>The <i>Environment Act 2000</i> and the <i>Conservation & Environment Protection Authority Act 2014</i> provides a framework for the environmental assessment and mitigation of economic sector development activities including forestry.</p> <ul style="list-style-type: none"> • Provides for the Approval & Issuance of an Environment Permit • Prohibit or regulate timber harvesting in specified locations, such as in parks, Wildlife Management Areas, reserves, or protected areas. • Prohibits or regulates the extraction and trade of endangered species of plants & animals, etc. • Issues CITES certificate |
| Department of Lands & Physical Planning | <ul style="list-style-type: none"> i. Land Act, 1996. ii. Land Group Incorporation Act, 2009. iii. Physical Planning Act, 1989. iv. Physical Planning Regulation, 1990. | <ul style="list-style-type: none"> • Regulates the recognition & Incorporation of land groups; • Regulates the acquisition of customary land rights from owners of leases; • Regulates the acquisition of rights from customary owners for Special Agriculture Business Lease (SABL). |
| Climate Change and Development Authority | <ul style="list-style-type: none"> i. Climate Change Management Act, 2014. ii. Forestry & Climate Change Framework for Action 2009-2015. | <ul style="list-style-type: none"> • The Mitigation and adaptation aspects are undertaken by government agencies should be in accordance with this Policy and Act. |
| Department of Works | <ul style="list-style-type: none"> v. Road Maintenance Act, 1971. Road maintenance Regulation, 1973. | <p>Regulates the road constructions plans, standards & alignments shall be</p> |

| | | |
|--|--|---|
| | vi. DoW Highway Maintenance Specifications-Version-October 2017. vii. DoW River Training Manual_1987. viii. DoW Drainage Manual for Rural Roads, _Vol. 1 ix. DoW Drainage Manual for Rural Roads, _Vol. 2. x. DoW Roads & Bridges Specifications June 2015. xi. DoW Standard Road Engineering Drawings_1a. xii. PNG Flood Estimation Manual_1990_1. xiii. PNG Flood Estimation Manual - August 2018. xiv. DoW-Road Design Manual-April 2017. | consistent with the requirements of these Acts. |
| Department of Foreign Affairs and Trade | i. PNG National Trade Policy | Regulates trade of goods including forest products and services from PNG. Issues export license and certificate of origin as required by importers of forest products. |
| Internal Revenue Commission (IRC) & PNG Customs Service | i. Income Tax Act of 1959. ii. The International Revenue Commission Act 2014 iii. PNG Custom Tariffs Act, 1990. iv. PNG Customs Tariff Act and Prohibition Act. | Prohibit or regulate the transportation, export, import, or transshipment of timber or wood products and implements requirements of import and exports and ensures that import tax and export tax are collected |

All the Laws enlisted and regulations provided can be accessed through the PNG Consolidated Legislation on the website: www.paclii.org.

5.0 REQUIREMENTS FOR FORESTRY BUSINESS OPERATION

It is an important requirement under the laws of PNG that national or foreign individuals and entities wishing to engage in forestry business activities must firstly register with the PNG IPA adhering to the requirements under the Companies Act 1997 (amended), the IPA Act 1992 and other legislative requirements under IPA and be issued a certificate as proof of formal registration as a corporate enterprise. Furthermore, all registered corporate enterprises are liable to pay taxes to the government and therefore must register with the PNG IRC and be issued a Tax Identification Number (TIN). The IPA certificate and the TIN are necessary pre-requisites required to apply for a Forest Industry Participant (FIP) Certificate as a requirement under the Act and its supporting legislation. The FIP Certificate is not a harvesting right or right for a FIP to carry out any of the forestry business activities as listed in Schedule 1 of the FIP certificate. The FIP must further apply for the rights to harvest timber and right to carry out other forestry business activities under Schedule 1 of the FIP certificate.

6.0 RIGHTS TO HARVEST TIMBER WITHIN ALLOCATED FOREST AREAS

Fundamentally, the development of forest resources in Papua New Guinea is guided by the Forest Policy 1991 and *The Act*, and supported by other forestry subordinate legal instruments and procedures; as well as other relevant government legislation listed in Table 3 and 4. As stated in *section 2*, the majority of land, including those on which forest resources are located are traditionally owned and governed under customary laws. These customary laws are recognized in modern PNG laws which provides for the management and utilization of the forest resources.

6.1.0 Legal Requirements for Harvesting Timber

The Forestry laws⁸ provide for the management and utilization of the forest resources through the following arrangements⁹:

1. Forest Management Agreement (FMA)
2. Timber Authority (TA)
3. Forest Clearing Authority (FCA).

There are also some continued harvesting activities under the old arrangements, according to the repealed forestry legislation under the Private Dealings Act, 1979.

1. Timber Rights Purchase (TRP)
2. Local Forest Area (LFA).

These existing arrangements (TRP and LFA) are saved under Section 137 of The Act. These arrangements will cease to exist once the TRP and LFA arrangements expire.

⁸ The Forestry Act 1991(amended) and other forestry legislation (www.pacii.org)

⁹ The Papua New Guinea Country Specific Guidelines

(www.agriculture.gov.au/SiteCollectionDocuments/forestry/australias-forest-policies/illegal-logging/png-csg.pdf)

6.1.1 Forest Management Agreement (FMA)

The FMA acquisition arrangement supersedes the Timber Rights Purchase (TRP) arrangement under the repealed Private Dealings Act, 1979. The FMA is the major vehicle through which timber rights are acquired from customary owners. Under the FMA process, the state acquires the rights to forest management and harvest timber from areas where customary owners are willing to transfer their forest management and development rights. The state then issues a timber permit to a timber operator as per established procedures to remove the timber on agreed terms and conditions, including the payment of royalties and other monetary and non-monetary benefits.

Under the FMA, the Minister for Forests is responsible for granting of a timber permit upon recommendation from the National Forest Board. The recommendations from the National Forest Board is based on the adequate completion of the prerequisites to issuing a timber permit which is a requirement of *The Act*. These requirements are generally known as the Thirty-Four (34) steps for processing timber permit. *For the purpose of this Timber Legality Guide, the 34 steps have been compacted to outline the main requirements, see Figure 2 below.*

A timber permit (*Attachment 4 and 5: Form 115_Timber Permit and its schedule*) will grant exclusive rights to the permit holder to undertake utilisation and management of the forests in the project area for 35 years in compliance with the terms and conditions of the respective project agreements executed between the permit holder(s) and the Government (PNGFA).

The 5-Step acquisition process involves intensive awareness amongst the customary resource owners in obtaining the consent of the customary owners to the Forest Management Agreement (FMA). Neither the acquisition of timber rights nor the FMA is valid unless it is approved by the Minister for Forests. The 29-step allocation process involves conducting of a development options study, advertisement of the project by public tender or close tender in some cases, formulation of project development guidelines; submission & evaluation of development proposals, negotiations on the terms and conditions of a project agreement, etc., until the execution of a project agreement between the Government (PNGFA) and the selected proponent.

The monetary as well as non-monetary benefits that will be paid to the national, provincial and local level governments, and landowners during the life span of the project are usually negotiated and incorporated in a project agreement. The PFMC undertakes the negotiations and the Board endorses it if the project agreement adequately provides for all developmental aspects of the project.

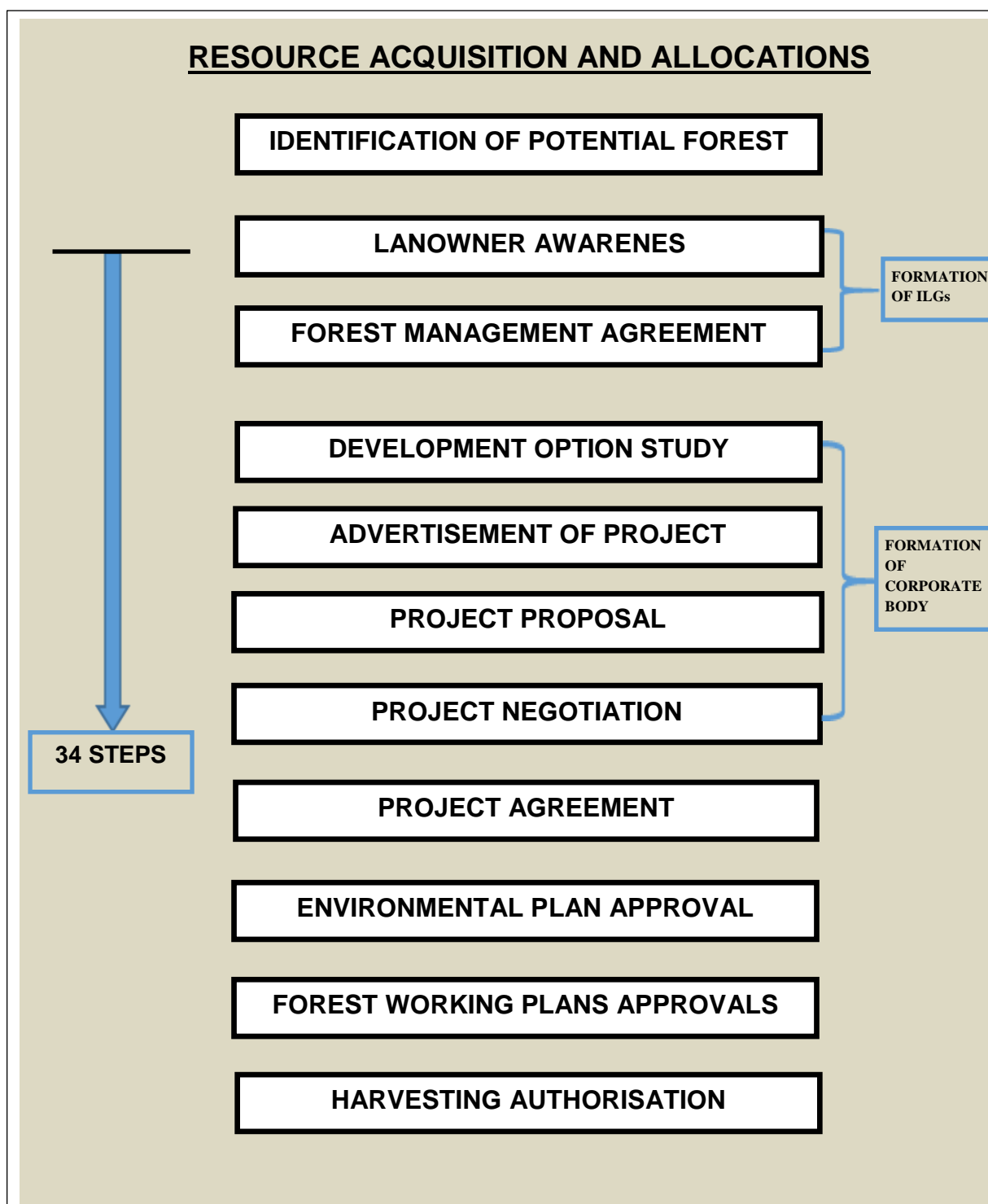
The FIP can apply for a timber permit following an invitation from the Minister for Forest; however, an approved environmental permit is issued by the Environment Council under the *Environment Act, 2000*; this is an integral part of the application process.

Stakeholder consultation remains the main element in every step of the project planning, acquisition and allocation process. A summaries version of the 34 –steps process can be seen on page 12 and attachment 10 contains the full 34-steps checklist.

Figure 2: photo of landowner consultation at a forestry project area



Figure 3: The 34-step process for Resource Acquisition and Allocation



The Allocation and Allocations Process are covered in the Forestry Act 1991 (as amended):

Division 4: Resource Acquisition, etc. Section: 54-60

Division 5: Resource Allocation. Subdivision A - General. Section: 61-65

Resource Allocation Subdivision B- Project Proposal and Agreement. Section: 66-72

Resource Allocation Subdivision C- Timber Permit. Section 73-86

6.1.2 Timber Authority (TA)

The Timber Authority (TA) arrangements (*Attachment 6: Form 155,157,159,161,163_Timber Authority different types*) allows for timber rights to be acquired without the requirement for a Development Options Study used in the FMA allocation process, therefore requiring less processing time in comparison. The TA arrangement is designed for small scale operations and can only be issued for areas that are not covered by a current FMA, TA, and FCA, and is one of five specific forestry activities. The forestry activities covered under the various types of TA are:

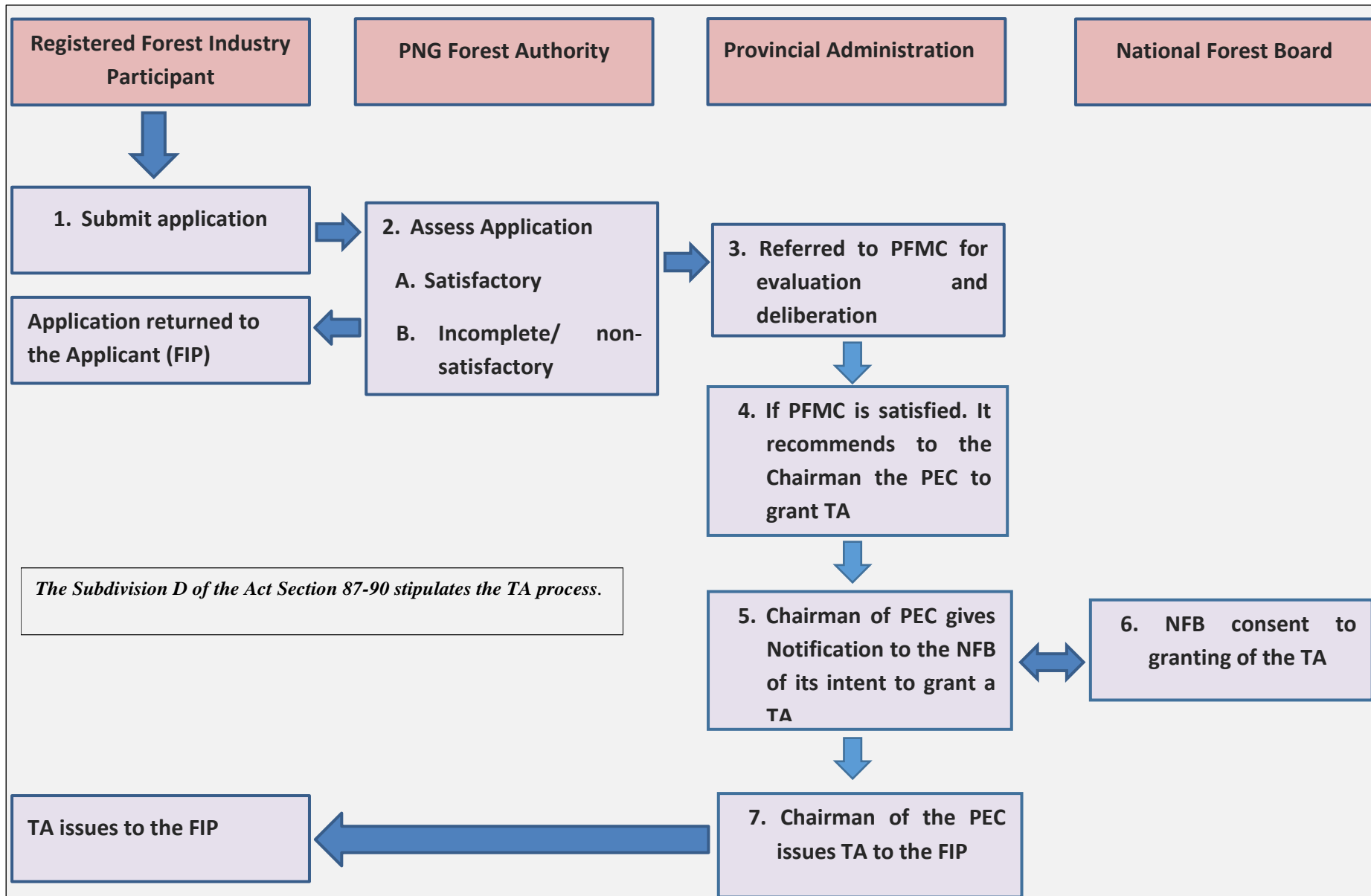
1. TA-01: harvesting of less than 5,000 cubic metres annually of timber for domestic processing
2. TA-02: harvesting of timber for road line clearance
3. TA-03: harvesting of timber for clearing in preparation for agriculture or other land use
4. TA-04: harvesting of forest products other than timber
5. TA-05: harvesting of timber in the plantation area.

Logs harvested under TA-02, TA-03 and TA-05 can be exported in log form (excluding species listed in **Table 6: Species banned for export in round log form, PNG Customs Tariff Act 1990.** TA -04 is not practical, minor forest products in PNG are found in clusters and widely spread across an area. To ensure legality, sustainability and trade of minor forest products, FIPs are issued a PNGFA license to source a particular minor forest product in a particular province. The PNGFA License has its own process which will be explained in section 6.2 of this document.

The TA evaluation process commences with the submission of a TA application to the PNGFA Project Allocations Directorate- Allocations Branch by the FIP. After evaluation, recommendations are made in the form of a referral to the respective Provincial Forest Management Committee (PFMC), chaired by the Provincial Administrator. The PFMC evaluates the application and through the PFMC Chairman, submits a recommendation to the Chairperson of the Provincial Executive Council (PEC) responsible for Forestry matters for endorsement. On endorsement, the PFMC relays their recommendation to the NFB for its consent. If the NFB agrees to the PFMC's decisions and recommendations, it then informs the Provincial Chairman at the PEC for Forestry matters through the PFMC Chairperson, accordingly. The PFMC through its respective PEC chairperson approves and issues the TA. A performance bond fee is required within twenty-one (21) days of the TA's issuance before operations may start. *Figure 3* over the page illustrates the TA approval process.

The *cancellation* of a TA may be carried out by The Chairman of the Provincial Economic Committee responsible for Forestry functions on grounds that the holder of the TA has not been compliant with set conditions of the TA or has been convicted of an offence under the Act or convicted of an offence concerning forestry matters or against a PNG law other than The Act.

Figure 4: Timber Authority Process illustrated



6.1.3 Forest Clearing Authority (FCA)

The Forest Clearing Authority is issued for the purpose of large-scale conversion of natural forest on areas that are designated for agricultural or other land-use development projects in areas over 50 hectares. There are two types of large-scale conversions in PNG and they are agriculture and road line clearances.

The FCA is issued for purposes of commercializing the forest resources on the land on which the Agricultural activity will take place. Approval of the follow-up land use plan is by relevant Government agencies, while the Department of Lands & Physical Planning issues a Special Agricultural Business Lease (SABL) over the proposed land and issues the Lease title to the developer and or the landowner company.

The Key Legal Authorities for SABLs and FCAs are:

6.1.3.1 Special Agricultural & Business Lease (SABL)

Land rights are alienated from the customary owners under the Lands Act, 1996

- Sections 10, 11, and 102, etc.
- Granting of SABL Lease Titles

6.1.3.2 The Key Legal authorities responsible for Large Scale Conversion of Forest on SABL land for Agriculture or Road Construction Developments

The two government departments responsible for the approval and implementation of these follow-up land uses are:

- Department of Agriculture & Livestock (DAL) undertakes the activities associated with project appraisals, public consultation, and endorsement of all agricultural projects. It is the government's overarching policy body, and that the various commodity boards established under the relevant laws are crop-specific and are responsible for the establishment, management and marketing of those respective crops. For example, the Oil Palm Industry Corporation (OPIC) is for the oil palm industry, and Kokonas Industry Corporation is for the coconut industry.
- Department of Works undertakes the activities associated with Project appraisal, public consultation, endorsement for Road-line projects following the National Roads Act and standards.

a. PNG Conservation and Environment Protection Authority (CEPA)

CEPA was established by an Act of Parliament in 2014 to provide for the conservation and protection of the environment within the requirements of the Conservation and Environment Protection Act 2014.

Under the Conservation and Environment Protection Act 2014, the Environment Council deliberates on recommendation pertinent to Environmental plans and Environment Impact Statements from developers who engage in the land use activity and if the council is satisfied that the plans adequately provide for all aspects of addressing environmental issues then the Council issues an Environment Permit.

b. Application for Forest Clearing Authority is lodged with the Board through the PNGFA

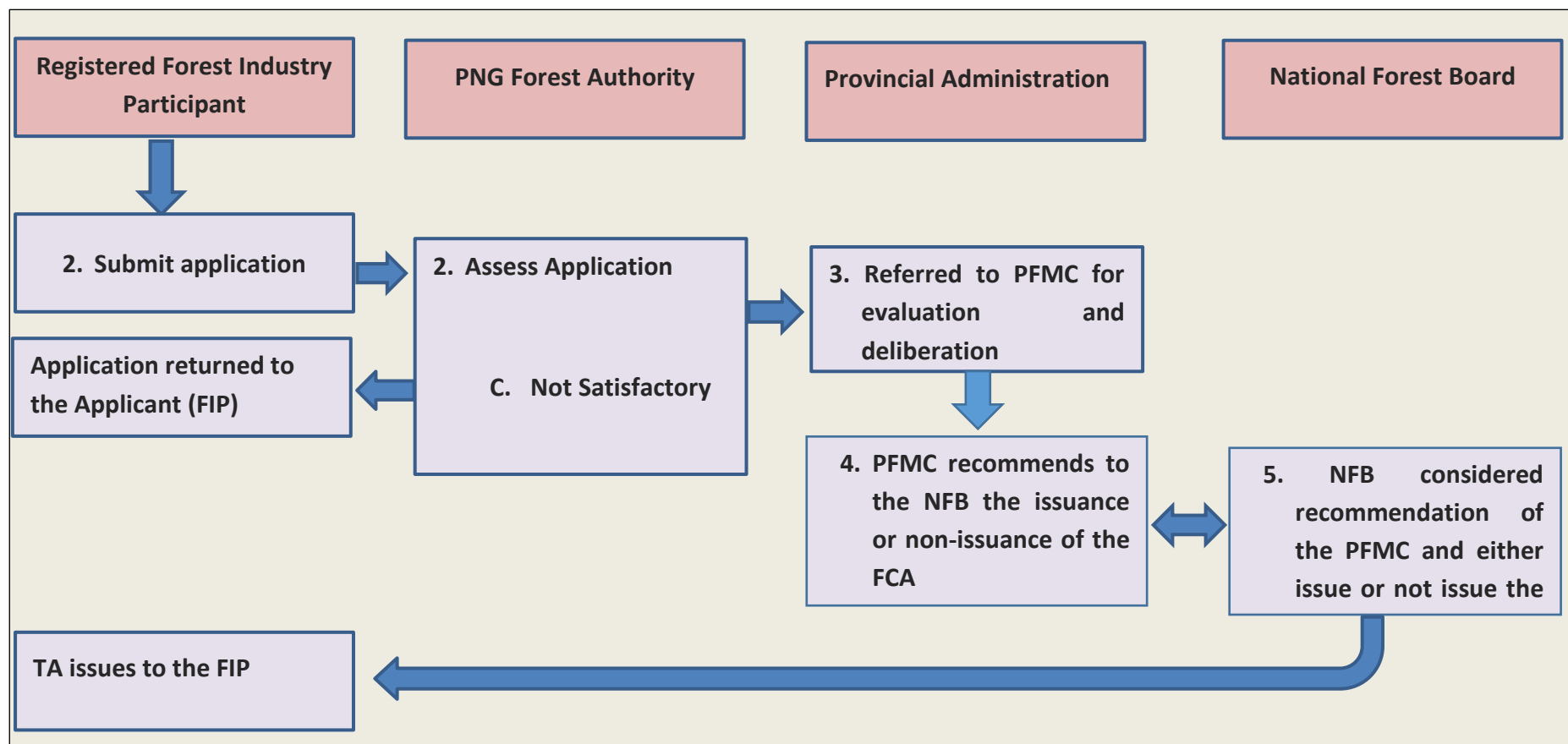
When dealing with an application for FCA under the *Forestry Act, 1991 (as amended)* the requirements of these provisions are stringently observed. Hence the processes required the involvement of all stakeholders, including the local, district and provincial governments, landowners and civil societies.

- i. Sections 90A & 90B – the requirement for agricultural and related projects.
- ii. Section 90C & 90D – requirements for road construction.

The logging operations that take place in an FCA area are regulated in conformity to the implementation schedule of the follow-up land-use.

Illustration of the FCA process can be seen on page 16. The FCA process is stipulated in the Act section 90A, 90B, 90C and 90D

Figure 5: Forest Clearing Authority Process illustrated



7.0 MONITORING THE EXPORT OF LOGS, PROCESSED WOOD PRODUCTS AND OTHER FOREST PRODUCTS ⁹

7.1.0 Export and Monitoring of Round Logs

Round Logs are the major forest product exported out of PNG. The monitoring of round logs exports is governed by the *Forestry Act 1991 (as amended)* under Section 134 and Regulations¹⁰ 234 under the Forestry Regulations 1998 and the “Procedures for Exporting Logs”.

The Procedures for Exporting Logs¹¹ provides detailed in obtaining statutory approvals to export round logs as well as monitoring of the export of logs: -

1. The processes by which a log exporter may obtain Log tags to be attached to harvested logs;
2. Procedures a FIP can follow to obtain a price endorsement for the export of a parcel of round logs;
3. Details the requirements in obtaining log export permit and license from various government agencies, and;
4. The procedural requirements for the monitoring and control of round log export operations.

7.1.1 Societe Generale de’ Surveillance (SGS) PNG Limited

The PNG Government in 1994 entered into a contract with the Société Générale de’ Surveillance (SGS) (PNG) Limited whereby it independently implements the log export monitoring and control procedures on behalf of the PNG Forest Authority.

This independent monitoring ensures that volumes and values of the logs exported are correctly stated and all export-related revenues are correctly stated and paid.

1. Provides log tags to be affixed to the end of each log by producers at the time of scaling at log landings;
2. Does pre-shipment log inspections to check species identification and log scaling;
3. Monitors ship loading to verify the species and volumes loaded; and
4. Collates log shipment data and create monthly reports for relevant stakeholders and PNG Forest Authority for management decisions

SGS (PNG) Limited ensures that all log exporters are provided with:

¹⁰ Forestry Regulation 1998 (www.paclii.org)

¹¹ Papua New Guinea Forest Authority Procedures for Exporting Logs, April, 1996

1. Copy of the Procedures for Exporting Logs;
2. Supply of PNGFA log tags;
3. Supply of PNG Forest Authority Official Log Scaling Sheet.

The approval process for the export of logs and other wood products from PNG requires exporters to apply for and obtain an **Export Permit** from the Minister for Forests and then an **Export Licence** from the Department of Foreign Affairs and trade. Both an **Export Permit** and an **Export Licence** are required for round log export. The granting of export permits is a delegated function under the *Customs Prohibition Regulation* to the Minister for Forests.

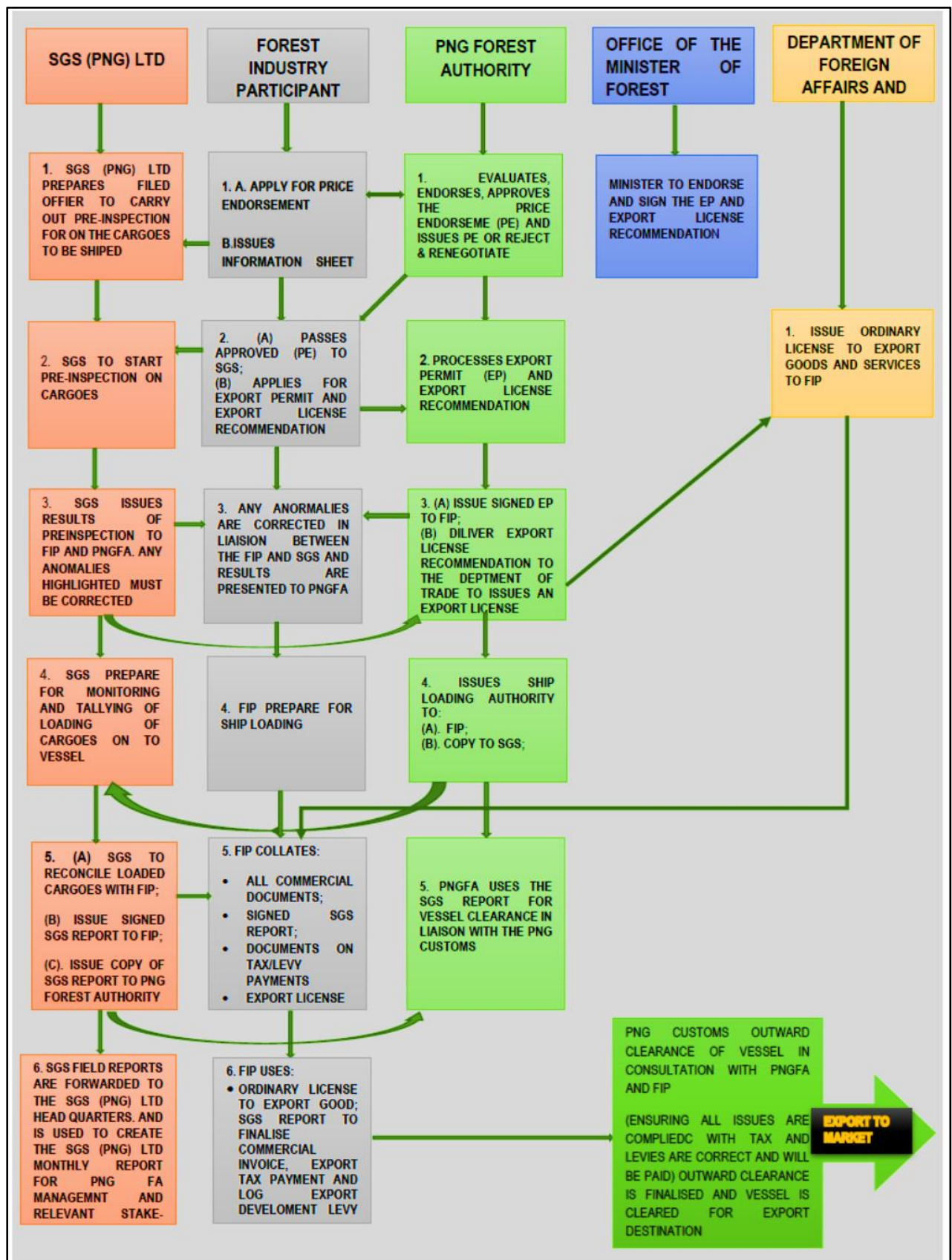
7.1.2 Log Export Application Process

All log exporters are required to apply to export logs directly with the Export Administration Branch (previously the Marketing Branch) and obtain a local PNGFA office confirmation report on the low-grade logs when required. See the process of logs export on the following page.

Figure 6: Log Export port in a remote area of PNG



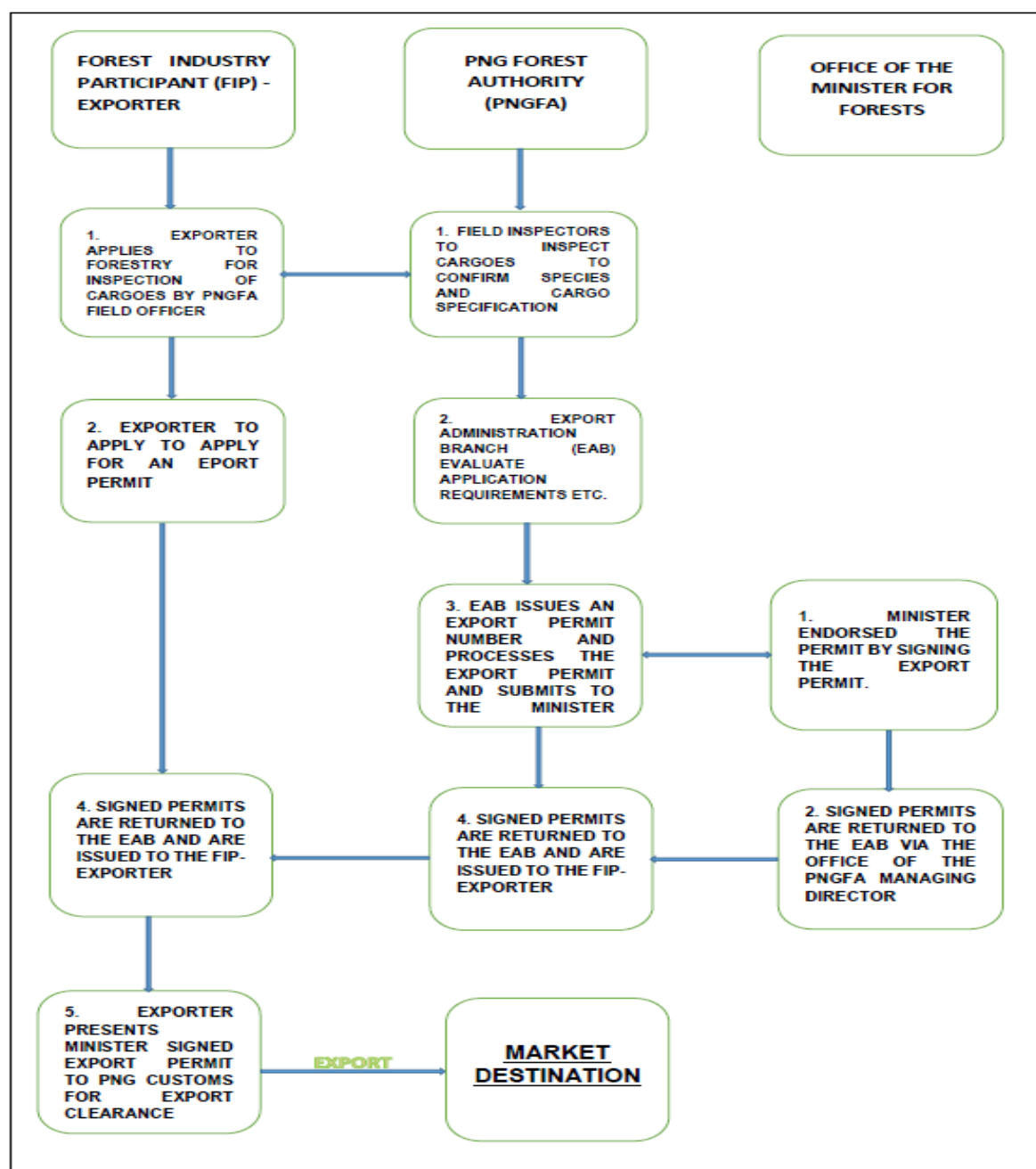
Figure 7: Log Export Application Process



7.2.0 Export of Processed Wood Products and Other Forest Products

Exporters exporting other wood products (i.e. processed wood products such as sawn timber, plywood, balsa etc.) and minor forest products (rattan, eaglewood, massoi bark and massoi oil, sandalwood) only need to apply for an **Export Permit**. The PNGFA ensure that processes of sourcing raw materials required under the PNGFA legislations and other relevant government legislation are adhered to.

Figure 8: Processed Wood Products and Minor Forest Products Export Process



Furthermore, it is a requirement under section 41 of the *Forestry Act 1991*, that a trained forester who is employed by the PNGFA must verify that the contents of the parcel are consistent with those items indicated in the **Export Permit** application (including timber species). The inspecting officer will also confirm that the logs and wood products nominated in the application have originated from a specified *authorised area*.¹²

PNG also imports processed wood products. These imports are monitored through the PNG Customs Act.

Table 5: Shows certification schemes recognized in PNG

| Timber Legality Framework | Standards |
|---|---|
| Forest Stewardship Council | National Forest Management Standards for PNG The standard for Chain of Custody Certification The standard for Company Valuation of FSC Controlled Wood FSC Controlled Wood Standard for Forest Management Enterprise |
| Program for the Endorsement of Forest Certification | Sustainable Forest Management Certification The standard for Chain of Custody Certification |

7.3.0 Species Banned from Export in Round Log form

These species are banned from export in round log form. This ban was imposed because these species are scarce in the natural forest, thus the ban is a measure of management of the species in the natural environment.

Table 6: Species banned for export in round log (Customs Tariff Act 1990)¹³

| Common name/ Trade name | Abbreviation | Botanical name |
|----------------------------|--------------|---------------------------------|
| Kauri Pine | AGA | <i>Agathis sp.</i> |
| Hoop Pine | ARH | <i>Auracaria cunninghamii</i> |
| Klinkii Pine | ARK | <i>Auracaria hunsteinii</i> |
| Celery-Top Pine | CLP | <i>Phyllocladus hypophyllus</i> |
| Cordia | COR | <i>Cordia dichotoma</i> |

¹² The Forestry Act 1991 (amended)

¹³ The Customs Act 1990, schedule 2

| Common name/ Trade name | Abbreviation | Botanical name |
|----------------------------|--------------|-----------------------------------|
| Dacrydium | DAC | <i>Dacrydium nidulum</i> |
| Ebony | EBO | <i>Diospyros ferrea</i> |
| Kerosene wood | KEW | <i>Cordia subcordata</i> |
| Libocedrus | LIB | <i>Libocedrus pauanus</i> |
| Podocarp | POD | <i>Podocarpus sp.</i> |
| Brown Podocarp | POB | <i>Decussocarpus swalichianus</i> |
| Highland Podocarp | POH | <i>Dacrycarpus imbricatus</i> |
| Rosewood | ROS | <i>Pterocarpus indicus</i> |
| Balsa | BAL | <i>Ochroma lagopus</i> |
| Blackbean | BLB | <i>Castanospermum australe</i> |

8.0 VERIFYING LEGALITY OF PNG FOREST PRODUCTS

Table 7a: Shows compliance criteria

| Criteria | |
|--|--------|
| <u>Compliance</u> | Yes/No |
| Compliance with PNG company registration requirements and legislation with PNG IPA | |
| Compliance with PNG tax legislations | |
| Compliance with legislation governing rights to harvest timber within some legal boundaries PNG Forest Authority | |
| Payments of rights to harvests | |
| Payment of royalties and levies to the landowners and the states | |
| Payment of export tax to the state | |
| Compliance with Environmental legislation | |
| Compliance with other PNG legislation that governs trade of forest products from PNG | |

| Criteria | |
|---|--------|
| <u>Compliance</u> | Yes/No |
| Compliance with International or Market Destination Timber Import Legislation | |

Table 7b: Shows compliance criteria

| Documents that can be sought to verify the legality of forest products from PNG | Description of Main Features of the documents | Who to ask or where to get the document |
|---|---|---|
| Export Price Endorsement | i. Applies to only logs. Contains: ii. List of different species to be exported; iii. Species, volume and FOB unit price and total Value; iv. Project Name; v. Buyer Name; vi. Destination; vii. Port of Loading | Exporter or PNGFA |
| Export Permit | Main Features: i. Permit Holder Name (This name may not be the same as that of the exporter) ii. Signed only by the Minister for Forests See attachment 2 | Exporter, PNG Customs or PNG Forest Authority (the original is kept by the PNGFA) |
| Export License | i. Ordinary License to Export See attachment 9 | Dept. Of Foreign Affairs and Trade or the exporting company |
| Forest Industry Participant Certificate | i. It is a delegated power and is issued by the PNG Forest Authority Board Chairman or the Managing Director PNG Forest Authority. | Company or PNG Forest Authority |

| Documents that can be sought to verify the legality of forest products from PNG | Description of Main Features of the documents | Who to ask or where to get the document |
|--|---|--|
| | See attachment: 3 | |
| Timber Permit (FMA, TRP) | i. This is issued by the minister forests See attachment: 4&5 | Company or PNG forest Authority |
| Timber Authority (TA) | See attachment: 6 | Company or PNG Forest Authority |
| Forest Clearing Authority (FCA) | See Attachment:7 | Company or PNG Forest Authority |
| Environment Permit | | Company or Conservation and Environment Protection Authority |
| PNG FA License | This is issued to FIPs who are exporters or minor forest products and those FIPs that do not have a permit but are contracted by the permit holder to carry out certain activities as stated in the FIP (sales and marketing, harvesting, etc.) | Company or PNG Forest Authority |
| Third-Party Certification | Only certain companies have this certification and can produce this upon request See attachment: 8 | Investment Promotion Authority or the Company |
| Company Certificate (domestic and foreign enterprises) | Contains a number that can be traced through the PNG Investment Promotion Authority online search | PNG Internal Revenue Commission or the company |
| Tax Identification Number | The number that is used for tax paid by a company and for | |

| Documents that can be sought to verify the legality of forest products from PNG | Description of Main Features of the documents | Who to ask or where to get the document |
|---|---|---|
| | Authority to follow up on tax breaches. | |

9.0 CONTACTS TO ENQUIRE FOR MORE INFORMATION

If further information and clarification are required:

1. The Managing Director

Papua New Guinea Forest Authority

PO Box 5055

BOROKO,

National Capital District

Papua New Guinea

Phone: +675 3277800

Fax: +675 3254433

Email: info_general@pngfa.gov.pg

Web: www.forestry.gov.pg

2. Papua New Guinea Forest Industries Association (Inc.)

The Executive Officer

PO Box 229

WAIGANI,

National Capital District

Papua New Guinea

Phone: 3259458

Fax: 3259563

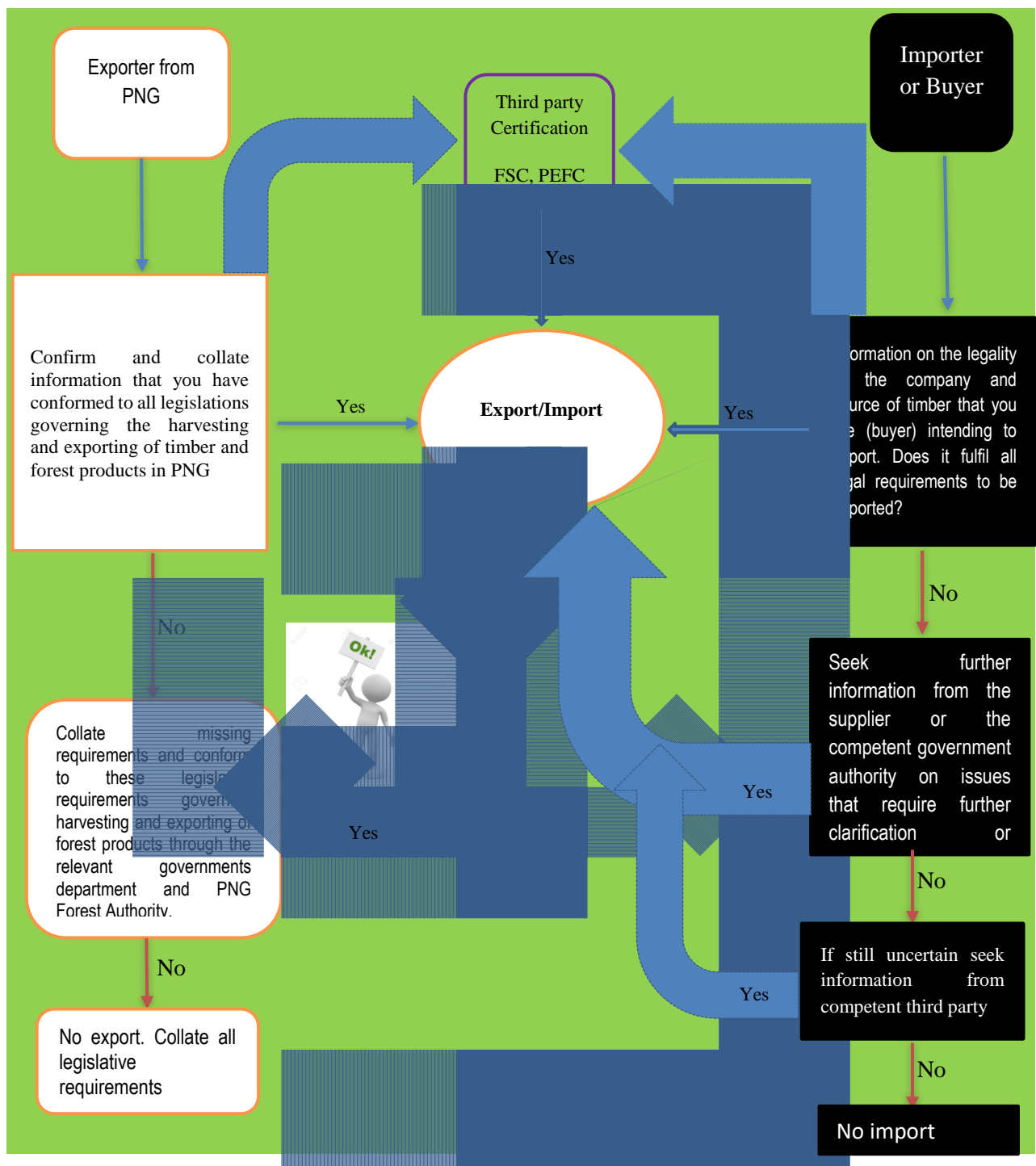
Email: bon@fiapng.com

Web: www.fiapng.com

ATTACHMENTS.

Attachment one (1) is the Verification Process Exporters and Importers of forest products from Papua New Guinea can follow to determine risk and take corrective actions before import or export of forest products. Attachments two (2) is a sample of the export permit issued to exporters for the export of forest products, and attachments three to eleven(3 – 10) can be sought by the importer if an importer is not satisfied with attachment two (2).

Attachment 1: Legality Verification Process



Note: The inspection will also ensure that all statutory payments and other payments for the logs and other wood products would have been made, by verifying that all mandatory payments including timber royalties, levies and taxes (if any).

The inspection report should be attached with the application and submitted to the Export Administration Branch, PNGFA. All follow-up work and enquiries relating to applications are to be undertaken by the exporter.

Attachment 2: Export Permit to export issued for the export of all forest products

PNG Forest Authority
PO Box 5055
BOROKO
National Capital District
Papua New Guinea
Tel: (675) 327 7918/920
Fax: (675) 325 5457



National Parliament House
WAIGANI
National Capital District
Papua New Guinea
Tel: (675) 327 7577/579
Fax: (675) 327 7580

MINISTRY OF FORESTS

Office of the Minister

Customs Office
Postal Address
Province

CHAPTER No. 101 (Reg. Sec:2)

Our file reference:

Date printed

Export Permit No. **Year Month Counting number**

I, **Name of Minister** MP and Minister For Forests hereby consent to the exports of the following forest produce.

Exporter: **Name of FIP**
Producer: **Name of FIP**
TP/TL/TA/LFA/FCA No: **TP province-counting number**
Project: **Name of TP area or source of**
Quantity (m3): **Volume**
Value (USD): **Value** **Product type**
Species: **As attached**
Loading Ports: **Name of port**
Vessel: **Name of vessel**
Departure Date: **Day/month/year**
Destination: **Name of Country or**
Buyer: **Name and address of the**
Buyer of the forest product
Export Licence:



Signature of Minister

Name of Minister

Minister for Forests

Attachment 3: Form 209 Certificate of Registration as Forest Industry Participant

| | |
|---|----------|
| INDEPENDENT STATE OF PAPUA NEW GUINEA | |
| FORESTRY ACT 1991 | |
| Act, Sec. 111 Reg. 208 | FORM 209 |
| <hr/> <i>Certificate of Registration Forest Industry Participant</i> <hr/> | |
| <p>This is to certify that Name of Company Of Postal Address As registered at Investment Promotion Authority (IPA)</p> <p>is registered as a forest industry participant under Part IV of the Forestry Act 1991 in respect of the activities set out in Schedule 1 of this certificate.</p> <p><u>Date of registration:</u> Date/month/Year</p> <p>Participant ID FIP Initials</p> <p>Registration Number: FIP Number</p> <p>SCHEDULE 1</p> <ul style="list-style-type: none">• Harvesting Of Forest Products• Processing Of Forest Products• Sale Of Forest Products• Other Forest Industry• Reforestation Plans <div style="text-align: right; margin-top: 20px;"><p><u>MD's signature</u> Name of Managing Director Managing Director PNG Forest Authority</p></div> | |
| <p>IMPORTANT NOTICE:</p> <p><i>The Regulations require a registered forest industry participant to notify any change of the particulars contained in this application for registration within 28 days of the change. Failure to do so renders an offender liable to a fine and to having its registration cancelled.</i></p> <p><i>Section 112 of the Forestry Act provides that where the Managing Director is of the opinion that there has been a change in the circumstances of a person registered under the Act sufficient to justify cancellation of registration the Managing Director may refer the matter to the Board for consideration as to whether registration should be cancelled.</i></p> | |

Attachment 4: Form 115 Timber Permit

FORESTRY ACT 1991

Act, Sec. 73
Reg. 118

FORM 115

TIMBER PERMIT

Permit No: PNGFA- TP Province Number-Unique Number (TP- 1-08)

I, Name of Minister.....Minister for Forests, by virtue of the powers conferred by Section 73 of the Forestry Act 1991 and all other powers me enabling, grant a timber permit to Name of FIP..... (in this permit referred to as "the holder").

This permit relates to the project area described in Schedule 1. Pursuant to or as conditions of this permit:

- (1) the amount of allowable cut is as specified in Schedule 2;
- (2) the term is as specified in Schedule 3 or no more than the term of any Forest Management Agreement relating to the project area (whichever is less);
- (3) where the term specified in paragraph (2) and Schedule 3 exceeds ten years, the term and conditions of this permit shall be reviewed by the Board on the expiry of ten years and on the expiry of every successive period of five years;
- (4) the rates of royalties, levies and charges to be paid are as specified in Schedule 4;
- (5) the infrastructure requirements of this permit are as specified in the accompanying conditions or in Schedule 5;
- (6) this permit is subject to the provision of a performance bond for an amount specified in Schedule 6 which the holder shall lodge within 14 days with the Authority;
- (7) this permit relates to the project agreement specified in Schedule 7;
- (8) this permit is subject to the conditions prescribed in the Regulations;
- (9) this permit is subject to and conditional upon the holder throughout the period of the permit, observing and complying with all standards and practices as determined from time to time by the Authority including but not limited to the P.N.G. Logging Code of Practice, Procedures for Exporting Logs and Procedures for the identification, scaling and reporting (including royalty self-assessment) on logs harvested from Natural Forest Logging operations or any revisions or replacement documents thereof.

Dated this Day of month day of Month Year

Signature of Minister

MINISTER FOR FORESTS

NOTE: A PROJECT STATEMENT UNDER SECTION 100 OF THE ACT, A FIVE YEAR WORKING PLAN UNDER SECTION 101 OF THE ACT, AND AN ANNUAL LOGGING PLAN UNDER SECTION 102 OF THE ACT ARE REQUIRED TO BE SUBMITTED TO THE BOARD IN THE PRESCRIBED FORM BEFORE ANY RIGHTS IN THE TIMBER PERMIT MAY BE EXERCISED.

Attachment 5: Form 115

SCHEDULE 1 (Identify the project area)

Name of Project and Province

SCHEDULE 2 (Specify the amount of allowable cut)

Annual Allowable Cut for the Project for the duration of the

SCHEDULE 3

Duration of the Project Date of Issuance

SCHEDULE 4 (Specify the rate of royalties, levies and charges to be paid)

THE BASIC ROYAL RATE : Duration of the Project Date of Issuance

LEVIES : THE COMPANY SHALL PAY THE PROJECT REVENUES AS STATED IN SCHEDULE THREE (3) OF THE PROJECT AGREEMENT AND ALL OTHER LEVIES THAT MAY BE PRESCRIBED FROM TIME TO TIME IN ACCORDANCE WITH SECTION 121 OF THE ACT AND SHALL PAY SUCH LEVIES IN THE MANNER AND IN THE FORM AS PRESCRIBED IN THE ACT AND REGULATION.

ADDITIONAL REVENUE ARRANGEMENTS : IN ADDITION TO THE PAYMENTS MADE PURSUANT TO THE ACT, THE COMPANY SHALL PAY ALL OTHER ADDITIONAL REVENUE AS THAT INDICATED IN SCHEDULE 3 OF THE PROJECT AGREEMENT TO THE PERSON IN THE FORM AND MANNER AS SET OUT THEREIN.

SCHEDULE 5 (Specify any requirements for the construction and/or use of roads, bridges and other infrastructure requirements)

THE STANDARD OR SPECIFICATION FOR THIS REQUIREMENT IS AS THAT STIPULATED IN CLAUSE 11.1 SUB CLAUSE (a) AND (b) OF THE PROJECT AGREEMENT.

SCHEDULE 6

Amount specified in
THE AMOUNT OF PERFORMANCE BOND SHALL BE PNGKina AND MUST BE LODGED IN ACCORDANCE WITH CLAUSE 28 OF THE PROJETS AGREEMENT.

SCHEDULE 7 (Identify the project agreement under Section 72(1)(b)(i) to which the permit relates)

THIS TIMBER PERMIT RELATES TO THE PROJECT AGREEMENT Project Name between
FIP and the State through the PNG Forest Authority

Attachment 6: Form 155,157,159,161,163 Timber Authority different types

SCHEDULE 1

Forestry

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec. 87
Reg. 159

FORM 155

**TIMBER AUTHORITY FOR DOMESTIC PROCESSING UP TO 5,000 CUBIC METRES
PER YEAR**

Authority No.: TA Province Number-Unique Number (TA 11-03)
Project Area Name: Unique name

I, Name of Chairman, Chairman of the Committee responsible for forestry matters in the Name of Province Provincial Government by virtue of the powers conferred by Section 87 of the Forestry Act 1991 and all other powers me enabling, hereby grant a Timber Authority to Name Forest Industry Participant (FIP), a registered forest industry participant (Registration No. 1906001) (referred to in this Authority as "the holder").

This Authority authorises the holder to carry out forestry operations in the project area described, and outlined in red on the map in Schedule 1 ("the Project Area") for the term specified in Schedule 2 subject to the Act and to the following terms and conditions -

- (a) the amount of allowable cut shall be as specified in Schedule 3; and
- (b) the holder must, within 21 days, lodge a performance bond in accordance with Section 98 of the Act for the amount specified in Schedule 4 (and if the performance bond is not lodged then this Timber Authority is void and of no effect); and
- (c) the holder must comply with the terms and conditions specified in the Schedules hereto.

Dated this Day of month day of Month 19 Year

Chairman Signature

(Signature of Chairman)

Note: 1. Form 157: TIMBER AUTHORITY FOR ROADLINE CLEARANCE
2. Form 159: TIMBER AUTHORITY FOR THE REMOVAL OF UP TO 50 HECTARES OF TREES FOR AGRICULTURAL OR OTHER LAND USE
3. Form 161: TIMBER AUTHORITY TO HARVEST OTHER FOREST PRODUCTS OTHER THAN PLANTATION MATERIAL
4. Form 163: TIMBER AUTHORITY TO HARVEST PLANTATION MATERIAL ON GOVERNMENT, STATE LEASEHOLD, PRIVATE LEASEHOLD OR PRIVATE FREEHOLD LANDS

Attachment 7: Form 242 and 252 Forest Clearing Authority

SCHEDULE 1

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Forestry Act 1991.

Act, Sec. 90B (8).
Reg. 263

Form 242

**FOREST CLEARING AUTHORITY TO CARRY OUT A LARGE SCALE CONVERSION OF FOREST
TO AGRICULTURE OR OTHER LAND USE DEVELOPMENT.**

Forest Clearing Authority No: **FCA Province number: Chronological**

Agriculture or other land use Development Project;

Project area name
.....

Pursuant to Section 90B(8) of the *Forestry Act* 1991, and all other powers it enabling, the Board hereby grants a Forest Clearing Authority to ... **Forest Industry Participant (FIP) name** ("the Holder")

This Authority authorises the holder to carry out a large scale forest clearance for commercial agriculture or other land use development within of land area described, and outlined in red on the map in Schedule 1 ("the Project Area") for the term specified in Schedule 2 subject to the Act and to the following terms and conditions;

- (a) the holder shall, within 21 days, lodge a performance bond¹ in accordance with Section 98 of the *Forestry Act* 1991 for the amount specified in Schedule 3.
- (b) the holder shall comply with the terms and conditions specified in the Schedules herein.
- (c) the holder shall carry out the agriculture or other land use project in accordance with the approved land-use development plan and the approved implementation schedule contained in the holder's application for this Authority and as agreed to and as may be varied by the Board from time to time.
- (d) the holder shall comply with the conditions of any Permit, License or other Authority relating to the project and with the provisions of all Environmental and other relevant laws of Papua New Guinea.
- (e) the holder shall comply with such other conditions as are specified in Schedule 4 hereto.

Dated this day of 201.....

Signature of the Board Chairman
.....

For the Board.

¹ If the Performance Bond is not lodged within 21 days and no application under Section 98(6) of the *Forestry Act* has been made within 21 days to the Board seeking an extension of time within which to lodge the Performance Bond then this Forest Clearance Authority is deemed void under Section 98(5) of the Act and thereby cancelled.

Attachment 8: Form 175 Papua New Guinea Forest Authority License

INDEPENDENT STATE OF PAPUA NEW GUINEA

FORESTRY ACT 1991

Act, Sec. 91
Reg. 177

FORM 175

LICENCE

Licence No.: **Unique chorological number**

Name of FIP registered Forest Industry *Participant (Reg. No. **FI**) is hereby licensed to engage in the Forestry Industry activities specified in Schedule 1 in addition to those activities carried out, or proposed to be carried out, under *Timber Permit/Timber Authority, (**Name and Number of Timber Permit or Timber Authority**) in the Project Area described therein.

This licence is granted for a term of 12 months commencing on the **Date of Issuance** day of **Month and Year** and is conditional on compliance by the licensee with the terms and conditions to which the activities authorised by this licence are related including but not limited to compliance with all standards and practices as determined from time to time by the Authority including but not limited to the P.N.G. Logging Code of Practice, the Procedures for Exporting Logs and the Procedures for the Identification, Scaling and Reporting (including Royalty Self-assessment) on Logs harvested from Natural Forest Logging Operations or any revisions or replacement documents thereof.

This licence is conditional upon the lodgement of a performance bond in accordance with Section 98 of the Act in an amount specified in Schedule 2.

The licensee shall comply with the terms and conditions contained in Schedule 3.

Date this **Day** day of **Month and Year**

Signature

.....
MANAGING DIRECTOR

FOR THE BOARD

SCHEDULE 1

FIP Name Is hereby licenced to engage in the harvesting, purchase, marketing, transporting processing, grading Forest Products.

SCHEDULE 2

The amount of the performance bond is **K**..... per year.

SCHEDULE 3

1. No other Forest Activities other than those activities specified in Schedule 1. Operations shall commence as soon as the Performance Bond is lodged.
2. Performance Bond as specified in Schedule 2 must be lodged within 21 days from the date of issuance of this Licence.
3. Application for Extension of this Licence must be lodged prior to the expiry date.

Note: PNGFA License is issued to:

1. FIPs contracted by Permit Holders to do certain activities as per schedule 1; and
2. FIPs the purchase, process and sell, export minor forest products.

Attachment 9: Form 1 Ordinary License to Export Good and Services

| PAPUA NEW GUINEA | | | | | | | | | | | |
|---|-----------|--|--|----------------------------|--------|-----------|------------------------------|--|------------------------------------|---|--|
| Section 9 Reg. 3(1) | | EXPORTS (CONTROL & VALUATION) ORDINANCE 1973 Application for an ORDINARY Licence to Export Goods | | | | | | | | | |
| Form 1 | | | | | | | | | | | |
| <p>Exporter (name and address)</p> <p style="text-align: center;">Forest Industry Participant (FIP) Name and Address</p> <p>Name of owner of goods at time of export (if different to exporter)</p> <p>Consignee (name and address)</p> <p style="text-align: center;">Name and Address of the buyer</p> | | <p>Officer at Department of Foreign Affairs and Trade</p> <p>Export Licensing Officer</p> <div style="border: 1px solid black; padding: 5px; float: right; text-align: center;"> Registered Number of Licence O Number issued by Dept. of </div> <p>Exported under Bank of Papua New Guinea</p> <p>1. General Authority 2. Specific Authority Number</p> <p>Bank in PNG to which currency proceeds will be sold or credited</p> <p>Branch Name and branch of Bank in which transactions will be made</p> <p style="text-align: center;">FOB Value in USD</p> <p>* Invoice value SA (State whether f.o.b., c.i.f. or otherwise)</p> | | | | | | | | | |
| <p>Buyer (if different to Consignee)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">Name of vessel or Airline</td> <td rowspan="2" style="text-align: center;">Port or airport of loading</td> </tr> <tr> <td style="text-align: center;">1 Ship</td> <td style="text-align: center;">2 Airline</td> </tr> <tr> <td colspan="2" style="text-align: center;">Port or airport of discharge</td> <td style="text-align: center;">Final destination of goods country</td> </tr> </table> | | Name of vessel or Airline | | Port or airport of loading | 1 Ship | 2 Airline | Port or airport of discharge | | Final destination of goods country | <p>* Here state the value of the goods, that is to say—</p> <p>(a) In the case of goods sold to overseas buyers before export—the sale price according to the contract of sale; or</p> <p>(b) In the case of goods shipped on consignment or any other goods not sold to overseas buyers before export—the estimated value of the goods in the principal market of the country to which the goods are being consigned or shipped.</p> <p>Indicate the manner in which the goods are to be transported overseas by striking out whichever is inapplicable: If the goods are to be transported by ship or plane, state name of ship or airline.</p> | |
| Name of vessel or Airline | | Port or airport of loading | | | | | | | | | |
| 1 Ship | 2 Airline | | | | | | | | | | |
| Port or airport of discharge | | Final destination of goods country | | | | | | | | | |
| <p>Marks and numbers Number and kind of packages Description of goods Quantity (State unit) * Unit price f.o.b. SA</p> | | <p>Information on species composition, volume and FOB unit price (USD) and FOB total value (USD)</p> | | | | | | | | | |
| <p>NOTES:—(1) This licence is to be returned to the Export Licensing Officer forthwith should the goods covered thereby be not exported on the vessel named or as indicated herein.</p> <p>(2) Shortholding of any of the goods specified herein should be notified forthwith in writing to the Export Licensing Officer.</p> | | | | | | | | | | | |
| <p style="text-align: center;">(FOR DEPARTMENTAL USE)</p> <p>(a) I hereby grant a licence to export the goods specified in the foregoing application in one consignment, in the quantities, by the method of despatch and from the place specified during the period from the date of grant of this licence until</p> <p style="text-align: center;">Officer with the delegated powers by the Minister to issued License to Export</p> <p>(b) This licence is granted subject to the terms and conditions specified below/overleaf.</p> <p style="text-align: center;">(STAMP) Stamped and dated by the office of Trade 19.....</p> <p style="text-align: center;">Export Licensing Officer</p> | | <p>Name of the Representative of the FIP</p> <p>hereby apply for an ordinary licence to export the goods as described herein and declare that I am the</p> <p>1 exporter 2 duly authorised agent of the exporter</p> <p>and that the particulars shown herein are true and correct in every particular and that the value of above goods represents a consideration that is not less than the proper export value of these goods.</p> <p>..... (Signature of exporter or agent of exporter)</p> <p>Address (if signed by agent)</p> <p>Date</p> <p>4 Strike out whichever is inapplicable.</p> | | | | | | | | | |

Attachment 10: 34 Steps Acquisition and Allocation Process

CHECKLIST TO A TIMBER PERMIT- 34 STEP PROCESS

PROJECT NAME: XYZ FMA

* = *FUNCTIONS DELEGATED TO MANAGING DIRECTOR*

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|---|-----------------|---------------------|
| 1 | A Landowner awareness campaign conducted by the National Forest Service | | |
| 2 | The Authority, according to a Forest Management Agreement (FMA) acquires the timber rights in the Forest Management Area. (Section 56 (1) of the Forestry Act. | | |
| 3 | The consent of the customary owner to the land is obtained under Section 57 of the Act by the executing of the FMA. | | |
| 4 | The FMA contains a Certificate from the relevant Provincial Forest Management (PFMC) that there has been consent of the customary owners and they give a certificate of authenticity of the tenure of the customary land as required by 58. | | |
| 5 | As required by Section 56 (2) the Minister then approves the FMA. | | |
| 6 | The Authority following any directions given to it by the PFMC (Section 62 (4)) carries out | | |

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|--|------------------------|----------------------------|
| | development Options Studies (DOS). | | |
| 7 | The National Forest Board provides to the Minister and the PFMC true copies of the DOS. (Section 62 (4)). | | |
| 8 | Draft project guidelines are prepared by the PFMC after consultation with the owners of the Forest Resource and the Provincial Government, which are then submitted to the Board (Section 63 (2)). | | |
| 9 | If Draft guidelines are in order Board who then issue final approval (Section 63 (2)). | | |
| 10 | a. The Board then advertises the forest development project (Section 64) OR | | |
| | b. Considers proposals without advertisement (Section 64-3) | | |
| 11 | The Project Proposals are then: a. Lodged with the Managing Director by placing them in the tender box (Section 66-2). OR: | | |
| | b. Lodged with the Managing Director directly when the Board has determined to consider proposals without advertisement. | | |
| 12 | The Managing Director then refers to the project proposals to the PFMC | | |

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|--|------------------------|----------------------------|
| | for evaluation (Section 67-2). | | |
| 13 | The PFMC evaluates the project proposals against specific criteria as set out in the Act with the assistance of the National Forest Service (NFS) (Section 67-2). | | |
| 14 | The PFMC may invite the proponents to provide either at interview or by written submission further information to clarify or elaborate the proposals (Section 68). | | |
| 15 | The PFMC then submits to the Board a detailed report of its evaluation and recommendation of the proponents (if any) with whom further negotiations should proceed (Section 69) | | |
| 16 | The Board then considers and consults with the Minister on the PFMC report and recommendations (Section 70 (1)(a). | | |
| 17 | The Minister then provides his comments to the Board (Section 70 (1) (a) & (b). | | |
| 18 | The Board in conjunction with the PFMC then sets the parameters with which such negotiations should be conducted and assists the PFMC in setting up a negotiation committee (Section 70 (1) (c) & (d). | | |

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|--|------------------------|----------------------------|
| 19 | The Board then <u>directs</u> the PFMC which proponents (if any) that the PFMC should enter into <u>further</u> negotiations. The Minister's comments are also provided to the PFMC (Section 70 (2)) | | |
| 20 | The PFMC then negotiates a project agreement and submits the final draft to the Board. Only one draft project agreement is ultimately submitted to the Board (Section 71). | | |
| 21 | The Board then considers the final <u>draft</u> project agreement and if not satisfied that the draft project agreement makes adequate provision for all aspects of the Project then the draft project agreement is returned to the PFMC with details of those matters requiring further negotiations (Section 72) | | |
| 22 | When the draft project agreement has been returned to the PFMC, the PFMC then carries out further negotiations as necessary and submits to the Board a further final draft project agreement for consideration by the Board. | | |
| 23 | Where the Board is satisfied that the project agreement or further final draft project agreement makes adequate provision for all aspects of the | | |

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|-----------------|---------------------|
| <p>project, then the Board is then required to consult with:</p> <p>(a) The Customary owners who are parties to the FMA;</p> <p>(b) The provincial government of the province in which the area covered by the project agreement is situated; and</p> <p>The member or members of parliament for the province and the electorate(s) in which the area covered by the agreement is situated of the “intentions of the Board” in recommending the allocation of a timber permit over OR</p> | | |
| <p>24 The Minister for Provincial and Local Level Government Affairs is then required to consult with the Provincial Government in the province or provinces where the natural resource is situated.</p> <p>The National Government, the Provincial and the Local Level Governments in the province or provinces where the natural resource is situated are required to liaise fully with the landowners concerning the resource development of the natural resources.</p> <p><i>(Section 115 of the Organic Law on Provincial</i></p> | | |

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|--|------------------------|----------------------------|
| 25 | The Board then obtains the approval of the Minister of Finance to execute the Project Agreement (Section 61 (2) of the Public Finances Management Act). | | |
| 26 | The Board then executes the Project Agreement on behalf of the Authority (Section 72 (b) (i)). | | |
| 27 | After the Board and the Proponent execute the Project Agreement, the Board then makes a recommendation to the Minister for Forests to grant a timber permit to the forest industry participant being the proponent who is a party to the Project Agreement (Section 72 (b)(ii)). | | |
| 28 | If the Minister for Forests accepts the Board's recommendation, he then invites the proponent to make an application for a timber permit (Section 73 (1)). | | |
| 29 | If the Minister for Forests does not accept the Board's recommendations, he may refer the matter back to the Board with reasons for his non-acceptance of the recommendations for reconsideration by the Board (Section 73). | | |
| 30 | The Board is obliged to reconsider the Minister for Forests' referring back to it, and then the | | |

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|---|------------------------|----------------------------|
| | Board makes a final recommendation to the Minister (Section 74). | | |
| 31 | If the Board's final recommendations submitted to the Minister are accepted, then the Minister for Forests invites the proponent to make an application for a timber permit (Section 73 (1)) | | |
| 32 | If the Minister for Forests does not accept the Board's recommendations, he is obliged to refer the matter together with the Board's recommendations and his reasons for not accepting it to the National Executive Council (NEC) (Section 75 (2)). | | |
| 33 | <p>The NEC may then either accept or reject the project proposals and the Minister must then comply with any direction given by NEC and advise the Board of the directions.</p> <p>If the NEC direction is to accept the recommendation of the Board, then the Minister must invite the proponent to make a formal application for a timber permit and within 30 days thereafter grants a timber permit</p> | | |
| 34 | If the NEC direction is to reject the recommendation of the Board, NEC must then | | |

| CHECKLIST OF STEPS REQUIRED TO BE TAKEN BEFORE A TIMBER PERMIT IS ISSUES (FMA) | | DATE STEP TAKEN | DATE STEP COMPLETED |
|---|--|------------------------|----------------------------|
| | <p>direct the Minister to refer the matter back to the Board and for to either:</p> <p>(a) Negotiate such terms and conditions in the Project Agreement as are specified by the NEC as requiring re-negotiations; or</p> <p>(b) Re-advertise the forest development Project (Section 76 (4))</p> | | |
| Issuance of timber permits to the developer (Section 73 (1)). | | | |