The Credibility Gap —
and the Need to Bridge it

Increasing the pace of forestry reform

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1. RECOMMENDATIONS

The Royal Government of Cambodia should use the opportunity that the June 2001 Consultative Group Meeting (CG) in Tokyo provides to restate its commitment to forestry reform in Cambodia. Demonstrable progress in the areas highlighted in these recommendations could be used as a measure of this commitment, and of the rate of reform.

The Royal Government of Cambodia should:

- Ensure that politicians and government officials declare all financial/familial links to the forestry industry, if any.
- Encourage transparency in relevant government departments and ministries.
- Increase the involvement of the Ministry of the Environment (MoE) in forestry reform.
- Ensure that officials within the Ministry of Agriculture Forestry and Fisheries (MAFF) and the MoE efficiently detect, investigate and suppress illegal logging and forestry related activities, in particular those of concessionaires and corrupt officials.
- Ensure that perpetrators of forest crime are prosecuted to the full extent of the law. Officials found guilty of forest crimes should not be allowed to return to their posts.
- Ensure that the draft Forestry Law is consistent with all current legislation and incorporates the results of public consultation where appropriate.
- Develop a nationwide strategy to record and dispose of old logs in a way that does not encourage renewed cutting. Destruction may be the only viable option.
- Ensure that sustainably harvested timber is made available for domestic use at an affordable price.
- Prioritise for demobilisation any Royal Cambodian Armed Forces (RCAF) soldiers currently employed by concession companies.
- Ensure that land concessions for agro-industry are not granted in forested areas.
- Recognise the role of resin production in forest resource preservation and poverty alleviation.
- Consider preserving the Prey Long as a World Heritage Site.
- Clarify the status of the development of CITES legislation and the implications it has for the development of laws concerning wildlife.

In relation to concessionaires the RGC should:

- Place a moratorium on logging until the new concession contracts are signed and the new management plans are in place.
- Suspend all concession related activities for the duration of investigations when significant illegal activities or irregularities by concessionaires are discovered.
- Cancel the contracts of those concessionaires that continue to log outside their coupes, illegally inside their coupes and transport or process illegal timber.
- Ensure that the new concession agreements include a clause allowing the RGC to cancel the contract if the concessionaire is in serious breach of contract.
- Inform all concessionaires that they will be held responsible for the actions of all their employees, and those of their sub contractors and sub contractors' employees. This should include not only include actions related directly to concession operations but also conduct during discussions with local people.
- Penalise concessionaires that refuse to give the Department of Forestry and Wildlife (DFW) and/or the Independent Monitor immediate access to concessions, log rest areas and processing facilities to carry out inspections.
- Ensure that the new concession agreements recognise the right of the DFW and the Independent Monitor to have immediate access to concessions, log rest areas and processing facilities to carry out
unannounced inspections. This should include penalties for non-compliance.

- Notify all concessionaires of the customary right of local people to collect resin and prohibit the further cutting of resin trees by concessionaires.

The Department of Forestry and Wildlife (DFW) should:

- Set out in detail the current procedure(s) for the granting of concessions, cutting permits, log transportation permits and sawmill licences. This should include a list of those people who are authorised/required to sign documents at each stage in the process.
- Maintain a list of all legal concessionaires and sawmills currently operating. The list, together with maps showing concession boundaries and sawmill locations, should be made available to the public.
- Prioritise the maintenance of the Case Tracking System (CTS).
- Ensure that Global Witness’ crime reports are distributed to all relevant parties, including both the DFW and the Department of Inspection (DI) and that the information contained in the crime reports is entered on the CTS.
- Set out in detail the current procedure(s) for the collection and disposal/sale of illegally harvested logs. This should include a list of those people who are authorised/required to sign documents at each stage in the process.
- Impound any logs found to be incorrectly or unclearly labelled or stamped and fine the company as appropriate. If a log cannot be identified in the log list for whatever reason it should be deemed illegal.
- Replace the current log tracking procedures with a system that works, is not open to abuse and ensures complete chain of custody from the forest to the mill.
- Replace hammer stamping, as a means of log marking, with a more reliable system.

The international community should:

- Maintain the link between non-humanitarian aid disbursements and demonstrable progress in forestry reform and reduction in forest crime.
- Continue to work with the RGC, providing both financial and technical assistance in achieving these reforms.

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2. INTRODUCTION

THIS IS THE FIRST major report that Global Witness has published since Chainsaws speak than words in May 2000. As such it gives an overview of the major forest related issues in Cambodia and details incidents of illegal logging throughout the country, over the past year. It also examines the role of the Royal Government of Cambodia (RGC) in the reform process—in some respects the driving force behind it but in others a seemingly reluctant participant. Lack of progress in key areas reflects badly on the government's overall commitment to reform: this is 'The Credibility Gap'.

The government has made significant progress in forestry reform in recent years, most notably ridding the country of the worst excesses of anarchic logging. The formation of FCMU, the commitment to passing a new forest law and to establishing new concession agreements and management plans should also be applauded. If handled correctly, these elements, together with initiatives such as the preservation of the Cardamoms,
should ensure that in future the forests are preserved and managed sustainably for all. The prospect of sustainable forest management in Cambodia would have been unthinkable two years ago. Now it is a distinct possibility, but there are several issues that need to be addressed if the 'normalisation' of the industry is to continue.

The first year and a half of the 'crackdown' saw a dramatic decrease in illegal logging, but the 2000/2001 cutting season has seen levels rise again. Large quantities of logs have crossed into both Thailand and Vietnam in recent months and concession companies such as Everbright and Pheapimex have continued to cut illegally. The military still control much of the illegal logging throughout the country, either on behalf of the concessionaires or as a private venture. At the same time it is the military that is charged with the task of bringing illegal logging under control.

The basic premise of 'The Untouchables', Global Witness' December 1999 report detailing the activities and immunity of the major concessionaires, remains true. Whilst there is reason to believe that some of the concession companies are interested in meaningful reform, it is the activities of legal concessionaires that represent the majority of illegal logging in Cambodia. The fact that these companies still log illegally without fear of meaningful intervention remains the greatest threat to Cambodia's forests, and demonstrates that the political will of the RGC has yet to be fully matched by the actions of relevant authorities.

This report highlights certain areas where the government could make a significant impact on forest reform with minimal resources other than political will. It is essential that the government reconfirms its commitment to forestry reform at the forthcoming Consultative Group (CG) Meeting in Tokyo, and that the international community supports it in its effort to drive the process forward.

3. SUMMARY

The Credibility Gap

The government's stance on forestry reform lacks consistency. On the one hand initiatives such as the FCMU, the commitment to a new forest law, better forest management and the preservation of the Cardamoms suggest that the RGC is really serious about reform. On the other hand the relative failure to deal with corruption in forestry, the secretive nature of MAFF/DFW and the impunity enjoyed by certain concession companies makes the government's stated commitment to reform less credible.

Corruption and conflict of interests

Corruption is still a feature of the logging business in Cambodia from the forester in the field to the high level official. Corruption undermines all aspects of the reform process and the many honest individuals working in forestry are tainted by association. The government appears reluctant to accept that this is a problem and until it does, corruption will persist. The government could take concrete anti-corruption measures, for instance by incorporating a clause into the new concession agreements making it an offence for a logging company to pay a government official. The discretionary powers of officials should be reduced and officials and politicians involved in forestry reform should declare any financial or familiar links that they have to the industry.

The Forest Crime Monitoring Unit (FCMU) and DFW

The success of the FCMU and the concept of independent monitoring is being looked at worldwide as a model for forest reform. There is a need to build on the success of the past year by increasing cooperation and trust between the three integral elements of the FCMU. In particular the reluctance on behalf of DFW to share information with both the Independent Monitor and the Department of Inspection is restricting progress. The Case Tracking System (CTS) is not supply a database of recorded forest crimes and subsequent actions, it should be used as a tool to prioritise action and act to increase transparency and accountability. As such it is integral to the entire project and should be allocated the appropriate resources particularly in terms of manpower.

DFW practice and procedure

The rules and regulations concerning the granting of concessions, cutting licences, sawmill licences, and transportation licences are not freely available. It is not clear if they simply do not exist or if DFW is reluctant
to make these procedures open and transparent. As a result DFW/MAFF are less accountable, there is confusion and monitoring is made more difficult.

The current process of log tracking does not work and the hammer stamping system is so open to abuse as to be worthless. Illegal logging by concession companies will not be stamped out until there is a mechanism in place that ensures complete chain of custody from the forest to the mill.

**Policy issues**

The government has still not addressed the issues of domestic timber supply and old logs.

Local people cannot afford timber under the current concession-based system. They are therefore forced to obtain timber from an illegal source. This can bring local people into conflict with logging companies, it diverts resources away from tackling more serious forest crimes and risks losing public support for the reform process.

There are thousands of genuinely old logs in Cambodia but no inventory has been compiled and how to dispose of them in a manner that does not encourage renewed cutting has not been determined. Disposal of old logs takes place on an ad hoc basis; reclassifying them as ‘confiscated logs’ and thereby avoiding the restrictions imposed on the movement and sale of old logs does not solve the problem.

**Re-designation of forests**

In some instances it may be appropriate to take forests out of the concession system. In several provinces there is a thriving resin trade. This non-destructive and therefore sustainable trade supports local economies and encourages forest preservation. The government is making significant progress in its efforts to conserve the Cardamoms and should consider whether other areas such as Prey Long and the dry deciduous forests of Mondulkiri should be protected. An active conservation programme could encourage tourism. Industrial logging never win.

**Further reform**

The progress of the forest law has been slow but it is more important to ensure that it is a good law than risk pushing it through too quickly. There are a number of key improvements that need to be made, such as reducing the discretionary powers of MAFF. It is also essential that the role that ministries other than MAFF, notably MoE, have to play in managing the forest resource are recognised. Land tenure questions need to be addressed and the rights of local people increased. The draft model concession agreement is a great improvement on the existing, agreements but still favours the concessionaires at the government's expense. The government should be able to cancel the contract for certain named serious breaches. The contract does not guarantee truly sustainable forest management practices and the rights of third parties should be increased.

**Wildlife**

The demand for wildlife for food and medicinal purposes in neighbouring countries is putting unprecedented pressure on Cambodian wildlife. The cross border trade in threatened and endangered species is thriving and despite numerous crackdowns, wildlife markets in Cambodia do not stay shut for long. The passing of the new wildlife law in the near-future should help this situation and the government's recent initiative to reduce biodiversity loss should be applauded.

**Illegal logging**

The government crackdown on illegal logging has been successful to the extent that the truly anarchic element that was a feature of the trade a few years ago has been much reduced. However over the past year the incidence of illegal logging has been on the increase. This is particularly noticeable in the operations of the concession companies that were relatively quiet immediately after the 'crackdown' and during the ADB concession review. The recent illegal logging by Everbright in Kratie and the failure of the authorities to conduct a successful investigation is a great concern. It may be possible to reform some of the concessionaires but many are beyond redemption. It is these 'untouchables' that enjoy the closest links to high-ranking politicians and officials.

Cross border trade is generally at a low level but the recent highly publicised cases in Koh Kong and
Mondulkiri and the planned export of old logs from Pailin in 2000 again suggest that the crackdown is becoming less effective. Neighbouring countries appear to be doing little to help Cambodia in its efforts to stop the small-scale but almost constant export of processed, frequently luxury grade, timber.

The amount of illegal logging by individuals, the military and other groups also appears to be on the increase. Some of this at least could be prevented by addressing the problem of lack of timber for the domestic market.