

Recommendations contained on page 3



global witness

Deforestation without limits

How the Cambodian government failed to tackle the untouchables

A Report by Global Witness. July 2002

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2 Recommendations

The Royal Government of Cambodia should:

- Ensure that all current concession companies that fail to meet the standards set out in Article 4 of the Sub-Decree on Forest Concession Management are barred from the contract renegotiation process.
- Ensure that the process of evaluation of the Environmental and Social Impact Assessments (ESIAs) and Sustainable Forest Management Plans (SFMPs) is open and transparent.
- Ensure that all ESIAs and SFMPs submitted by the concession companies are made available to the public prior to their approval.
- Ensure regular consultation with, and participation by, local communities and other relevant stakeholders in the development of the SFMPs in accordance with Article 2 of the Sub-Decree on Forest Concession Management.
- Cancel the concession agreements of concession companies that have logged illegally.
- Prioritise the elimination of corruption from the Department of Forestry and Wildlife (DFW).
- Ensure complete transparency in the forest sector including the publication of all forest laws, rules, regulations, practices and procedures, and all concession details including maps.
- Ensure that politicians and government officials declare any financial and familial links to the forestry industry.

- Conduct a full forest cover survey for the whole of Cambodia.

The International Donor Community should:

- Make the future disbursement of non-humanitarian aid contingent on the government reaching well-defined targets for reform of the forest sector, including timelines. These targets should include, but not be limited to, those mentioned above.

Abbreviations

CTA	Chief Technical Advisor of the Forest Crime Monitoring and Reporting Project
CTIA	Cambodia Timber Industry Association
DI	Department of Inspection, within the Ministry of Environment
DFW	Department of Forestry and Wildlife, within the Ministry of Agriculture, Forestry and Fisheries
ESIA	Environmental and Social Impact Assessments
FCMRP	Forest Crime Monitoring and Reporting Project
FCMU	Forest Crime Monitoring Unit
GAT	Grand Atlantic Timber; a concessionaire
MAFF	Ministry of Agriculture, Forestry and Fisheries
MoE	Ministry of Environment
RCAF	Royal Cambodian Armed Forces
RGC	Royal Government of Cambodia
SFMP	Sustainable Forest Management Plans

3 Introduction

Since the distribution of the first draft of this report the Cambodian government has announced the cancellation of the GAT International forest concessions in Kompong Thom and in Koh Kong provinces. These cancellations took effect following the signing of a Sub-Decree on the 16th June 2002 by the Prime Minister, Samdech Hun Sen. This is the first time that the government has cancelled a commercially viable timber concession, and the Prime Minister in particular should be applauded for such decisive action.

IN 1995 the Royal Government of Cambodia (RGC), whilst involved in supposedly open discussions with various foreign aid donors regarding forestry issues, secretly awarded 32 forest concessions. These concessions covered 6,464,021 ha which amounts to 35% of Cambodia's total land area. The fact that the concessions were awarded contrary to Cambodia's Constitution has been conveniently forgotten during the ensuing debate about the fate of these companies.

All but two of the companies had no experience in running a forest concession, they were merely investors taking advantage of the political instability at the time and their connections to those in power. The companies have failed to make the promised investments and provide the government with significant revenues, whilst at the same time they, and their protectors, have become rich and the forests have been decimated. The 2000 floods, which the UN blamed on deforestation, are estimated to have cost Cambodia \$156 million. This compares to the total of \$92 million which was generated by the forestry sector between 1994 and 2000.

In late 1999 Global Witness was contracted as the Independent Monitor of the Forest Crimes Monitoring and Reporting Project (FCMRP). The purpose of the project is to build capacity within existing government structures to detect, investigate and suppress forest crimes. Global Witness' role as Independent Monitor is essentially to audit government records and determine whether two institutions, the Department of Forestry and Wildlife (DFW) and the Ministry of Environment's Department of Inspections (DI) are effectively carrying out their respective mandates under the Project.

The RGC has been claiming since 1999 that illegal logging has been eliminated and that only small-scale forest crimes are taking place. It is true that the Crackdown ordered by the Prime Minister, Samdech Hun Sen, initially had a big impact. But, this does not equate with the total elimination of illegal logging, which is still taking place throughout Cambodia. It is also evident that the concessionaires and illegal loggers have become more skilled in concealing their crimes. Another reason is simply that the days of bountiful timber supplies have passed. Cambodia's forests, including those in protected areas are now severely depleted.

Global Witness' findings during the last six months represent a small fraction of the forest crimes taking place on a daily basis in Cambodia, but the pervasiveness of timber theft and uncontrolled timber extraction combined with the inaction of the authorities presage a very bleak future for Cambodia's forests. The moratorium on logging that took effect on the 1st January 2002 was a much needed intervention by the government but Global Witness has evidence that several concessionaires are continuing to log and an even greater number are continuing to transport

timber in direct contravention of the moratorium. This information has been passed on to the government.

This report is not intended as an exhaustive overview of illegal logging and environmental degradation in Cambodia, rather it seeks to illustrate the reality of law enforcement in the forestry sector and its almost complete absence. Time after time the (DFW) has dismissed evidence of illegal logging, provided to it by Global Witness in the form of Crime Reports, particularly when it involves concession companies. Secure in the knowledge that they are safe from meaningful investigation by the authorities these companies continue to log illegally.

Global Witness has been calling for cancellation of the concession agreements since 1996. However this has been consistently rejected by donors and the government alike; in the light of the additional evidence contained in this report that position is even less tenable than it was in 1996.

4 Donor supported forest reform initiatives

The concessionaires' illegal activities and inability to perform sustainable forest management have been extensively criticised in the past, notably in the World Bank's 1996 Forest Policy Assessment, the World Bank funded Forest Policy Reform Project in 1998 and the ADB Concession Review carried out in 1999 (reported in 2000).

The ADB review highlighted the 'total system failure' of the concession system but failed to make the logical recommendation that all concessions should be cancelled, for fear of a legal challenge. The report further detailed the massive forest loss in the concession areas and the concessionaires' serious contractual breaches. Originally designed for a 25-30 year cutting cycle, 40% of the concessions had fewer than five years of harvest left, 50% had between five and ten years left, and only 10% had between ten and 15 years left.

The ADB Review set out three options of how to reform the sector:

- 1) a moratorium on all logging and a specific time period to prepare management plans according to newly introduced standards;
- 2) a moratorium on logging limited to concessions at, from a resource-based point of view, critical state;
- 3) no moratorium, but requests for new management plans and agreements.

Point 3 was considered too lenient by the review team and was explicitly not recommended, but nevertheless this is the option that was chosen.

In April 2000 the panel of experts strongly recommended the setting of time-bound performance milestones for the development of new management plans. The maximum time span for the completion of management plans was set at one year.

Recommendations further stressed that: concessionaires who do not meet any single item in the schedule of the prescribed milestones should have their concession cancelled within one month after receiving the DFW letter of notification of failure to meet the milestone, if the milestone cannot be satisfactorily shown to have been met.

On the 18th October 2000 the Director General of DFW and the Cambodia Timber Industry Association (CTIA) informed the World Bank that they accepted the requirement to write Sustainable Forest Management Plans (SFMPs), that they accepted the fact that guidelines must be in place by the end of November 2001 or else the defaulting concessionaires would face cancellation of the contract, and that the proposed deadline of 30th September 2001 for renegotiations of timber concession agreements was feasible.

Subsequently the concessionaires failed to meet the 30th September 2001 deadline for the renegotiation of concession contracts, and the 30th November deadline for putting in place SFMPs. The government, on its part, did not cancel any of the concession agreements rendering this deadline meaningless.

After each of these studies the concession companies have been given a last 'last chance' but they have consistently failed to demonstrate a commitment to the forest reform process, shown a complete disregard for Cambodian forest law and continued to log illegally.

5 Submission of Sustainable Forest Management Plans and Environmental and Social Impact Assessments

Global Witness has not been made aware of any revised deadline for the submission of SFMPs or (ESIAs). However nine of the concessionaires have, at the time of writing, lodged these documents with DFW.

DFW is currently developing a procedure for evaluating these documents and the criteria and indicators by which the plans will be evaluated.

Global Witness has asked DFW for copies of all SFMPs and ESIAs that have been submitted to date but this request has been refused. Given the specific provisions for ensuring transparency in the development of concession management plans, in the Sub-Decree on Forest Concession Management, this refusal by the Director of DFW is of great concern.

Article 2 (Purposes of the Sub-Decree):

2.6 Ensure regular consultation with, and participation by local communities and other relevant stakeholders in the development of concession management plans and the monitoring of operational activities over the life of the concession.

There are several other provisions in the Sub-Decree that are particularly pertinent to the current process of concession contract renegotiation. Although the provisions of Article 4 deal with the allocation of new concessions they should, logically, apply to the concessionaires involved in the renegotiation process. Companies must comply with the following conditions before any application for a forest concession is considered.

Article 4 (Forest Concession Application and Approval):
The companies must have:

Demonstrated competence in all aspects of forest management including planning, harvesting, forest regeneration, stand management, environmental protection and community relations;

A good compliance record, with an absence of serious technical violations in all jurisdictions in which it has been engaged in forestry operations;

Adequate financial and professional staff resources to carry out effective forest operations.

It is clear from the table below, based on the results of the ADB Concession Review, that none of the existing concessionaires fit these criteria. Global Witness has documented the illegal activities of the concessionaires since 1996; this historical evidence together with the recent case studies set out in the remainder of this report demonstrate just how far short of these ideals the current concessionaires fall. The question is how long will the Cambodian public the RGC and the international donor community continue to tolerate their presence in the forests of Cambodia.

Table 1 Contractual breaches by the concession companies Source: ADB Concession Review 2000.

	Failure to invest as contract outlines	Failure to make financial deposits	No minimum annual royalty paid	No submission of financial statement	Non-compliance with EIA rules	Unacceptable forest management plan	(Extensive) illegal logging	Breach of Investment Agreement	No submission of EIA report	Inadequate technical training of staff	Operations outside concession	Illegal processing of unmarked trees	Logging without permit	Logging in wildlife sanctuary
Casotim	●		●		●	●	●	●	●	●				
Cherndar Plywood	●		●		●					●		●		
Colexim	●		● c		●	●		●		●				●
Everbright	●	●	● b	●	●	●		●		●				
GAT	●	●	● d	●	●	●		●		●				
Hero Taiwan	●	● a	● e	●	●	●	●	●		●	●			
Kingwood Industry	●	● a	● f	● g	●	●		●	●	●				
Mieng Ly Heng	● a	●	●	●	●	●		●		●			●	
Pheapimex	●	● a	● b	●	●	●	●	●	●	●				
Sam Rong	●	●	● b	●	●	●		●	●	●				
Silveroad		●	●	● h		● i	●							
Samling				●	●	●	●	●						
Super Wood	●	●	●	●	●	●	● j	●	●	●				●
Timas	●	●	●	●		●	● j	●	●	●				
TPP	●	●	●	●	●	● k			●	●				
Voot Tee Peanich	●	●	●	●	●	●		●	●	●				
You Ry Saco	●	●	●	●		●		●	●	●				

a No proof supplied to support their claims of payment

b No payment in the 2nd or 3rd years

c No payment in 1996 or 1997

d No payment before 31st December 1999

e No payment in the 2nd year

f No payment in 2nd, 3rd or 4th years

g No payment last 4 years

h No payment in last 2 years

i Concessionaire permits Thai companies logging in their concession

j Logging carried out by unknown (illegal and organised) parties

k No existing plan at all

6 Reporting Protocols

THIS BRIEFING DOCUMENT contains information relating to forest crime reports (reports providing factual information of an incident of alleged or suspected illegal activity) submitted to the Royal Government of Cambodia between August 2001 and April 2002 by Global Witness acting in its capacity as Independent Monitor. These forest crime reports were provided to the Forest Crime Monitoring and Reporting Unit (FCMU) in compliance with the project document

reporting procedures for the Forest Crime Monitoring and Reporting Project (FCMRP) (CMB/99/A05) and were not made public at the time of submission.

Also included in this briefing document is a summary of the government action taken upon receipt of each crime report and Global Witness' assessment of this action.

This information is being released in accordance with the Project Reporting Protocols that were signed by the government, Global Witness and representatives from the donor community in May 2001:

Briefing Document: a report or document that provides an overview to the public of the forestry sector in Cambodia

containing information from a selected number of progress reports and/or forest crime reports and will provide an analysis of the overall effectiveness, constraints, and/or weaknesses, regarding the issues addressed in the FCMR project document. It may contain supporting documentation, photographs, etc., and will express opinion of the combined results and will mainly contain information provided to all parties previously through Progress Reports and/or Forest Crime Reports. Briefing Documents are the product of Global Witness.

Most of the information contained in this report could have been released to the public at an earlier stage under the Reporting Protocols:

The Independent Monitor may disseminate findings at any given time there is non-compliance with the abovementioned protocols or when the Independent Monitor has adequate justification that information sharing is failing or the investigation is seriously flawed.

Global Witness chose not to do this in order to give the relevant authorities more time to bring their investigations to a successful conclusion.

7 Forest Crime reports submitted to the government

The general design of the FCMRP provides for DFW to monitor logging concessions and for the Ministry of Environment's Department of Inspection to monitor protected areas. From the outset DFW staff did not report forest crimes committed by concessionaires. Global Witness addressed this issue by conducting its own investigations to gauge the level of forest crimes in the concession areas and to compare this with the findings of DFW. Global Witness investigators consistently found instances of illegal logging by the concessionaires, almost without exception, on every trip into the concession areas. However, DFW officials have not reported a single instance of illegal logging by a concession company in 2001 or 2002.

In part, this is because DFW officials tend to focus on the examination of paperwork at the expense of conducting physical checks such as looking for stumps in the forest. The main reason however is that bribery and corruption continues to be rife in the forestry sector. Global Witness has consistently argued that corrupt officials have helped to cover up the instances of illegal logging by concession companies but it becoming increasingly evident that corruption itself might be a driver of illegal logging. Companies have complained that they have to log illegally in order to maintain a profit at the same time as keeping up with the constant demands for under-the-table payments. In the May 24th – June 6th 2002 edition of the Phnom Penh Post the Head of Samling, Henry Kong, is quoted as saying 'We will not agree to survive by shady or unethical business means to stay alive, because we stand to lose much more from our reputation abroad.' However the government remains in a state of denial on the issue of corruption.

Whilst it is often very difficult to prove that

money has changed hands, there is nevertheless enough circumstantial evidence and corroborating testimony to state that corruption in the forestry sector is the norm. Every signature, authorization and inspection is saleable. This reality is unlikely to change until either the commercial timber resources in Cambodia are exhausted or there are rigorous changes in the monitoring of DFW staff and timber concessionaires.

The Ministry of Environment's performance in suppressing and eliminating forest crimes reveals a different problem. The monitors from the MoE are reporting forest crimes; the problem lies with the ability of the MoE to act upon reports of illegal logging.

The relevant personnel also frequently lack the capacity to fulfil their roles in forest crime prevention, detection, investigation and prosecution. Comments by identified perpetrators are often taken at face-value, field inspections are reduced to a minimum and the excuses of suspects accepted without further questioning. Department staff are obliged to notify people involved in a case of an intended investigation, allowing time for evidence to be hidden. In addition DFW does not have the equipment and physical capacity to conduct an effective damage assessment in forest areas, nor the capacity to impound or transport large quantities of illegal timber and machinery.

Global Witness has been conducting investigations in Cambodia since 1995 and has discovered numerous instances of illegal logging by the concessionaires. The widespread illegal activities of the concessionaires up until December 1999 were summarised in Global Witness' report 'The Untouchables. Forest crimes and the concessionaires – can Cambodia afford to keep them?'. In 2000 Global Witness filed 22 crime reports detailing the illegal activities of 10 of the current concessionaires. It should be noted that Global Witness was unable to carry out investigations in the first half of 2001 because of protracted protocol negotiations early in the year.

During the second half of 2001 Global Witness submitted 23 crime reports to the RGC. Thirteen crime reports concerned concessionaires or forest concession land; one concerned a land concession granted in contravention of legislation in force in the Kingdom of Cambodia, nine crime reports concerned illegal logging in Protected Areas which are under the jurisdiction of the Ministry of Environment.

Crime reports submitted by Global Witness contain specific information, locations, approximate amounts of timber observed and photographic and/or documentary evidence. All crime reports were forwarded to the RGC and the FCMU in accordance with the reporting protocols and forwarded to the following institutions: the Council of Ministers; MAFF; DFW; MoE, DI and the Chief Technical Advisor of the project.

In addition to the crime reports, Global Witness submitted a number of cases to the government in which it was suspected that forest crimes had occurred, with specific requests for follow up and investigations. Many cases were communicated verbally, but yielded no action. Consequently Global Witness forwarded the information in writing. The authorities' investigations of these forest crimes and suspected forest crimes have, so far as Global Witness is aware, resulted in:

- No identification or apprehension of suspects.
- No appropriate legal action in cases involving concessionaires.

8 Legal instruments

The set of laws and legal texts governing forest activities is an incomplete and antiquated patchwork that provides numerous loopholes and opportunities for the commission of forest crimes. Most legal provisions are circulars, declarations and guidelines. One of the main problems is that penalties are not provided for explicitly and thus depend on decisions, often arbitrary, from DFW and the Minister of Agriculture. However, the current legislative framework does provide sufficient legal backing for the authorities to take action against the perpetrators of forest crimes, if the authorities chose to.

Unfortunately, these regulations are mostly aimed at small-scale offenders and are targeting the rural poor.

The government should be given credit for

developing a new Forest Law, however the current draft still fails to address many of these issues and gives DFW far too much discretionary power in deciding how to deal with forest crimes.

Jurisdiction to deal with forest crimes is spread amongst many institutions, but there are no mechanisms or established procedures on how these government institutions are meant to cooperate, nor who has precedence. The result has been inaction at best, and lack of cooperation and hostility in many cases. This briefing document details several such cases in which the Royal Cambodian Armed Forces (RCAF) for obscure “reasons of national defence” authorise themselves (although they do occasionally secure provincial government permission) to log and encroach at will. Much depends on the status of the local strongman. Governors with sufficient power can decide the fate of forests and have liberally authorised timber transports, logging and land grabbing.

The legal provisions for the protection of trees tapped for resin:

Article 17 (g) of the Forest Practice Rules, June 25th, 1988:

Shall be forbidden: To fell trees that people have tapped for resin. Note that it is the 1988 Forest Law that is currently in force in Cambodia, and not the newer draft Forest Law.

Article 15 of the Log Books for coupe operations:

Do not cut resin trees that are currently being tapped for resin. The resin trees that are more than 1.20 meters in diameter, or that are not being tapped for resin, or that have been abandoned by their owners can be felled.

This article clearly weakens the provision in the Forest Practice Rules by allowing large trees to be felled and opening the door to disputes over whether or not trees have been abandoned.

The log book is a standard document that contains regulations relating to coupe operations. Log books are simple booklets given out by DFW when they assign a cutting permit, in no way does it take precedence over the law. Each year when a cutting permit is issued to a company a log or charge book is issued and co-signed by the General Director of DFW and the company representative.

Letter from the Director of DFW to members of the Cambodia Timber Industry Association, April 26th, 2001:

Please suspend temporarily the cutting of all trees from which people collect resin in the 2001 coupes of each forest concession or in the forest reserved for exploitation, even if you have negotiated and signed an agreement on suitable compensation for the cutting of resin trees.

This letter states categorically that the cutting of resin trees is not permitted under any circumstances.

Letter from the Acting Minister of MAFF to the provincial departments of agriculture, forestry and fisheries, July 2001:

I would like to inform Mr. Directors that the complaints on resin trees of local people, MAFF has assigned DFW's community forestry officials to conduct the survey and understand the real situation on the needs of resin trees upon which local people's livelihoods are completely dependent. Meanwhile, DFW wrote to directors of CTIA and all concessionaires to hold moratorium on harvest of resin trees being extracted by local people either inside 2001 coupes or coupes reserved for next year harvesting, even if forest companies have negotiated with people and signed the agreement of payment over the number of resin trees or the payment has already been done.

This letter from the Acting Minister confirms the statement made by the Director General of DFW in his April 26th letter: Despite these provisions banning the cutting of trees tapped for resin the concessionaires continued to ignore them. Several crime reports submitted to the government by Global Witness in 2001 relate to the cutting of resin trees and are described overleaf.

9 Concession Forests

There are currently 15 timber concessionaires in Cambodia, which operate 21 concessions and effectively control 4,239,528 hectares of land or 26% of Cambodia. On 8 May 2002 Prime Minister Hun Sen signed the Decision 27 Sor Sor Rour, officially cancelling the Voot Tee Peanich and Hero concessions. It is Global Witness' understanding that the Hero company asked the government for its agreement to be rescinded, and that Voot Tee Peanich has been bankrupt for years.

Eleven of the concessionaires were operating officially in 2001, receiving cutting permits for 15 concessions. The other concessions, because they were not officially active, did not have foresters assigned to them and there was therefore no systematic active monitoring mechanism. Although it is frequently the case that more illegal logging takes place when the concessionaires are active there is a need for officially inactive concessions to be constantly monitored. Global Witness has observed small to medium-scale illegal activities in most of the inactive concessions.

9.1 GAT International, Kompong Thom Province

Case 1

Grand Atlantic Timber International is still the only concessionaire in Cambodia found guilty in a court of law of illegal logging but this does not appear to have deterred the company from continuing to log illegally in its Kompong Thom concession.

DFW issued GAT International with a cutting permit in early June 2001 for coupe 8 in the northern section of its concession. However, in June 2001 Global Witness found the concessionaire logging illegally 35 kilometres southeast of its annual coupe. Seven log landings containing illegally felled timber were recorded, containing a minimum of 300 illegal logs. Signs of recent logging, fresh stumps, logging debris and machinery were discovered in and around the illegal log landings. These findings were recorded during an aerial survey and confirmed during a field investigation. Global Witness provided this information to the Director General of DFW on 25th June 2001 (aerial survey) and 10th July 2001 (field investigation) together with photographs and GPS coordinates of the illegal activity.

Two days after the submission of the first crime report DFW sent a team to investigate. However, the DFW investigators failed to find either the log landings or the road referred to in the crime report. Instead, the team's report included photographs of bushes and undergrowth which, it was claimed, was evidence that Global Witness' findings did not exist. The case was closed. It should be noted that the DFW first investigation and Global Witness' field visit took place within days of each other. Global Witness investigators had no difficulty finding the locations, stockpiles and signs of fresh logging.

Global Witness subsequently complained to the Focal Point Coordinator at the Council of Ministers about the

seriously flawed investigation and failure of the DFW team to find any of the evidence of illegal logging despite being given the locations of these activities by Global Witness. As a result, a second investigation team was assembled two months after the submission of Global Witness' original crime report and reported the following:

"August 27, 2001: The group arrived at the GAT log rest area in Baksna and met Mr Lee Thoek Hay, the coupe manager of the GAT concession. The group told Lee Thoek Hay about the objectives of the investigation and inspection of the forest crimes in GAT Kompong Thom concession.

August 28, 2001: The group went to inspect the coupes 1 and 14 in the GAT concession in order to verify Global Witness' reports dated June 25 and July 10, 2001. After re-investigating the positions such as UTM 552425 1387789, UTM 5523312 1386520, UTM 552300 1385982, UTM 553267 1385725 and UTM 5543317 1386353:

- *There were no freshly cut logs, piles of round logs, machinery as stated in Global Witness' reports. However, the team did find old skidding tracks and new skidding tracks.*
- *Referring to Global Witness' report and attachment with some pictures of round log piles and a bulldozer taken during the field inspection and the aerial survey, these pictures were not labelled even with the dates and locations (UTMs). Therefore the team could not identify that the logs mentioned were located in the localities mentioned above. On the other hand the pictures taken during the aerial and ground inspections showed that that the round logs were scattered, undersized, debris quality and marked with H7 and S7 which was evidence that those round logs were not felled by GAT for making veneer products. Those felled logs were cut in stealing or anarchic activities by offenders."*

The fact that new skid tracks were found should have resulted in an investigation of what had been transported along the tracks. The machinery, log numbers and location of the logs all point towards the extraction being commercial rather than anarchic. Marking such as H7 and S7 are typical of those used to by subcontractors to keep track of the logs they have harvested. For these reasons, Global Witness believes that the illegal logging was carried out by GAT.



Illegal logging in coupe 4 of GAT concession, Kompong Thom. March 2002.

Case 2

Global Witness conducted an aerial survey on 30th March 2002 and found that extensive logging had taken place in GAT Kompong Thom coupes 3 (the 2000 coupe) and 4 (which has never been allocated¹). Approximately 1,000 trees had been cut in area outside of the legal coupe, at a time when all logging in the country was suspended. At local market retail prices for second category sawn timber, these trees would fetch \$1million. Reports also alleged that GAT International routinely transported illegal logs at night to its factory located some 15 kilometres from the concession.

Soldiers in the GAT concession reported that the main subcontractor Chay Ly was offering a reward of \$6,000 for anyone who shoots down the aeroplane used by Global Witness.

On the 24th April 2002 a team composed of Global Witness, the project CTA, DI representatives, DFW representatives, and two Cambodia Daily reporters visited the GAT concession



Machinery belonging to GAT blocking passage of the inspection team, Kompong Thom. April 2002.



Stump of illegally felled tree in coupe 4 of GAT concession, Kompong Thom. April 2002. Note that the sawdust shows that logging took place recently.



Stump of illegally felled resin tree in coupe 4 of GAT concession, Kompong Thom. April 2002. A fire is created in the hole in the side of the tree to release the resin.

in Kompong Thom Province to check these findings. A log had been placed over a bridge at the entrance of the concession at Baksna making access difficult. Some 26 kilometres from Baksna the company had placed two bulldozers on a bridge and positioned armed security guards. Despite the team's requests, the company workers refused to move them; the inspection continued on foot. The inspection backed up the findings of the aerial survey, including signs of fresh logging involving chainsaws, trucks and heavy machinery at the northern border of coupe 3 and up to 2.5 km inside coupe 4, and a logging road leading through coupe 4, towards coupe 5. Over 600 hectares had been harvested.

Signs of very recent logging were numerous:

- Branches and leaves of the felled trees were still green.
- Skid tracks made by heavy machinery were still fresh, despite the almost daily rains.
- Food leftovers from the loggers were still relatively fresh and in some cases not attacked by insects.
- Sap oozing from the stumps and crowns had not solidified.
- Fresh pungent sawdust was found around the stumps.
- The team found one standing tree that had been partially cut and the chainsaw operator obviously interrupted in the middle of his work.
- Girdled trees were still alive and showed no signs of the trauma, again suggesting very recent activity.

The team marked 119 freshly cut tree stumps, but observed many others. The marking and documenting of the inspection team was not intended as an exhaustive inventory of the illegal logging, as the inspection team was ill-equipped to do so considering the conditions.

Despite the absence of logs and machinery in the forest at the time of inspection, it is clear beyond doubt that the illegal logging operation is carried out by GAT International. A hollow section of log was left behind in the forest and bore a number tag identical to the ones used by the company, the tracks left by the machinery and the typical coupe harvesting *modus operandi* are all indicators that only the company could carry out such a large-scale coupe harvesting

¹ Coupe 1 was allocated in 1996; logging operations were interrupted in 1997 and 1998. Coupe 2 was harvested in 1999, coupe 3 was harvested in 2000 and in 2001 coupe 8 was harvested by the company.

operation in the heart of its concession. The fact that the company's security tried to keep out the inspection team is also suggestive of their involvement. GAT workers took photographs of the inspection team's vehicles, drivers and MOE representatives, under the direct supervision of Chay Ly, the GAT subcontractor.

On the 4th May a mixed inspection team without DFW representation revisited the illegal logging area, this time meeting no resistance of the company's security. The initial findings were confirmed and more illegal logging was discovered further north along the central logging road.

Global Witness was very encouraged by the active participation by a DFW representative in the initial investigation on 24th April. A DFW team was sent into the GAT concession to further investigate the case. Their preliminary report states that approximately 400 fresh tree stumps were been found and that coupe 4 had been illegally logged. However, the company's involvement in these activities has not yet been confirmed by DFW. The company manager, Mr Lee, was quoted blaming "local people" for the damage and timber theft in the GAT concession.

9.2 Pheapimex Fuchan

Pheapimex remains Cambodia's largest forest and land concessionaire controlling 1,023,753 hectares. Pheapimex currently has four timber concessions for which it received four cutting permits in 2001. This accounted for approximately a quarter of the annual allowable cut for the whole of Cambodia. Pheapimex is probably the best connected of all the concessionaires wielding considerable influence in political circles and remains one of the worst perpetrators of illegal and unsustainable logging. Global Witness was told by workers in Pheapimex's log rest areas along the Mekong River that the managers send them into the forest with chainsaws "to cut any big trees".

Case 1

In July 2001, Global Witness found over 600 illegal logs stockpiled on the grounds of the Pheapimex veneer factory in Kandal province. None of the logs had the officially required metal identification plaques or hammer stamps. At a royalty rate of US\$54 per m³, this illegal timber represents a loss of revenue to the government of US\$100,000.

Less than 24 hours after the submission of the crime report to DFW, the company sealed off the holes



Stockpile of logs at Pheapimex factory, Kandal. This pile includes illegal, unstamped logs. July 2001.



Unstamped log in Pheapimex factory, Kandal. July 2001.

in the fence, expelled the timber waste collectors, fired the guards and had all the company managers converge on the factory. Pheapimex had clearly been tipped off. DFW arranged an inspection of the Pheapimex factory over a week later. The team found that all logs referred to in Global Witness' crime report were stamped and were therefore deemed legal despite detailed evidence to the contrary provided by Global Witness. Global Witness was not permitted to observe the inspection.

DFW's inspection report contained observations that were physically not possible, according to its own documentation of log transports to the factory. Until 2001, logs were branded with the same hammer stamp number. This system was changed in early 2001 whereby one hammer stamp is applied to a log to indicate that its origin is legal, and three hammer stamps, bearing a different number, are later applied to indicate that royalties have been paid. The transport permits indicate the hammer stamp numbers of the logs that are allowed to be transported. In their report, DFW stated that all the logs observed had four hammer stamps, all stamped according to the newer two-number system. However of the 19 transport permits issued by DFW in 2001 to Pheapimex only six used the new two number system and the remaining 13 used the older one number system. These six transport permits allowed for the transport of 2508 logs to the factory. It is therefore not possible that the DFW team inspected 4035 logs with two hammer stamp numbers in the Pheapimex factory.

A follow up report explaining the physical impossibility of DFW's findings was sent to DFW on the 16th October 2001. The DFW team leader initially attempted to attribute this to a translation error. Once he was given assurances that the Khmer and English versions of the report were unambiguous on the hammer stamp numbers, the team leader's final explanation was: "This is what we wrote." Clearly this explanation was inadequate but despite the follow up report presenting sufficient cause to reopen the case, the case remained closed.

Case 2

In August 2001, Global Witness discovered numerous log rafts and substantial amounts of logs and sawn timber at the border of the Pheapimex and GAT concessions on the Stung Chinit River. Following the

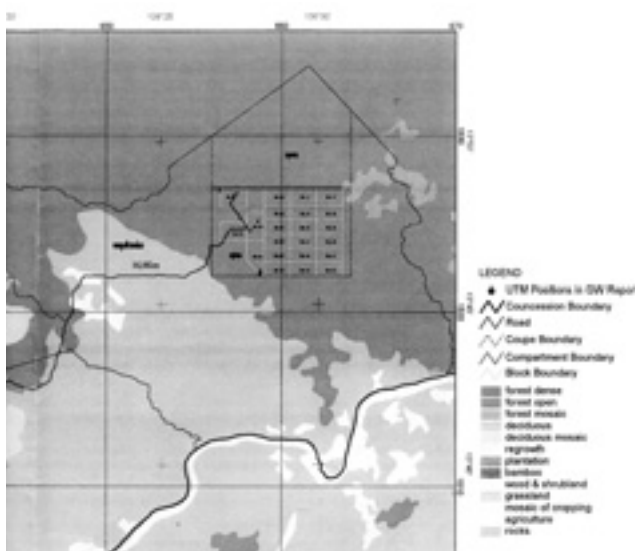
submission of Global Witness' crime report DFW sent a team to investigate the allegations. The team found that the activities had occurred "completely inside Pheapimex concession", but that they were unrelated to the concessionaires; they traced the logging to civilians in a neighbouring province. Whilst Global Witness considers this explanation unlikely, it is, of course, difficult to prove otherwise, especially as Global Witness was not invited to participate in the inspection. Note however that concessionaires in Cambodia are responsible for ensuring that the forest under their management is not felled illegally by any party, and therefore, whoever carried out the logging, Pheapimex are responsible. Plans for prosecution were announced, though no action has been seen to be taken. The case remains open, there has however been no follow up.

Case 3

During an aerial survey in late 2001 Global Witness documented illegal logging by Pheapimex in coupe 2 of the Eastern Stung Treng concession, approximately 15 kilometres outside the legal coupe (coupe 1). The flight findings were subsequently confirmed by a Global Witness inspection on the ground where logs and stumps were found throughout the central portion of coupe 2. It was also established that Pheapimex had cut trees that were tapped for resin in coupe 2. Local people claimed that they had reported the illegal logging to DFW earlier in the year and that a forester had been sent to investigate. The forester, who the local people were able to describe and name, reportedly accepted bribes from the company and closed the case. These allegations of corruption were sent the Director General of DFW. The same individual who was the subject of these allegations was sent to investigate Global Witness' crime report.

DFW's investigation report stated that the resin trees were cut with the consent of the owners, and that the cutting took place before the ministerial prohibition of April 2001 was announced. No evidence of corruption was found.

On the issue of the cutting outside the legal coupe, DFW claimed that all the locations referred to in Global Witness' crime report, were in their opinion inside the annual coupe. In order to prove the point, DFW's GIS Unit created a map showing clearly that all the GPS

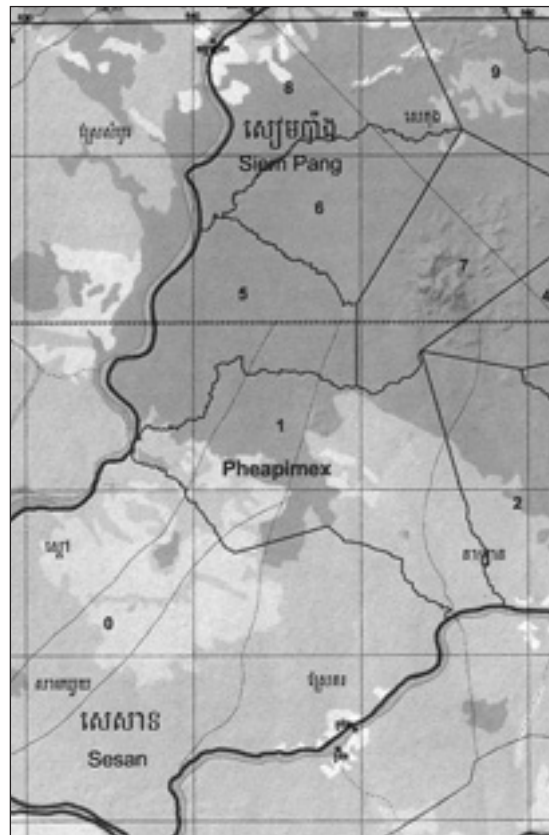


Map showing the area of coupe 1 of the Pheapimex Stung Treng concession according to a map issued by DFW in response to the Global Witness illegal logging case. Note that the position of coupe 1 has moved and that the most southerly point is approximately UTM 1523.



Log rafts, logs and sawn timber, Pheapimex concession, Kompong Thom. August 2001

points where Global Witness had found evidence of illegal logging were in fact in the annual coupe. However upon closer inspection and with reference to the original concession map it was evident that the GIS Unit had moved the annual coupe boundaries, both to the east and to the north, and had changed the shape of the coupe (see below). Despite the clear evidence of tampering with the maps, rather than opening a new case to deal with this issue DFW instead decided to close the original case. Under article 49 of the UNTAC provisional code, forgery of a public documents carries a prison term from five to fifteen years.



Map showing the area of coupe 1 of the Pheapimex Stung Treng concession. Map issued by DFW in November 1999. Note that the grid lines are marked with UTM coordinates and that the most southerly point of coupe 1 is approximately UTM 1512.

Case 4

In 2000 and 2001 during aerial surveys Global Witness documented a large illegal sawmill operating in the southern portion of the Pheapimex Kompong Thom concession. This was reported to DFW on the 14th December 2001, but it appears that no action was taken by DFW at the time.



Illegal sawmill in Pheapimex concession, Kompong Thom. December 2001.

Following the submission of a crime report DFW's investigation team visited the location and interviewed the Pheapimex manager who claimed that the sawmill was unrelated to Pheapimex, unknown to the company, and probably operated by "vulgar armed men" from neighbouring Kompong Cham province. DFW visited the sawmill, claimed it had been shut down, conducted no further investigation and closed the case. In the first instance it is evident from the information supplied to DFW by Global Witness that this sawmill was active. It is also telling that the DFW team simply accepted the word of the concession manager rather than digging any deeper or conducting a meaningful investigation. In any event concessionaires have the responsibility of protecting their concessions from illegal logging. Point 7 of Samdech Hun Sen's 25th January 1999, 17 Point Declaration clearly states: "At the same time all companies shall be responsible for the illegal logging taking place in their own forestlands." Nevertheless no action was taken against Pheapimex.

Case 5

During an aerial survey of

Pheapimex's Kompong Thom concession in December 2001 Global Witness documented numerous logs scattered along the roads leading out of the concession's annual coupe, coupe 10. The illegal logs were harvested from the immediate vicinity of the areas where they were found – north, east and south-east of the legal coupe. Stockpiles were observed containing old and freshly cut logs,

and a tractor was observed transporting logs from forest outside of the legal coupe to the nearby road.

After the submission of the crime report DFW sent out a team to investigate Global Witness' findings. DFW's investigation report stated that the locations where logs could be seen, to the east of the legal coupe, were all within the coupe boundaries and therefore legal. However, Global Witness' map, provided by DFW, clearly showed the locations to be 1 km to the east of the boundary. The older looking logs observed north and south of the legal coupe were

declared by DFW to be old logs, left over from the "anarchic logging days". This is unlikely to be the case. At least one stockpile contained logs that appeared to be newly cut from the air, and that was partially hidden under trees. The newer looking logs were, according to DFW, legal and had fallen off a truck. The case was closed.



Tractor transporting logs outside of the legal coupe, Pheapimex concession, Kompong Thom. December 2001.

Pheapimex Kompong Thom — a case study of illegal logging monitoring

Global Witness and the Chief Technical Advisor of the project conducted an aerial survey of the Pheapimex Kompong Thom concession on the 30th March 2002. Despite the current logging moratorium, extensive signs of recent logging were observed, including a stockpile of over 100 logs. These findings were backed up by a field trip from 1st – 3rd April 2002 in which 142 freshly cut, unstamped logs were discovered in a log rest area on the southern border of the 1999 coupe of Pheapimex's concession (coupe 1). One of the logs had a metal plaque engraved with "PPX 3– 010, B2, 261" (Pheapimex 3, coupe 10, block 2, log 261). The logs had various letters and numbers painted on them, presumably indicating the names of the owners (TO, H, RH).

The log rest area is situated on the southern border of Pheapimex Kompong Thom concession coupe 1, which the company exploited in 1999. The logging road runs from north to south and transects the concession. The same road leads to the coupe that the company exploited in 2001 (coupe 10). When the team was travelling towards the site of the log rest area, the vehicle was preceded by two logging trucks that were heading north. One of the trucks had on the side door the letters RH-01.

Global Witness and the chief technical advisor attempted to inform the authorities of the illegal logging, however, Phnom Penh officials were not answering the phones, district authorities claimed that the stockpile was within the jurisdiction of Kompong Thom authorities, and the military commander in charge of concession protection in Kompong Thom was away. Foresters at Baksna said that they could not inspect the stockpile without a permission letter from the province, despite the fact that Kompong Cham foresters and the deputy chief of Stung Trang later said that this was not the case.

Kompong Cham foresters later scaled the logs and officially verified the existence of the stockpile. The logs were impounded, although not officially as the foresters did not have an official hammer stamp.

Logging trucks and a company pick-up truck were observed travelling south, from Pheapimex's coupe 10 area. They were transporting parts of log lifters and other heavy machinery. One of the bush trucks had the letters RH-03 painted on its door. The connection between the initials on the logs and the same initials on the logging equipment was pointed out to the Kompong Cham foresters, who ordered the trucks to go to Stung Trang town and wait until their ownership was established. However the trucks were not escorted by the authorities and thus it is unclear whether they complied with the instructions.

Later Global Witness was informed that a team from the Department of Forestry in Phnom Penh was also sent to the area, but returned to Phnom Penh without visiting the concession as their permission letter only covered Kompong Cham province.

During the following days numerous sources confirmed that the markings on the 142 logs were initials of the Pheapimex sub-contractors, but that the forestry officials were not going to investigate that aspect of the case as, so it was explained to Global Witness by forestry staff, the duties of foresters were limited to verifying the existence and scope of illegal logging, not identifying those responsible for it.

At the time of writing, no further information had been uncovered by DFW. All that had been done was to prepare

documents for submission to the court, thus enabling the legal confiscation of the logs and their subsequent auction. Global Witness is not aware whether or not the auction has taken place or, if it has, who bought the logs. In the past logs auctioned in this way have been bought by the people who carried out the illegal logging in the first instance.

On April the 5th, four days after the initial discovery of the logs by Global Witness, Kompong Thom foresters visited the site and reported the case to the Khmer media blaming 'local people' for the damage.



Stockpile of 142 illegal logs, Pheapimex concession, Kompong Thom. March 2002.



Pheapimex truck transporting spare machinery parts and camp equipment, coupe 1, Pheapimex concession, Kompong Thom. Note the "RH" on the door. April 2002.



Illegally felled logs in the Pheapimex concession, Kompong Thom. April 2002. Note the "RH", which links these logs with the Pheapimex truck.

9.3 Superwood

Case 1

Superwood's last recorded legal activities date back to 1999, at which time the concessionaire harvested 8,802.343 m³ of timber from coupe 1, located in the north-west portion of the concession. In 2000 and again in 2001 Global Witness found Superwood collecting 'old logs' from the concession. The collection of 'old logs' is contrary to Point 4 of Samdech Hun Sen's 25th January 1999, 17 Point Declaration. Each year the concessionaire has brought in heavy equipment to upgrade, repair and lengthen the road, which extends 10 kilometres south of coupe 1; despite not being legally active, the forest in Superwood's concession has been devastated.

In December 2001 Global Witness submitted a crime report to the RGC outlining all the illegal activities documented in the Superwood concession. Most of these instances of illegality had been reported to the government on previous occasions but nothing had been done. The crime report contained detailed evidence of land encroachment by the provincial authorities and the Pursat military and the collection of 'old logs' by Superwood from the concession. Company workers claimed that a collection permit had been granted by the RGC. However DFW did not appear to be supervising the process and the presence of logs collected as far as 12 kilometres south and 6 kilometres east of the 1999 coupe remained unexplained. Roads were still being constructed and repaired, including side roads and skid tracks, despite the company supposedly being inactive since 1999. In addition, a stockpile containing 26 unmarked fresh logs, estimated to be less than half a year old, was discovered along the road leading from coupe 1.

The report produced by the DFW team sent to investigate Global Witness' findings was confusing and inconsistent. On the one hand it reported that the Superwood representative, Mr Thong Chay, told the team that 'the company has not collected old logs and



Stockpiles of "old" logs in the Superwood concession, Pursat. December 2001.

no permit was given to collect these' whilst at the same time admitting that a new road had been constructed 'in an attempt to collect old logs from the forest to store in the log rest area.' These explanations were deemed acceptable to the investigation team and the issue of 'old logs' was not pursued further.

When asked about the mixing of illegal logs with legal logs Mr Thong Chhay responded that he did not know about them as he had only recently taken up his position. Again, the DFW team deemed this to be an acceptable conclusion to its investigation. Clearly, it is not.

The report goes on to deal with Global Witness' allegations in turn:

- 1) "Information by Global Witness that reported that nearly 30 hectares of forestland were cleared for farm land by Thoang Prasat, commander of Division 14 is not true – there are only 5 hectares owned by Thoang Prasat." This is a misunderstanding as the Global Witness report had stated that 30 ha of land had been cleared for farms and that one of the farms belonged to Thoang Prasat. Action should have been taken against Thoang Prasat.
- 2) "Global Witness reported that the company continued to collect old logs from the concession area and the presence of many old logs were collected 12 kilometres south and 6 kilometres east of the 1999 coupe 1, this is not true. Those logs were stockpiled along the main road in the concession since 1999." Global Witness maintains that the old logs were in the positions described and has photographs and GPS position recordings to back this up. DFW's 2001 end of year inventory lists timber stockpiles at the same locations as those found by GW in late 2001.
- 3) "Global Witness reported 26 new logs without [legal] labels, but the team found 29 logs. The district governor stated that these logs were collected by the local people and district office officials to reconstruct a bridge and the collection of the logs was also approved by the Pursat governor." Such local authorisations are not in themselves legal.



Military truck carrying logs in Superwood concession, Pursat. December 2001.

- 4) "Global Witness stated that there were signs of recent illegal logging with canopies and branches scattered around. They are about one year old. This is true." Although the DFW team found evidence of illegal logging it is not sufficient to merely note its existence without any attempt to find the perpetrators. No action was taken against Superwood.

The report recommended that 'Superwood should be advised to pause repairing main log road and constructing new diverted road and requested that the company pay the royalty and tree planting money first.' The case was closed. The investigation was inadequate and the action taken against Superwood insufficient; this will do nothing to discourage the company from logging illegally in future.

9.4 TPP Cambodia Timber Product

Seven of the coupes of the TPP concession are in central Koh Kong province and the other 20 coupes are in northern Cambodia in Preah Vihear and Siem Reap provinces. Over 90% (356,310 ha) of the concession is inoperable. The Cambodia Forest Harvest Code of Practice, Page 12 states that areas must be "excluded from logging when they exceed an average slope of 30 degrees over a distance of over 50 meters." Much of the Koh Kong portion of the concession falls into this category. The Preah Vihear portion of the concession is inoperable as it is mostly comprised of dry open forest. The parts of Evergreen forest in the Preah Vihear concession are situated on and around Phnom Tbeng mountain.

Case 1

TPP was issued with a cutting permit for the first time in late 2001. In late 2000, Global Witness carried out two aerial surveys along the south-western Thai/Cambodian border. A major illegal logging operation could be seen from the air in the Phnom Samkos Wildlife Sanctuary, opposite the TPP logging concession. The logging was being carried out next to a crossing point into Thailand. Major log rest areas could be seen on the Thai side of the border and two bridges were found across the Stoeng Metoek river, connecting the TPP concession with Thailand.

Global Witness reported this to the government on 14 December 2000. DFW sent a team that confiscated the equipment but, to Global Witness' knowledge, no further action was taken against the company.

In late 2001 Global Witness again found the company carrying out illegal activities in Phnom Samkos Wildlife Sanctuary. The company was constructing and upgrading a road from their concession to the Phnom Samkos Wildlife Sanctuary. Global Witness wrote to the Director of DFW on the 11th December 2001 to report these findings. DFW sent a team to investigate.

The DFW team found that: 'TPP concessionaire has been rebuilding the old road in the Samkos Wildlife Sanctuary at the request of Battalion #303 in order to remove the military from Malay to Phnom Mouy Roy or Thmar Dar.' Phnom Mouy Roy and Thmar Da are well known as illegal timber smuggling points and were subject to an illegal logging "crackdown" against the Military and Thai businesses in December 2000. Despite this, and the fact that the company had not received permission from either DFW or MoE to carry out these activities, no action was taken against TPP.

Case 2

TPP has six sub-contracted sawmills in Pailin, Kompong Thom, Kampot and Siem Reap provinces, all registered in 1999 and early 2000. Despite the fact the company did not have a cutting licence until late 2001 the TPP sawmills have been active for years. The system of sub-contracted sawmills was established and justified in order to fulfil the local demand for timber. Concessionaires are meant to supply 10 to 20% of their harvest to these sawmills. Clearly in TPP's case no attempt at rational planning was made given the complete lack of correlation between the concession's production, geographical distribution of sawmills and activity of sawmills.

TPP's #3 sub-contracted sawmill, licensed to Men Sopha in Ta Oak is well known particularly to MoE staff as it gets most of its timber from the nearby Beng Per Wildlife Sanctuary. When Global Witness visited the sawmill in October 2001, investigators found unstamped logs in the mill being processed.



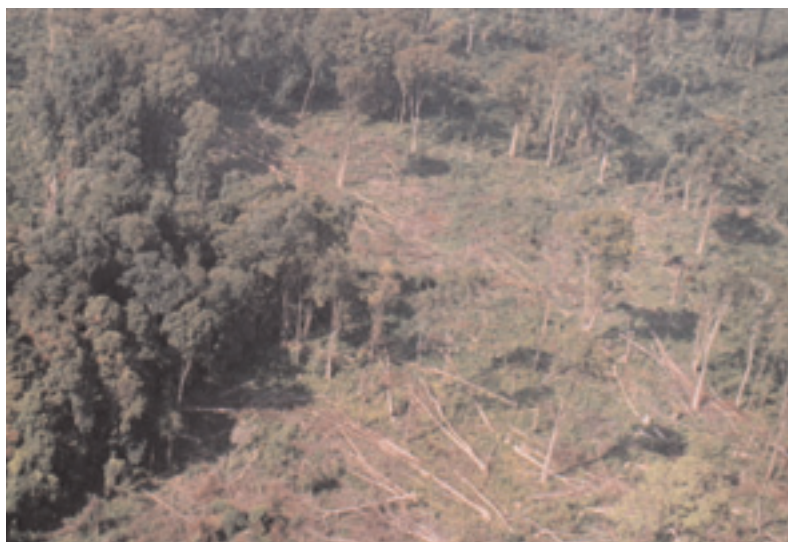
TPP's sub-contracted sawmill number 3 in Ta Oak. October 2001.

A crime report was submitted to the RGC by Global Witness. One of the recipients of the crime report passed it on to Cambodia's leading national daily newspaper, Rasmei Kampuchea. This resulted in three consecutive articles about the sawmill. The team sent to check the validity of the crime report confirmed Global Witness' findings and officially recommended that MAFF close down the sawmill. However MAFF's decision came several months later, once the media interest had cooled, and issued a written warning to the sawmill rather than shutting it. At the time of writing, local sources have reported that the Ta Oak sawmill has resumed its illegal activities and now processes illegally sourced timber during the night.

A few hours before the inspection of the Ta Oak sawmill Global Witness investigators found the head of the provincial forestry department, Pol Khemnare, with his tractor towing timber. Global Witness investigators were told by Pol that the timber came from the Ta Oak sawmill. Pol Khemnare, despite featuring in several Global Witness reports for his involvement in illegal logging, continues to be paid by the Forest Crime Monitoring and Reporting Project. This was not reported to DFW.

Case 3

In November 2001, during an over flight of Preah Vihear province Global Witness documented numerous instances of illegal logging and land clearance in the TPP concession in Preah Vihear Province. The DFW investigation confirmed in great detail the reports of illegal logging and encroachment. The report contained the names of individuals and many military units that had been involved in the clearance of many



Land encroachment by the Royal Cambodian Armed Forces at the foot of Phnom Tbeng, TPP concession, Preah Vihear. November 2001.

thousands of hectares of forest. However although the report recommends that 'MAFF should seek the intervention from the Ministry of Interior, Ministry of National Defence, RCAF's headquarters and the Preah Vihear authorities to stop the clearance of the forestland and other constructions,' it does not come to any clear conclusion as to the legality or otherwise of the provincial authority and military permissions. In this instance the DFW team carried out an investigation and produced a report but it appears their efforts may have been wasted. Global Witness is not aware of any further action that has been taken. It is not clear if delays or inaction are because of problems at MAFF or the other ministries concerned. Local sources report continued and increased logging at the foot of Mount Tbeng.

Extract from DFW Report 3345, December 31st 2001:

"[The inspection team] found that: Forest area on the North and eastern slopes of Tbeng Mountain in Pal Hal commune has been cleared at:

1 UTM 495240 1516649 to UTM 495384 1516164 about 280 hectares of forestland were cleared for a cashew nut plantation during the period 1997-1999 by Chien Chan, Chief of Military Office A4 (logistics), Mr. Try Sam Raing, food assistant and Mr. Pet Yol, soldier of Preah Vihear military. Some 50 families live on this farm.

2 UTM 495677 1515313 to UTM 498000 1514920 some 20 hectares of forestland have recently been cleared for farmland.

3 UTM 496779 1520458 this forestland is cleared by Vice-Regiment 2, Preparatory

Battalion 1 of Preah Vihear's Military Region 4. 4 UTM 495700 1521600 cleared by Intervention Division 12 for its base according to the order 22 Bor Chhor dated October 16, 2001 from the army commander on the construction of the Intervention Division 12 base that has just mobilized from the Cambodian-Thai border in Chaom Khsan District in Preah Vihear. The Preah Vihear Governor has agreed with the request from the army commander and provided four locations of forest land, each 10 kilometres by 10 kilometres (10,000 hectares) [...]

The logging and the timber processing was carried out by Intervention Division 12 at the northern part of Phnom Tbeng Mountain in order to construct the base.

9.5 Colexim Enterprise

DFW is a major shareholder in Colexim. Sixty percent of the company is government owned with the remaining 40% belonging to the Japanese company Okada. The management of the company is under the direct supervision of one of the DFW deputy directors. Colexim is the most timber rich concession in Cambodia.

Case 1

In October 2001 Global Witness found logs recently felled illegally by Colexim along the "road" in coupe 5, south-west of the legal coupe. Numerous reliable sources reported that this illegal logging was carried out by Colexim's sub-contractors. This information is

substantiated by the fact that the blue company tags were used to mark the illegally felled trees. Global Witness also found numerous piles of logging debris, showing that the timber had been sawn up into rough planks, making it easier to transport the timber without being detected. Many of the trees felled were being tapped for resin.

Global Witness submitted a crime report on the 24th October 2001 and a team from DFW was sent to investigate. The DFW investigation report stated that 240 trees had been cut down by the company in three different locations, in order to collect sample data for their inventory. The company claimed that it had



Felled and sawn resin tree, Colexim concession, Kompong Thom. October 2001.

requested permission to do so, but had not received a response. Colexim also claimed, according to DFW, that they intended to use the timber for a school building and bridge repairs. Once again DFW accepted the excuses of the concession company and recommended only that MAFF issue a written warning. No mention was made of fining the company or any other action against the company for this illegal activity. Apparently the written warning was deemed too harsh and the company was given 'advice' instead. The nature of this advice is not known. Had the timber been logged legally royalties would have amounted to approximately \$60,000. Under Article 33 No. 35 (25th June 1998) the appropriate fine should have been between two and three times the value of the logs. The case was closed.

The advice issued to Colexim has been ineffective. In February 2002, one of Colexim's subcontractors, Svay Savath approached two villages and offered them the construction of a road leading to their villages and a bridge in compensation for logging in their area. The villagers declined the offer. In February 2002 Mr. Nouth Oum Van Heng, the chief of Colexim Enterprise was awarded a silver honourable worker's medal for excellence in carrying out official duties and missions.

9.6 Samrong Wood

Samrong Wood is located in northern Siem Reap and Oddar Meanchey provinces. For decades the area was intensively logged by the Khmer Rouge and Thai companies and only small patches of heavily mined forest appear to have survived. These are the last remains of the great Prey Saak Forest. Siem Reap was once known as a major resin producer and most of the production went to the Tonle Sap Lake to be used for caulking and waterproofing fishing boats. Today the province produces almost none.

Case 1

During the inspection of the Samrong Wood annual coupe in December 2001, Global Witness discovered that numerous resin trees had been felled by the company. Stumps of freshly felled resin trees were found throughout blocks 35 and 36 of coupe 5 in Varin district. Many of the stumps still contained fresh liquid resin. One company manager's estimate was the trees tapped for resin comprised approximately 20% of the company's 2001 harvest (which was 10,794 m³). The preferred species for resin production, *Dipterocarpus alatus*, accounted for approximately 80% of the company's 2001 harvest according to the Samrong manager. According to the same manager, the tagging of the trees tapped for resin and dealings with the tree owners was the responsibility of the DFW forester in charge of overseeing the concessionaire's operations. This was corroborated by former resin tree owners in the area, who told Global Witness that foresters forced them to sign sales contracts, by telling them that if they didn't sign the contracts they would never see any money; which they didn't anyway.

DFW's explanation was that the company authorised local people to tap the trees for resin on the condition that they relinquish all rights on the trees when the company decided to fell them. In its conclusions in the investigation report DFW wrote: *"Global Witness reported that the company still continues to fell resin trees. It is true, but the representative of the company confirmed that until now the company has only cut 36 logs before the resin trees were tapped for resin produced by local people after the forester marked them"*. This is at odds with what Global Witness was told by the company manager

who estimated that 80% of the harvest was of resin trees and that about 20% of those trees were being tapped for resin. No comment was made by DFW on the fact that Samrong Wood does not have the authority to attach conditions to the tapping of resin trees in the concession. Once again DFW accepted the company's excuses and the case was closed.

The foresters attempted to sue Global Witness for implying that they were in some way responsible for what had happened; they demanded \$50,000 in compensation for defamation. This was in response to a letter Global Witness sent to the Prime Minister bringing to his attention the widespread violations of the moratorium on the logging of trees tapped for resin. As supporting documents for the defamation case, the foresters presented contracts which resin tappers signed after the moratorium came into force and were therefore illegal. The DFW Director General maintained that the defamation case was a private case brought by the Siem Reap foresters. However, the signature, seal and approval of the Director General appear on the court complaint.

Case 2

On the 3rd January 2002 Global Witness submitted a crime report to DFW relating to a large sawmill operating two kilometres from the Varin District Forestry Office, seen during an aerial survey of the Samrong Wood concession in late December 2001. The sawmill is not on the list of licensed sawmills that DFW provided to Global Witness, and is therefore illegal. In addition, the sawmill is located inside a concession, which is not allowed. DFW's investigation report stated that the sawmill was in fact an unlicensed carpentry workshop. Although DFW confiscated equipment and sawn timber from the workshop, the team apparently made no enquiries as to the origin of the logs found around the workshop. The case was forwarded to the Siem Reap Forest and Wildlife Intervention Unit for further legal action. It is not known what action, if any, has been taken.

9.7 Cambodia Cherndar Plywood

Case 1

Cherndar Plywood targeted trees tapped for resin throughout 2001 in spite of the clear moratorium on their felling. In December 2001, Global Witness documented the cutting of 340 resin trees by the company. When the resin tappers discovered that their trees had been felled, they complained to the company who then offered payment and a sales contract. Global Witness reported this to the government on the 5th December 2001.

DFW's investigation team found 176 of the resin trees that had been cut and reported that the owners had given their consent to the company before the ministerial announcement was made that banned the felling of resin trees in April 2001. However, the copies of the contracts given to Global Witness by DFW were all dated November 2001, after the ministerial declaration. No action was taken against the company.

The company has continued to antagonise local people and deprive them of their livelihoods. Throughout January 2002 Cherndar Plywood security manning the checkpoints were denying local people access to the forest in an apparent attempt to kill off the resin trade effectively eliminating the competition for the few commercially desirable trees remaining in the concession.

10 Protected Areas

The 23 protected areas under the jurisdiction of the Ministry of Environment are under great threat. The protected areas were officially established in 1993 by Royal Decree but the Ministry has yet to formulate guidelines for protection management. In 1999 and 2000 there was a nationwide effort to recruit hundreds of environmental rangers. These rangers, however, have not received even the most basic form of training. Lacking support, whether political or financial, lacking basic equipment, maps or even directives, ranger patrols are limited in time and geographically, but more importantly almost never result in action being taken to curb illegal activities in protected areas.

Many protected areas have become accessible in the last few years, with numerous roads being built by the Royal Cambodian Armed Forces and private entrepreneurs. Encroachment, conversion to agricultural land, hunting, logging and other polluting and unsustainable resource extraction activities are all made possible with the construction of large roads, small-scale corruption and the almost complete absence of enforcement or willingness to enforce laws.

Illegal activities were reported to or investigated by Global Witness in virtually all the protected areas in Cambodia during 2001 and 2002, with the exception of the Phnom Prich Wildlife Sanctuary, which is so remote that there is no information available on what takes place there.

During the last semester of 2001 Global Witness submitted ten crime reports to the RGC concerning protected areas. Generally, the activities were well known to local people, rangers and environment staff, and often ministry staff were also aware that the illegal activities were taking place. The problem lies with capacity, mechanisms to react to illegal activities and the ability to deal with the armed forces, who continue to play the leading role in the destruction of Cambodia's protected areas.

10.1 The Cardamom Mountains

One of the truly positive developments in recent years was the announcement in 2000 that the Cardamom Mountains would be placed under protection. The Phnom Samkos Wildlife Sanctuary and the Phnom Aural Wildlife Sanctuary are connected by the Cardamom Protected Forest. This Protected Forest is forest that has been excised from concessions but its protected status has yet to be declared permanent.

10.2 Phnom Samkos Wildlife Sanctuary

The RCAF have built roads on the western border of the Phnom Samkos Wildlife Sanctuary, which is also bisected by a road, making Samkos particularly vulnerable to illegal logging and encroachment. Despite the fact Phnom Samkos is likely to be nominated as a World Heritage Site in the near future nothing has been done to resolve this situation. Although building roads in Wildlife Sanctuaries is not strictly illegal it is certainly bad policy.

In August 2001 Global Witness discovered an illegal sawmill processing timber logged illegally in the wildlife sanctuary. In response to Global Witness' crime report DFW destroyed the mill but did not identify the owner and failed to investigate the illegal logging. The case was then closed. About three weeks later the same owner reopened the sawmill 25



Illegal cutting of luxury timber in Phnom Samkos Wildlife Sanctuary, April 2002.

kilometres from the original site. In November 2001 Global Witness submitted a crime report relating to the new mill but is yet to receive a response from DFW. A further three sawmills were also documented operating in the sanctuary in November 2001 by Global Witness; again there has been no official response to the crime report.

In November 2001 Global Witness conducted an aerial survey over the areas where illegal logging and illegal exports of timber to Thailand were taking place in late 2000 and early 2001. At that time, the government had sent in two helicopters, soldiers, and military policemen and arrested 19 Thai loggers. The 19 people were incarcerated for six months, after which they were released as a goodwill gesture towards the then-visiting Thai Prime Minister. The same activities in the exact same locations were observed in late 2001 and were reported to the government. Global Witness has received no response to the crime report.

10.3 Phnom Aural Wildlife Sanctuary

During an over flight in December 2001 Global Witness documented 16 illegal sawmills operating in the Aural Wildlife Sanctuary. DFW teams subsequently closed down two of the sawmills identified by Global Witness and four others that Global Witness was unaware of. However, there are still at least 14 sawmills operating in the area. The locations of all of these mills have been passed on to DFW but Global Witness



Illegal sawmill in Phnom Aural Wildlife Sanctuary. December 2001.

has not been informed of plans for further action.

10.4 Cardamom Protected Forest

Note that the Cardamom Protected Forest is currently under the Department of Forestry and Wildlife, not the Ministry of Environment.

Global Witness discovered three yellow vine processing facilities in the heart of the Cardamom Protected Forest in November 2001. In response to Global Witness' crime report a team was assembled by DFW and Conservation International to crackdown on



Yellow vine processing facility in the Cardamom Protected Forest. November 2001.

the facilities. The crackdown failed. Global Witness was informed by reliable sources that the operators were warned in advance and were able to hide most of their equipment and supplies in the forest. The little that was confiscated was reportedly resold by DFW staff back to the yellow vine operators. There are now over 16 yellow vine processing facilities operating in the area. DFW is well aware who the traders of yellow vine powder are, and where the trading routes are. Until May 2001 they were issuing permits for the transport of yellow vine which Global Witness has seen.

10.5 Nam Lyr Wildlife Sanctuary

The Nam Lyr Wildlife Sanctuary is situated on the south-eastern border with Vietnam in Mondulkiri province. In 1999 and 2000, large-scale illegal logging operations were discovered in Mondulkiri, organised by a Vietnamese company, with the collusion of the local Vietnamese and Cambodian authorities (see: The Credibility Gap, pages 21–23). The northern portion of Nam Lyr Sanctuary has been severely logged but the southern part, around Phnom Nam Lyr itself appears to contain relatively intact forest cover. However, in December 2001 Global Witness conducted an aerial survey of the area and discovered extensive illegal logging around the Nam Lyr mountain. Both the Ministry of Environment and DFW responded by announcing plans to investigate but to date it is not known whether action has been taken.

10.6 Phnom Kulen National Park

In December 2001 during an over flight Global Witness discovered illegal logging in Phnom Kulen National Park in Siem Reap province. Global Witness reported the case directly to the park rangers who accompanied Global Witness on the investigation. The findings were confirmed; chainsaws could clearly be heard in the distance, the packaging of a new blade was found discarded on the forest floor, and freshly sawn timber was found in the forest. The rangers recommended that the group advance no further as no one was equipped for the apprehension of an offender. The rangers expressed the intention of organising an armed team that would proceed to the arrest of the offenders. Local people said that Mr Lat and Mr Lon of Regiment 72 based in Svay Leu District were responsible for the illegal logging in the park.

Three weeks later an investigative group confirmed that trees had been felled in the park, though it does not appear that the team went any further than the last location visited by Global Witness and the rangers. DFW described the perpetrator as an “unknown armed person”.

In this case Global Witness took the initiative to approach the provincial authorities directly, in order to drastically reduce the response time, and thereby

increase the possibility of apprehending the illegal loggers. However the course of events outlined above illustrates clearly the shortcomings of park rangers in their ability stop forest crimes; they simply lack the capacity to deal with loggers that are potentially armed. The follow up investigation, however, was inadequate: it was too late, it was badly organised, the team failed to make use of the information available to it and failed to conduct any meaningful research of its own.

10.7 Kulen Prom Tep Wildlife Sanctuary

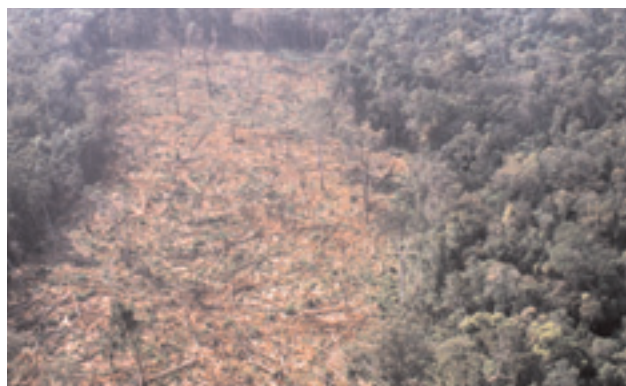
A large illegal sawmill was discovered during an over flight of the Kulen Prom Tep Wildlife Sanctuary in December 2001; the sawmill was clearly in operation. From the air Global Witness was able to observe and document oxcarts transporting logs to the site of the sawmill, as well as a truck on to which sawn timber was being loaded. Signs of logging, such as logs and debris were documented in the vicinity of the sawmill. DFW sent a team to investigate. The investigation concluded that a sawmill had existed, but was no longer active despite all the evidence provided to DFW by Global Witness, including photographs of oxcarts carrying logs approaching the mill. No attempt was made by DFW to ascertain who was operating the mill or organising the illegal logging. Nevertheless the case was closed.



Illegally felled timber in Phnom Kulen National Park. January 2002.

10.8 Beng Per Wildlife Sanctuary

The Beng Per Wildlife Sanctuary is located in central Cambodia where Preah Vihear, Kompong Thom and Siem Reap provinces meet, and is the only continuous stretch of dry evergreen forest adjacent to the Prey Long tract that is under protection. Continued illegal logging and agricultural conversion were discovered in the southern portion of Wildlife Sanctuary during an over flight in November 2001 and the findings were submitted to the RGC. The MoE acknowledged receipt of the crime report, however it is not known whether any action has been taken.



Encroachment in Beng Per Wildlife Sanctuary, Kompong Thom. November 2001.

II Cancelled Timber Concession Land and Land Concessions

IT IS NOT KNOWN exactly how much of Cambodia is under concession but circumstantial evidence suggests that most of the country has been approved for concession management “in principle”. In 2000 and 2001 numerous land concessions were secured before the new land law came into force, environmentally destructive and unsustainable projects being approved under dubious circumstances. Many of these land concessions have been granted in areas that DFW has classified as ‘degraded’ forest. Whether or not the forest is degraded in reality is debatable, but more importantly it ignores the fact that these forests play an integral role in sustaining the livelihoods of Cambodia’s rural poor.

II.1 Green Sea Industry Co.

In November 2001, Global Witness forwarded the following crime report to the RGC:

‘It has come to the attention of Global Witness that a company, Green Sea Industry Co. Ltd., has been awarded a 110,128 hectare land concession in Stung Treng and Siem Pang Districts in Stung Treng Province. It appears that the company proposes to clear natural forest in order to establish a Teak plantation. Plans for the granting of the concession appear to be well advanced as border demarcation activities were reported throughout July and August 2001.

Global Witness would like to raise a number of issues pertaining to the legality of the Green Sea land concession:

The area of the proposed land concession is located on former forest concession land. In 1995 – 1996 the area was under the management of the forest timber concession Macro-Panin. Article 5.4 of Cambodia’s 2000 Sub-Decree on the Management of Forest Concessions states: “(...) The forest concessions which were revoked or transferred back shall be preserved as natural protected forest areas and as separately managed forests, and shall not be granted as concessions to any other company.”

Article 59 of the recently adopted Law on Immovable Property, also known as the Land Law states: “Land concessions areas shall not be more than 10,000 hectares.”

Lastly, the Sub-Decree on the Environmental Impact Assessment Process requires that an EIA study be carried out for agricultural projects on forest covered by land exceeding 500 hectares. To Global Witness’ best knowledge, this requirement has not been fulfilled.’

Khmer language media alleged that the Green Sea company belonged to Okhna Mong Reththy. In the absence of complete documents pertaining to the company Global Witness was not able to verify those claims. Were this persistent rumour to be true, it would cast serious doubt on the ability of the entrepreneur to successfully carry out the project, in light of the widely publicised failure of the Mong Reththy oil palm venture on National Route 4. Local sources reported that the company is preparing to

commence clear-cutting activities. MAFF responded to this crime report on 12 June 2002, agreeing that the re-allocation of cancelled concessions is illegal under Cambodian law, but arguing that in this case the re-allocation would increase the economic value of the forest.

“And I have ordered – in whatever forest people are collecting resin, don’t cut it. Ty Sokhun, right? You know? The forest where people collect resin these days, don’t yet give permission to the companies to cut. Because they can only cut if you give your seal of approval. So, forestry officials, if you see a forest where people are collecting resin, don’t sign for the companies to cut. If you don’t sign for them, they won’t cut. And if they dare cut, they are violating the law. [...] Do it fast. Move quickly to give people ownership rights in this concession area, so that concessionaires don’t violate people’s rights. One part must be saved for people, and made as reserve forest, or reserve land, and we will create a community forest.”

The Prime Minister’s inaugural speech for the Tumring Hun Sen School, 29th August 2001.

II.2 Tumring Rubber Plantation

Tumring is a small commune in the heart of Sandan District, Kompong Thom province, home to about 2000 people who live off the forest and swidden agriculture.

In mid 2000 the Prime Minister made an announcement that the government was officially launching its “voluntary family-scale rubber plantation scheme”. The idea was ultimately meant to lift the people out of poverty. Months later Tumring was recommended in a report as being suitable for the scheme. This was given the go-ahead by the Prime Minister who annotated the report: “*Have seen. Please continue this work, cutting the area of red soil out of the logging concession and giving it to Chup Rubber to plant rubber and motivate villagers there to plant family rubber trees*”.

The Chup Rubber Company then moved in and took over 6,200 hectares. Villagers informed Global Witness that the company held meetings at which they were told, not that participation was voluntary, but that the project was going ahead whether they wished to participate or not and that it was in their interests to accept an allocation of three hectares per family or they risked losing everything.

The effect of the scheme to date has been to split the community and provide one permanent job. Some families have accepted the project but others who previously owned more than three hectares of forest, or who had been involved in tapping trees for resin are against it. The resin tappers had been promised a community forest in the same area that is now being clear cut on behalf of the Chup Rubber Company. All the resin trees closest to the villages have been felled. Villagers have tried to get the concessionaires, GAT and Colexim, who are doing the logging for the rubber company, to at the very least postpone logging until a decision concerning their community forest application is made, but have had no success. This logging continues despite the January 2002 moratorium.

The Global Witness crime report raised the fact that the freshly cut logs were unregistered and thus no royalties were being paid, the two concessionaires were

continuing to log in spite of the moratorium on harvesting operations, and that the people of Tumring wanted to protect the proposed site of their community forest and their main source of income, the resin trees.

DFW's investigative team visited Tumring in February 2002 and reported that they had explained in detail what was entailed in running a community forest but advised the villagers that they could do nothing until the adoption of the Community Forestry Sub-Decree.

The report went on to recommend that GAT and Colexim should collect as much commercial timber as possible from the site and pay royalties on it. No mention was made that this scheme had been given the go-ahead contrary to the Prime Minister's 17 Point Declaration. No mention was made of the concerns and needs of the local community. No mention was made that the concessionaires were clear cutting areas in their concessions outside the annual coupe nor the fact that this logging was contrary to the moratorium on logging. The cutting in Tumring Commune has continued and its people have lost hope of being granted a community forest.

Three months after the submission of the Tumring crime report Global Witness investigators returned to the area and found that resin trees continued to be cut down, DFW was not registering all the felled timber and GAT subcontractors continued to run an illegal sawn timber operation.

In an interview on the 5th May 2002, foresters based in Tumring told Global Witness that Colexim had harvested 1,600 good quality logs from the rubber plantation. Global Witness counted 3,000 felled trees in the northern part of the rubber plantation.

"I am old. I am dying. I worry for my grandchildren. What will they do when there is no more forest?"

Former resin tree owner dying of tuberculosis, unable to receive treatment for lack of money. All his resin trees were logged by Colexim.



Clearing of primary forest for the establishment of a rubber plantation, Tumring Commune, Kompong Thom. May 2002.



Illegal sawmill at the border of the Tumring rubber plantation and GAT concession, Kompong Thom. May 2002.



Remains of resin trees, Tumring Commune, Kompong Thom. May 2002.

12 Conclusion

The biggest obstacle for sound forest management in Cambodia remains the flawed concession system, which, with its political backing from the highest levels, continues to fuel the system of corruption, secrecy and fear that hampers progress in the sector. The information compiled in this report shows that these companies, or the individuals using these company names as a front, continue to operate with impunity, unaffected by the reform agenda.

The track record of the concessionaires demonstrates their lack of commitment to the forest reform process and sustainable forestry; they have logged illegally throughout the duration of their contracts. Numerous donor-funded studies have concurred with this opinion but given the concessionaires another last 'last chance'.

Fear of a legal challenge has been used as an excuse not to cancel concession contracts but, as the evidence of serious illegal practices mounts, that prospect becomes more remote. The government must take full advantage of the evidence supplied by Global Witness and use it to rid Cambodia of the concessionaires. According to the Sub-Decree on Forest Concession Management companies must have a 'good compliance record' before any application for a forest concession is considered. This, and other, conditions set out in the Sub-Decree must be factored into the contract renegotiations currently taking place.

In most instances it is inconceivable that the authorities are unaware that these companies are logging illegally. Indeed, it is very likely that individuals within the departments charged with policing the forest are at the same time involved in illegal logging. The system of unofficial payments is far advanced, organised and standard operational procedure, including secret budgets and hidden salary payments. These individuals are tarnishing not only the reputation of their departments but also that of the government as a whole and unless they are rooted out there is little chance for progress in forest crime prevention and prosecution.

For there to be meaningful forestry reform in Cambodia corruption within DFW must be addressed head on and the concessionaires should lose their concessions if they log illegally.



Stockpile of timber belonging to Samrong Wood, Siem Reap province, December 2001.



Logging by GAT International in what used to be their Kompong Thom concession, March 2002.



Stockpile of timber at Svay Chrom, Kandal province, March 2002.



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Acknowledgements

Global Witness would like to thank all its volunteers and friends in Cambodia without whom this report would not have been possible. This report is the copyright of Global Witness and may not be reproduced in any form without the written permission of the organisation, except by those who wish to use it to further the protection of human rights and the environment. Design by The Plumbers. Photos © Global Witness. ISBN 1 903304 07 5



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ISBN I 903304 07 5