

## RECOMMENDATIONS

### CAMBODIA'S JUDICIAL AUTHORITIES SHOULD:

#### 1. Hold accountable those responsible for illegal logging and associated crimes

- Investigate and prosecute all those responsible for the cases of illegal logging, corruption, smuggling, attempted murder and kidnapping detailed in this report.
- Prioritise investigation of the following people: Minister for Agriculture, Forestry and Fisheries (MAFF) Chan Sarun,<sup>1</sup> Director General of the Forest Administration (FA) Ty Sokhun,<sup>2</sup> Hun Sen Bodyguard Unit commander Lieutenant General Hing Bun Heang,<sup>3</sup> Brigade 70 Brigadier General Hak Mao,<sup>4</sup> logging syndicate leaders Dy Chouch,<sup>5</sup> Seng Keang,<sup>6</sup> Khun Thong<sup>7</sup> and Seng Kok Heang.<sup>8</sup>

### THE ROYAL GOVERNMENT OF CAMBODIA SHOULD:

#### 1. Hold accountable those responsible for illegal logging and associated crimes

- Support the efforts of the judicial authorities to investigate and prosecute those responsible for the illegal activities detailed in this report.
- Dismiss any government ministers, officials and military officers responsible for these illegal activities.

#### 2. Protect the Prey Long Forest

- Take Prey Long, mainland Southeast Asia's largest lowland evergreen forest, out of production. Develop an alternative management regime for Prey Long, based on consultation with local populations, which prioritises conservation and safeguards the usage rights of people living in and around the forest.

#### 3. Reform forest management

- Reinstate independent forest monitoring (IFM) based on a robust institutional framework and terms of reference, following a period of public consultation. Appoint a qualified organisation on the basis of an open tendering process conducted in line with international best practice.
- Terminate the logging concession system, in line with recommendations of the 2004 Independent Forest Sector Review (IFSR).<sup>9</sup>
- Cancel plans to introduce a new system of annual bidding (logging) coupes.

- Terminate all economic land concessions (ELCs) and mining concessions that are situated in forest or are otherwise contrary to existing law.
- Develop a new forest management regime based on the recommendations of the IFSR. This should centre on expanded community forestry, partnership forestry and landscape-based conservation programmes.<sup>i</sup>
- Recognise the prior claims of indigenous minorities, as required by the Land Law, in determining the status and usage of forested areas.
- Ensure that any future logging and tree plantation ventures meet Forest Stewardship Council (FSC) or equivalent standards and follow consultation with affected communities.
- Complete and pass the new Protected Areas Law and all outstanding sub-decrees and *prakas* (ministerial declarations) required under the 2002 Forestry Law. Ensure that drafts are made publicly available prior to passage, allowing sufficient time for public comment.
- Impose a moratorium on the construction of roads through forested areas, in line with the recommendations of the 2004 IFSR.

#### 4. Take immediate steps to increase transparency in the management of public assets

- Ensure full and continued disclosure of information concerning the management of public assets such as forests, land, oil and gas, mineral deposits, fisheries, heritage sites and state-owned buildings.
- Ensure that this information includes the following: investment agreements, contractual conditions and compliance status (completion of satisfactory environmental and social impact assessments (ESIAs), payment of royalties etc); exploration, exploitation, transportation and export permits awarded; names and details of the beneficial owners of the companies concerned.

#### 5. Strengthen the legal framework governing the management of public assets

- Include in the draft Anti-Corruption Law the following provisions:
  - A guarantee that all Cambodian citizens have rights of access listed above.
  - Prohibition on individuals or companies that have a record of illegal activities managing public assets of any kind.

<sup>i</sup> Partnership forestry is a new model proposed by the 2004 Independent Forest Sector Review. It would give a greater say in forest management decision-making to elected commune councils, with the Forest Administration playing a regulatory role.

- Requirement that all contracts between the government and companies concerning the management, exploration or exploitation of natural resources and other public assets proceed from an open tendering process conducted in line with international best practice.
- Requirement that all private sector operators holding concessions on public assets annually disclose the payments they make to the government in the form of taxes, royalties, signature bonuses etc.
- Requirement that the government annually discloses details of all taxes, royalties, signature bonuses etc. received from concessions on public assets.
- Requirement that the government maintains a regularly updated and publicly accessible register of senior officials' business interests and personal assets, as well as those of their family members.
- Pass and implement the Anti-Corruption Law without further delay.

#### **6. Ensure transparent management of oil and gas revenues**

- Implement the revenue management measures set out in the IMF's Guide on Resource Revenue Transparency.<sup>10</sup>
- Join the Extractive Industries Transparency Initiative.<sup>11</sup>

#### **7. Reform the Royal Cambodian Armed Forces (RCAF)**

- Withdraw all military units stationed inside or on the boundaries of protected areas.
- Disclose the location and legal status of all the military development zones. Terminate all those that are situated on forests, in protected areas, or are otherwise contrary to existing law.
- Overturn the recently introduced conscription law and embark on a comprehensive restructuring of RCAF to create a professional military force that meets Cambodia's defence needs.

#### **CAMBODIA'S INTERNATIONAL DONORS SHOULD:**

- 1. Use their influence proactively to ensure that aid benefits ordinary Cambodians**
  - Donors should link disbursement of non-humanitarian aid to demonstrable progress in implementing the measures outlined above, in accordance with set time-lines.
- 2. Withhold support from state institutions engaged in serious criminal activities**
  - In particular, donors should not provide funding or other forms of support to RCAF until such time as it ceases its involvement in large-scale organised crime.
- 3. Support Cambodian civil society's efforts to increase government accountability**
  - Provide more support to Cambodian organisations working to build government accountability with respect to the management of public assets. Specifically, build the capacity of local civil society to document, monitor and scrutinise the management of natural resources and other public assets and ensure transparent public sector spending.
- 4. Help to protect Cambodia's forests as part of international efforts to combat climate change**
  - Act on the conclusion of the recent UK government-commissioned Stern Review on the Economics of Climate Change, that international efforts to combat climate change must prioritise the preservation of existing natural forests.<sup>12</sup>
  - With respect to Cambodia, dedicate funds and expertise to developing new incentives and institutional frameworks for preserving key areas such as Prey Long Forest.



Cambodia's Prey Long Forest

## SUMMARY<sup>ii</sup>

This report makes the case for greater efforts by the Cambodian government and the international community to strengthen the governance of forests and other public assets on which Cambodia's people depend. It is based on in-depth investigations into illegal logging and associated criminality carried out by Global Witness between the end of 2004 and the beginning of 2007.

The report's main findings are as follows:

### 1. A kleptocratic elite is stripping Cambodia's forests

- Cambodia is run by a kleptocratic elite that generates much of its wealth via the seizure of public assets, particularly natural resources. The forest sector provides a particularly vivid illustration of this asset-stripping process at work.
- Illegal logging is causing severe damage to Cambodia's remaining forests. The last global forest cover survey by the Food and Agriculture Organisation (FAO) found that Cambodia had lost 29% of its primary tropical forest over a five year period.
- Cambodia's army, military police, police and Forest Administration (FA) are all heavily involved in illegal logging.
- In many cases illegal logging is taking place under the guise of legally dubious plantation developments and harvesting permits. Many of these plantations and permits are being allocated to a small group of individuals who have close relations with senior politicians.
- A particular concern is the damage illegal loggers are causing to Prey Long, which is the largest lowland evergreen forest in mainland Southeast Asia. The Cambodian government is currently developing plans to clear tens of thousands of hectares of Prey Long to make way for plantations.



Hun Sen greeting senior officials

### 2. Cambodia's most powerful logging syndicate is led by relatives of Prime Minister Hun Sen<sup>13</sup> and other senior officials

- The most powerful logging syndicate in Cambodia is led by Dy Chouch, also known as Hun Chouch, his ex-wife Seng Keang and Khun Thong, their business partner. This group operates under the name Seng Keang Company.
- Dy Chouch is the first cousin of Prime Minister Hun Sen.
- Seng Keang is a friend of Bun Rany, the wife of Hun Sen.
- Khun Thong is the brother-in-law of Minister for Agriculture, Forestry and Fisheries (MAFF) Chan Sarun and father-in-law of Director General of the Forest Administration Ty Sokhun.
- Seng Keang's brother, Seng Kok Heang, who supervises operations for Seng Keang Company, is an officer in the Royal Cambodian Armed Forces (RCAF) Brigade 70 elite military unit.

### 3. Activities in which members of this logging syndicate are implicated include the following:

- The apparent abduction and detention of Lia Chun Hua,<sup>14</sup> the managing director of the Kingwood Industry logging company.
- Large-scale illegal logging in the Prey Long Forest carried out under the guise of the Tumring Rubber Plantation development.
- Felling of thousands of resin-producing trees tapped by local people who depended on them as a source of income. Resin trees are protected under Cambodian law.
- A reported attempt by Seng Kok Heang to kill two community forest activists in Tumring who protested against the Seng Keang Company's felling of resin trees.
- Use of fraudulent transportation permits describing logs as lesser-value firewood. This may have cost the Cambodian treasury over a million dollars in lost tax revenues.
- The export to China of millions of dollars-worth of plywood on which no taxes appear to have been paid.
- Establishment in Tumring of a factory for sawing wood and making veneer. Cambodia's Forest Law prohibits construction of wood-processing facilities in forest areas.
- This factory's processing of over 100,000 cubic metres (m<sup>3</sup>) of logs a year into timber products worth more than US\$13 million annually. Most of the logs used were cut illegally in Prey Long.
- The above activities are covered by existing Cambodian law and are punishable by prison sentences and fines. Dy Chouch, Seng Keang, Khun Thong and Seng Kok Heang have not been prosecuted, however.

<sup>ii</sup> References for the points covered in this section can be found in the main body of the report.





Prime Minister Hun Sen



Hun Sen's wife, Bun Rany



Hun Sen's first cousin Dy Chouch, also known as Hun Chouch



Dy Chouch's ex-wife, Seng Keang



Seng Keang's brother Seng Kok Heang, also known as Mr. 95



Khun Thong's brother-in-law, Minister of Agriculture, Forestry and Fisheries, Chan Sarun



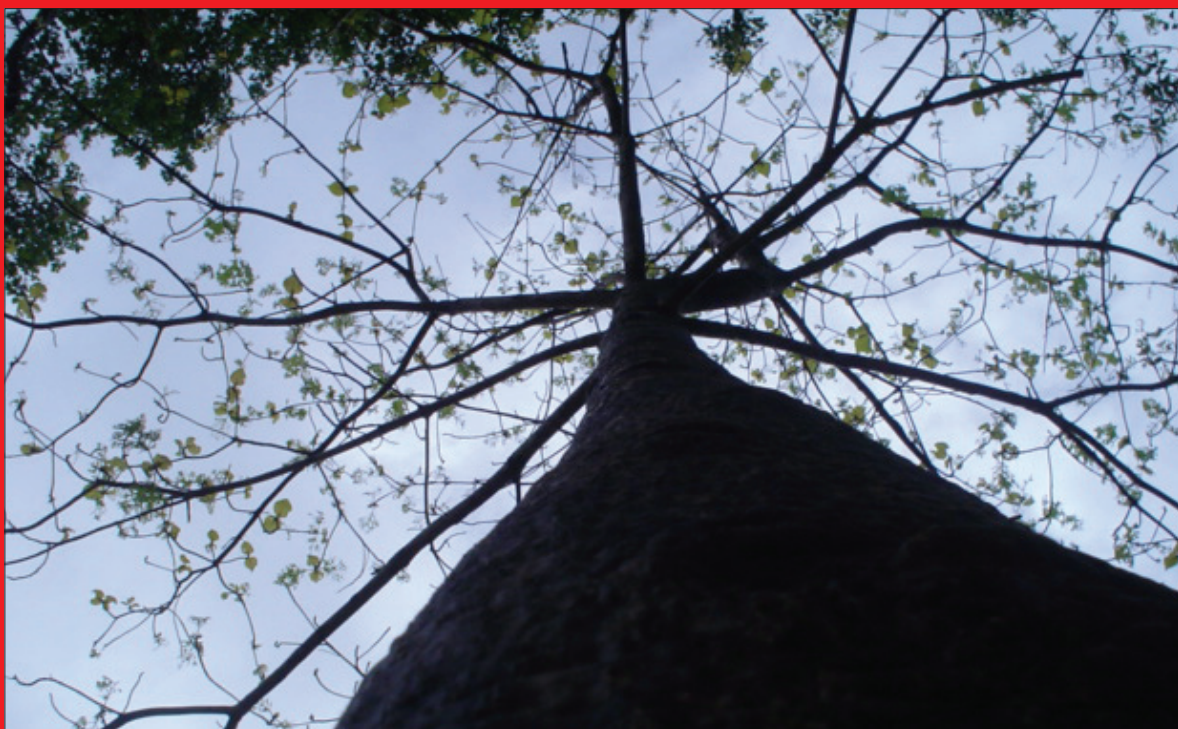
Khun Thong's son-in-law, Director General of the Forest Administration, Ty Sokhun



Hun Sen Bodyguard Unit commander, Lieutenant General Hing Bun Heang



Head of Cambodia's Military Police, General Sao Sokha



#### 4. Senior officials are complicit in these activities

- Prime Minister Hun Sen personally inaugurated the Tumring Rubber Plantation that provided the basis for massive illegal logging of Prey Long by the Seng Keang Company.
- Establishment of this plantation followed a survey of the Tumring site by MAFF, which is run by Chan Sarun. His brother-in-law, Khun Thong, is a leading figure in the Seng Keang Company. This MAFF survey misleadingly categorised the area as land containing only small amounts of valuable forest.
- Despite claiming a lack of valuable timber in the area, Chan Sarun awarded exclusive rights to Seng Keang Company to collect and process all wood cut in Tumring Rubber Plantation.
- Chan Sarun subsequently gave the company the permit to establish its wood-processing factory in Tumring, despite the fact that this was illegal.
- The FA, which is run by Khun Thong's son-in-law Ty Sokhun, has played a key role in facilitating Seng Keang Company's illegal logging and other criminal activities.

#### 5. Evidence suggests that some of these senior officials are directly responsible for corruption within the institutions that they head

- There is substantial evidence that Chan Sarun and Ty Sokhun have illegally sold 500 or more jobs in the Forest Administration.
- Officials have calculated that selling jobs netted Chan Sarun more than US\$2.5 million in bribes.
- The desire to recoup the costs of purchasing these positions appears to account for the increasingly corrupt behaviour of many FA officials.
- Corruption and collusion in forest crime are both covered by existing Cambodian law and punishable by prison sentences and fines. No senior official has yet been either charged or disciplined in connection with the sale of jobs or the illegal logging in Prey Long, however.

#### 6. Hun Sen's private army is financed through illegal logging and smuggling

- In transporting illegally-logged timber out of Prey Long, the Seng Keang Company has worked closely with Royal Cambodian Armed Forces Brigade 70. Brigade 70 acts as a reserve force for Hun Sen's 4,000 strong Bodyguard Unit. The two units comprise what is essentially a private army controlled by the prime minister.
- Aside from its activities in Prey Long, Brigade 70 acts as a nationwide timber trafficking service. It transports illegally-logged timber all over Cambodia and exports significant quantities to Vietnam.
- The officer organising these operations is

Brigadier General Hak Mao. His main protectors and patrons include Hun Sen Bodyguard Unit commander Lieutenant General Hing Bun Heang and national head of the military police General Sao Sokha.<sup>15</sup>

- Brigade 70's clients are a 'who's who' of major timber barons in Cambodia, including the infamous Pheapimex company run by Hun Sen crony Yeay Phu, as well as government officials and generals.
- In the second half of 2006, Brigade 70 was transporting an average of 1,260 m<sup>3</sup> illegally-logged timber per week. Through these timber trafficking operations, Hak Mao makes approximately US\$1.2 million per year.
- Brigade 70 operates a parallel service transporting smuggled goods through ports on Cambodia's south coast, notably Oknha Mong Port, which belongs to Mong Reththy,<sup>16</sup> a tycoon who is also a senator for Hun Sen's Cambodian People's Party (CPP).
- The Brigade 70 illegal timber and contraband trafficking operations combined are worth between US\$2 million and US\$2.75 million annually.
- The profits are used to pay for the operations of Brigade 70 itself. In addition, a large cut is handed over to Hun Sen Bodyguard Unit commander Lieutenant General Hing Bun Heang.
- These activities are covered by existing Cambodian law and are punishable by prison sentences and fines. To date none of those responsible have been prosecuted.
- Despite the evidence of entrenched criminality within the Royal Cambodian Armed Forces international donors such as China and the USA are now providing direct military assistance to Cambodia.

#### 7. Cambodia's international donors are not using their influence effectively

- International donors annually provide approximately US\$600 million per year in aid to Cambodia. This is equivalent to half the national budget.
- Donors have not used the leverage that this aid gives them effectively. Specifically, they have refused to acknowledge the fact that the government is thoroughly corrupt and does not act in the best interests of the population.
- As a result, billions of dollars-worth of aid funded by western taxpayers have done relatively little to improve the lives of ordinary Cambodians.
- Moreover, donor support has failed to produce reforms that would make the government more accountable to its citizens. Instead, the government is successfully exploiting international aid as a source of political legitimacy.

**TABLE 1: ISSUES THAT CAMBODIA'S JUDICIAL AUTHORITIES MUST NOW INVESTIGATE<sup>iii</sup>**

Individuals	Activity	Relevant Laws & Penalties for Violations
Dy Chouch Seng Keang Khun Thong	Apparent detention of Lia Chun Hua and forced takeover of Kingwood Industry Company	<b>Law on the Aggravating Circumstances of Crimes</b> Article 7: Detention and illegal confinement Penalty: 5-10 years in prison Article 6: Robbery Penalty: 5-10 years in prison
Seng Kok Heang	Reported attempt to kill two community forestry activists	<b>Law on the Aggravating Circumstances of Crimes</b> Article 3: Murder Penalty: 15-20 years in prison
Dy Chouch Seng Keang Khun Thong Seng Kok Heang	Industrial-scale logging outside the boundaries of the Tumring Rubber Plantation and cutting of thousands of resin trees belonging to local people	<b>Forest Law</b> Article 98: Misuse of a permit to harvest forest products; harvesting forest products without a permit; felling rare tree species and trees that local people tap for resin Penalty: 1-5 years in prison and fines of 10-100 million riel (US\$2,500-US\$25,000) <b>Land Law</b> Article 259: Infringement against public property Penalty: 1-5 years in prison and/or a fine of 5-50 million riel (US\$1,250-US\$12,500) <b>Law on the Aggravating Circumstances of Crimes</b> Article 6: Robbery Penalty: 5-10 years in prison <b>UNTAC Penal Code</b> Article 52: Wrongful damage to property Penalty: 1-3 years in prison
	Transporting millions of dollars-worth of logs cut during these operations	<b>Forest Law</b> Article 96: Transporting forest products obtained via illegal harvesting Penalty: Fine 2-3 times the value of the forest products
	Use of 'firewood' collection permits to facilitate log transportation	<b>Law on Taxation</b> Article 127 & Article 135: Tax evasion Penalty: 1-5 years in prison and/or a fine of 10-20 million riel (US\$2,500-US\$5,000) <b>Forest Law</b> Article 96: Transporting forest products contrary to those described in a transport permit Penalty: Fine 2-3 times the value of the forest products
	Processing these logs	<b>Forest Law</b> Article 96: Processing forest products obtained via illegal harvesting Penalty: Fine 2-3 times the value of the forest products
	Transporting the finished products	<b>Forest Law</b> Article 96: Transporting forest products obtained via illegal harvesting Penalty: Fine 2-3 times the value of the forest products
	Selling these items	<b>Forest Law</b> Article 96: Trading forest products obtained via illegal harvesting Penalty: Fine 2-3 times the value of the forest products
	Payments to officials to protect or turn a blind eye to the above activities	<b>UNTAC Penal Code</b> Article 54: Intentional corruption Penalty: 1-3 years in prison
	Establishing an informal association dedicated to undertaking the above activities	<b>UNTAC Penal Code</b> Article 36: Organised crime Penalty: 3-15 years in prison
Chan Sarun	Issuing a permit that provided a cover for industrial-scale logging outside the boundaries of the Tumring Rubber Plantation and cutting of villagers' resin trees	<b>Forest Law</b> Article 100: Officials directly or indirectly allowing activities contrary to the Forest Law Penalty: 1-5 years in prison and fines of 10-100 million riel (US\$2,500-US\$25,000) <b>UNTAC Penal Code</b> Article 69: Complicity Penalty: the same punishment applicable to the principal offender
	Authorising construction of a veneer factory and sawmill by Seng Keang Company within Prey Long forest	<b>Forest Law</b> Article 30: Prohibition on constructing sawmills within 5 kilometres of the Permanent Forest Reserve Article 100: Officials directly or indirectly allowing activities contrary to the Forest Law Penalty: 1-5 years in prison and fines of 10-100 million riel (US\$2,500-US\$25,000)
Chan Sarun Ty Sokhun	Selling hundreds of jobs in the Forest Administration	<b>UNTAC Penal Code</b> Article 38: Extortion Penalty: 3-7 years in prison and a fine of double the sum of money extorted; prohibition on standing for election or holding public office for 2 years after sentence served
Hing Bun Heang Dy Phen	Demanding and receiving payments from subordinates	<b>UNTAC Penal Code</b> Article 38: Extortion Penalty: 3-7 years in prison and a fine of double the sum of money extorted; prohibition on standing for election or holding public office for 2 years after sentence served
Hak Mao	Transporting millions of dollars-worth of logs and timber products sourced from areas where there are no legal harvesting operations	<b>Forest Law</b> Article 96: Transporting forest products obtained via illegal harvesting Penalty: Fine 2-3 times the value of the forest products
	Managing and protecting the transportation of goods on which the requisite import duties have not been paid	<b>Law on Taxation</b> Article 127 & Article 135: Tax evasion Penalty: 1-5 years in prison and/or a fine of 10-20 million riel (US\$2,500-US\$5,000) Article 128 & 136: Obstruction of implementation of tax Penalty: 1 month to 1 year in prison and/or a fine of 5-10 million riel (US\$1,250-US\$2,500)
	Collecting, storing and delivering these items	<b>UNTAC Penal Code</b> Article 51: Receiving and concealing stolen goods Penalty: 1-5 years in prison

<sup>iii</sup> References for the points covered in this table can be found in the main body of the report.