

ANNEX 2

SOCIAL ANALYSIS AND CONSULTATIONS

I. Pre-Project Analytic Work and Consultation

| Instrument (Sponsor) | Issues | Approach | Participants (locations) | References |
|---|---|--|--|---|
| TA Project Studies (RGC/World Bank): - Forest Policy Reform (ARD, 1997-1998) - Forest Concession Management (Fortech, 1997-1999) | - Land Use - Community Livelihoods - Ethnic Minorities - Social Forestry | - Survey Research - Workshops - Policy Seminars | - Commune/Village - Businesses - District, Province, National, NGO officials (Krahe, Kampong Thom, Ratanakiri) | Butterfield (1997) Fox (1997a&b) Chea Sam Ang (1997) Fortech (Dec. 1997) Fortech (May 1998) |
| World Bank managed (with WWF, TFT, BNPP): - Certification Workshop (November 1999) - Certification Working Group (2000) - Mekong Basin Countries Symposium on Forest Law Enforcement (June 1999) | - Concession Management - Forest Law Enforcement - Independent Certification of sustainable forest management | Meetings | Industry – concessionaires NGOs | Minutes of Certification Working Group meeting |
| ADB-Supported Sustainable Forest Management Project | - Concession Performance Review - Community Forestry - Concession Management Guidelines | - Workshops - 3 Local Consultations on Community Forestry (Protected Areas, Concessions, other forest areas) - International Workshop on Concession Review | Community Representatives Concessionaires, NGOs, Donors | Fraser-Thomas (2000a, 2000b, 2000c) |
| Messages Integrated in FCMCPP | Established range and depth of social conflicts, interests, and potential mechanisms that needed to be addressed by the Forest Management Regulatory System | | | |
| Key Synthesis Documents | Guidelines for Social Responsibility (1999) Guidelines for Biodiversity Conservation in the Managed Forest (1999) | | | |

II. Donor and NGO Consultation

| Forum/Mechanism | Events | Bank Role and Project Issue | Participation | Documentation |
|---|---|---|---|---|
| Consultative Group | Consultative Group Meetings (1999, 2001, 2002, 2004) – Forestry has been a prominent agenda item on all Bank-co-chaired CG meetings and also discussed at regular Interim Meetings | 1999 CG – Bank presents paper on Vision for Forestry Sector Development, discussing proposed project 2002 CG – Bank responds to questions on SAC and FCMCPP; helps revise language on SFMP/ESIA disclosure benchmark | Government, Donors, and NGOs | CG reports |
| Thematic Working Group (Previously Working Group on Natural Resources Management) (TWG is an outgrowth of the Cambodia Consultative Group Process and is one of a family of Government-donor committees established to monitor progress on key development and reform issues) | TWG/WGNRM process developed in response to Prime Minister's request for more frequent meetings to assist in monitoring reform program and advising on implementation; monthly or more frequent meetings from 2000 onward | Regular consultations on concession management and reform issues, including FCMCPP since 2000 | Government, Donors, and NGOs | Meeting Minutes |
| Independent Forestry Sector Review (IFSR) Planning and preparation – March 2003 – April 2004 | Planning and logistical meetings Public Workshops, including: - Development Assistance to Cambodia Forestry Sector – October 2003 - Institutions and Governance – January 2004 - Assessment of the Natural Resource Base – January 2004 | Bank participates in preparation of TOR and provided funding for team leader Bank presentation on its natural resources operations, including FCMCPP, SAC and Biodiversity and Protected Areas Management Project | Donors, FA, NGOs, and various Government ministries | TOR Proceedings and Bank Presentation BTOR February 5, 2004 |
| Follow-up April 2004-ongoing | Publication of report on website, April 2004 Compilation and distribution of comments, August – October 2004 | Bank issued comments on October 2004 | | Website Hard copy |
| Bank Country Strategy and Programming | 2000 CAS Workshops, included background study on land issues – 1999) | | Government, NGOs, Donors | CAS |
| | Consultation on SAC and Bank future role in forestry in Cambodia – November 2003 | Bank-initiated workshop | | Bank discussion paper |
| | Community Forestry Meeting hosted in Bank Country Office – December 9, 2004) | Bank-hosted discussion on implementation of Community Forestry Sub-Decree (led to Bank preparation of JSDF proposal) | | Draft JSDF proposal |
| | Governance CAS – 2005 | Joint Bank-DfID-ADB CAS | Government, Donors | Draft CAS |

III. SFMP/ESIA Consultation during Implementation

| Instrument (Sponsor) | Dates | Approach | Documentation |
|--|-------------------------------|---|---|
| Strategic Forest Management Plan and Environmental and Social Impact Assessment Preparation (15 Concessionaires) | June 2000 – March 2002 | Social Surveys (10% sample of households living in or adjacent to concessions) Follow-up interviews and consultation, as described in SFMP/ESIA submissions | SFMP/ESIA Submissions of: - Cherndar Plywood - Colexim - Everbright - Kingwood - Mieng Ly Heng - Pheapimex (3) - Samraong Wood - Silveroad - SL International (2) - Superwood - Timas - TPP Cambodia Timber Product - Youry Saco |
| Voluntary Submissions to FA during public comment | November 2002 - January 2003 | NGO specialist and NGO facilitated community consultations | Flora and Fauna International (11/30/2002) Global Witness (11/30/2002) NGO Forum (11/30/2002) Conservation International (11/27/ 2002) Seila (11/21/2002) WildAid (11/29/2002) Ratanakiri NGO/IO-NRM Working Group (11/2002) |
| FA Consultations (see Attachment 1) | November 2002 – February 2003 | FA-facilitated Workshops | FA Reports on Workshops |

Attachment 1. Consultations on Environmental and Social Impact Assessment (ESIA) of Forest Concessions undertaken by FA

| Concession | Province | District | Commune | Village | Date | No of local people | Representing No. of villages | Letter No. | Comments |
|---|---------------|----------------|------------------------------------|--------------------------|-----------|---------------------|--|------------|--|
| Cherndar Plywood Concession | Preah Vihear | Tbeng Meanchey | Pur | Pur | 24-Nov-02 | | | 458 | Based on letter dated 11/30/02 of 15 people representing 783 families requesting a modification of ESIA and SFMP |
| | | Chheb | MLuprey II | Preus Ka-ak | 28-Nov-02 | | | | |
| | | Choam Khsan | Pring Thom | Kralapeah | 03-Dec-02 | | | | |
| Colexim Enterprise | Kampong Thom | Sandan | Tumring | Sralao Strong | 05-Dec-02 | | 6 | 460 | Based on letter dated 11/30/02 of 15 people representing 1,300 people living in the concession forest area requesting a modification of ESIA and SFMP |
| | | | Sochet | Kraing | 01-Dec-02 | | 6 | | |
| | | | Meanrith | Sam Orng | 25-Nov-02 | | 5 | | |
| Everbright Forest Concessionaire | Kratie | Sambor | Kampong Cham | | 22-Nov-02 | ? (49 total people) | 1 | 450 | Based on letter dated 12/30/02 of 15 people representing 739 families requesting for changes to the ESIA and SFMP |
| | | | Boeung Cha School | | 22-Nov-02 | | 1 | | |
| | Stung Treng | Siem Bok | Siem Bok | | 24-Nov-02 | | 1 | | |
| Kingwood Forest Concessionaire | Stung Treng | Stung Treng | Preah Bat | Kang Memay | 24-Feb-03 | | | 455 | Based on letter dated 12/30/02 of 7 people representing 325 families requesting a modification of ESIA and SFMP |
| | | Sesan | Kbal Romeas | | 27-Feb-03 | | | | |
| Mieng Ly Heng Forest Concessionaire | Kampong Thom | Baray | Baksna | | 23-Nov-02 | | 3 | 454 | Based on letter dated 12/30/02 of 15 people representing ethnic minority people living in Mieng Ly Heng Concession Forest requesting a modification of ESIA and SFMP |
| | Preah Vihear | | | | 05-Dec-02 | 344 | 36 | | |
| Pheapimex Fu Chan Forest Concessionaire | Kampong Thom | Santuk | Boeng Lvea | Tbeng | 09-Jan-03 | | 6 | 453 | Based on letter dated 11/30/02 of 15 people representing 817 families requesting a modification of ESIA and SFMP |
| | Kratie | Sambor | Kampong Cham | | 19-Jan-03 | | 7 | | |
| | | Prek Prasab | Chroy Banteay | | 15-Jan-03 | | 3 | | |
| | | Sambor | Vadanak | | 17-Jan-03 | | 3 | | |
| Pheapimex Fu Chan | Stung Treng | Thalaboriwath | Thalaboriwath Chamka Leu Kang Cham | Thalaboriwath Chamka Leu | 13-Jan-03 | | Representatives of 11 commune councils | 457 | Based on letter of 11/29/02 from 15 people representing 716 families asking for changes in ESIA and SFMP |
| | | | | | 16-Jan-03 | 47 | | | |
| | | | | Kang Cham | 19-Jan-03 | 58 | | | |
| Samraong Wood Forest concessionaire | Oddar Meanchy | Anglong Veng | Anglong Veng | Yeang Khang Cheung | 30-Dec-02 | | 3 | 459 | Based on letter dated 11/29/02 of 15 people representing 734 ethnic minority people requesting a modification of ESIA and SFMP |
| | Seam Reap | Varin | Svay Sar | | 11-Jan-03 | 27 | | | |
| SL Company | Koh Kong | | | | | 61 | | 456 | Based on letter dated 11/30/02 from 61 people representing 181 |

| Concession | Province | District | Commune | Village | Date | No of local people | Representing No. of villages | Letter No. | Comments |
|--|----------------------------|----------|----------------------|-----------|-----------|--------------------|------------------------------|------------|---|
| | | | | | | | | | families asking for modification of the ESIA and SFMP |
| SL International Forest Concessionaire | Monduliri | | | | | | | 461 | Based on letter dated 11/30/02 of 18 people representing 716 ethnic minority people living in the concession forest area requesting a modification of ESIA and SFMP |
| Timas Resource Forest Concessionaire | Preah Vihear | Chey Sen | Putrea | | 28-Jan-03 | 2 | | 451 | Based on letter dated 12/30/02 of 15 people representing 894 families requesting changes in ESIA and SFMP |
| | | | Salang and Torsou | | 29-Jan-03 | 6 | | | |
| | | | Kyong | | 30-Jan-03 | 3 | | | |
| | | | Thmea | | 31-Jan-03 | 3 | | | |
| | | Chheb | Chrach | Pakdevadh | 01-Feb-03 | 5 | | | |
| | | | Chheb II | | 02-Feb-03 | 1 | | | |
| | | | Sangke I and Chheb I | | 03-Feb-03 | 7 | | | |
| TPP Concession Forest Company | Siem Reap and Preah Vihear | | | | | | | 452 | Based on letter dated 11/30/02 of 15 people representing 788 families requesting a modification of ESIA and SFMP |

Source: FA Reports

ANNEX 3 SUPERVISION MISSION CHRONOLOGY

| Date | Team Composition |
|---|---|
| November 2000 | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist • Environment/Forestry Specialist • Procurement Specialist • Financial Management Specialist |
| June 2001 | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist • Environment/Forestry Specialist |
| November– December 2001 | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist • Environment/Forestry Specialist |
| March 2002 | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist* |
| July 2002 | Task Team Leader stationed in Phnom Penh until December 2003; supervision conducted in the field |
| December 2002 | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist* |
| February 2003 MTR Supervision Mission | Cancelled due to lack of progress in project implementation |
| May 2003 Replacement for February MTR Supervision Mission | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist • Procurement Specialist |
| October 2003 | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist • Environment/Forestry Specialist • Financial Management Specialist |
| April 2004 | <ul style="list-style-type: none"> • Task Team Leader/Lead Natural Resource Economist • Sr. Forestry Specialist • Communications Officer • Communications Associate • Sr. Social Scientist |
| October 2004 | <ul style="list-style-type: none"> • Task Team Leader/Sr. Forestry Specialist • Sr. Social Scientist • Communications Officer • Forest Conservation Management Specialist • Social Forestry Specialist |

* Procurement and Financial Management Specialists visited the project separately.

ANNEX 4
SELECTED DOCUMENTS AND CORRESPONDENCE

1. Cambodia Forest Concession Management Joint Working Group – Report of 1st Meeting, 16 May 2000
2. Email from Task Team Leader on Cambodia Forestry, February 22, 2001
3. Management Letter from Country Director to Senior Minister, Ministry of Economy and Finance, October 4, 2001
4. Letter from Task Team Leader to Minister of Agriculture, Forestry and Fisheries, Economy and Finance and Environment, October 19, 2001
5. Letter from Country Director to Minister, Ministry of Agriculture, Forestry and Fisheries, December 12, 2001
6. Letter from Task Team Leader to Director General, Department of Forestry and Wildlife, October 3, 2002
7. Management Letter from Country Director to Minister, Ministry of Agricultural, Forestry and Fisheries, December 6, 2002
8. Letter from Minister, Ministry of Agricultural, Forestry and Fisheries to Country Director, December 18, 2002, with attachment
9. FRM 5th Quarterly Report, Appendix 1 – Description of Satellite Imagery Study, Response to Letter sent by Global Witness, March-May 2003
10. Management Letter from the Rural Sector Director to the Director General, Department of Forestry and Wildlife, May 21, 2003
11. Quality Enhancement Review – October 2003
12. Email from Senior Operations Officer on Meeting with Global Witness, July 2004

CAMBODIA FOREST CONCESSION MANAGEMENT JOINT WORKING GROUP REPORT OF 1ST MEETING, 16 MAY 2000

Background

The ADB funded Concession Review report, and the dialogue following its release in draft, have created a valuable momentum for change in the management of Cambodia's forest sector. All parties expressed a commitment to sustainability and equitability principles as a basis for management. The Department of Forestry and Wildlife (DFW) and the Cambodian Timber Industry Association (CTIA) undertook to continue the dialogue, in an attempt to respond quickly and positively to the various recommendations of the ADB report and the Review Panel. The following is a brief report on the 1st meeting of the Joint Working Group, established by the DFW and the CTIA for this purpose.

Participants

- The Department of Forestry and Wildlife, represented by the Director and some of his senior staff;
- The CTIA, represented by the Chairman and some concessionaires;
- The ADB Sustainable Forest Management Project, represented by the Team Leader;
- The Facilitator, an international consultant.

Agenda

1. Role of CTIA in the dialogue;
2. Discussion of timing and process for establishment of standards of acceptability for concession management plans;
3. Proposals for performance milestones in management plan development;
4. Discussion of process for the establishment of interim annual allowable cuts (AAC), pending acceptance by DFW of concession management plans;
5. Discussion of process and timing for review of draft model forest concession agreement. Identification of critical questions and inputs required;
6. Mechanisms for involvement of DFW staff in concession inventory and monitoring work;
7. Proposals for the Working Group's own work-plan;
8. Timing and agenda for next meeting.

Discussion and Conclusions:

1. **CTIA Role:** The CTIA is able to represent the concessionaires on all matters of a general or technical nature in the dialogue. Renegotiation of individual contracts later in the process will be bilateral, between the RGC and each concessionaire.

2. **Standards for Sustainable Forest Management Plans:** Standards for the development of management plans will be developed with technical assistance provided by the existing ADB project, now in its concluding 3 months. Appropriate experts will be on hand in early June, and the standards will be available in early July 2000. The experts will present an inception report to the Joint Working Group early in their work, so that the CTIA and other stakeholders can make appropriate input to the process of standards development.

While the standards will be the product of a consultative process, it will be up to the DFW to enforce compliance, in the design of the management plans which will be based on them. It is anticipated that the standards derived from the consultative process will be available to the CTIA, for their acceptance, in July 2000.

3. **Performance Milestones:** The standards for management plan design will be in place in July, as above. By the beginning of September 2000 the CTIA will submit, for the approval of the DFW, evidence that it has obtained the services of credible professional expertise, to lead the process of plan development for its members, in response to the standards.

By early October 2000 the CTIA will present to the Joint Working Group, for approval by the DFW, an inception report by the planning team. The report will cover the planning parameters, information requirements, scope of work, and resource requirements, for the formulation of management plans by the concessionaires.

Fieldwork on the forest-technical, environmental, and social aspects of the management plans will take place in the dry season (October 2000 to May 2001). Management plans will be submitted not later than September 2001. The DFW may take two or more months to review and approve or reject each proposed plan.

The 15 November 2001 deadline for submission of the sustainable forest management plan by the concessionaires was understood to be a real deadline. Concessionaires failing to meet the deadline will be so notified by the DFW. If an acceptable management plan is then not submitted by 15 December 2001, the offending concessionaire will face immediate cancellation of the concession, at the discretion of the Director of DFW, after consideration of any mitigating factors and after one month's prior notification, in line with the subdecree on Forest Concession Management.

4. **Interim Annual Allowable Cuts:** For the interim period until management plans are in place, the CTIA and the DFW have agreed to take a very conservative approach, by reducing annual allowable cuts by at least 50% to 70%. Subdecree 049 provides for a maximum offtake of 30% of mature or over-mature trees in any given area for the calculation of current AAC. For the cutting season which will begin in November 2000, the interim AAC will be reduced between 50% to 70%. Existing regulations concerning girth limit, species, and other silvicultural, environmental and social parameters will apply. Monitoring of the cutting activity will be carried out by staff of DFW's Forest Management Office (see below).

5. **Draft Model Forest Concession Agreement:** The ADB Concession Review Project has provided a draft model agreement, as a basis for discussion leading to revision of the concession contracts. It was agreed that review of that document should begin at an early date, under the auspices of the Joint Working Group. A date and process for the review will be determined at the next meeting. General issues concerning royalties and taxation will be considered here, among other matters. It is understood that finalization of contracts will be a bilateral procedure, and that the terms of each contract will depend in part on the content of the particular management plan.

6. **DFW Staff:** It was agreed that there are at least two separate roles for DFW staff in the management of concessions in the field, i.e. inventory and monitoring. To be carried out effectively, both require resources of funds, equipment and training. Both tasks could legitimately be charged to the concessionaires in the form of a service charge, if an appropriately transparent and accountable financial mechanism were in place. The Director of DFW undertook to explore the establishment of an official mechanism whereby service charges would be paid by the concessionaires to the DFW, who would use the funds to meet the costs of the services, including reasonable incentive payments to staff.

The two functions of forest inventory and performance monitoring are quite separate and potentially in conflict. Inventory tasks will be carried out by staff of DFW's Forest Research Institute. Monitoring will be the purview of the Forest Management Office. It is anticipated that the Geographic Information Systems (GIS) unit of DFW will be similarly involved, in the provision of mapping services.

7. **Work Plan:** It is intended that the Joint Working Group will meet frequently. A formal workplan will be developed for confirmation at the next meeting.

8. **Next Meeting:** Date to be announced, on or about the 30th of May 2000.



William B. Magrath

Subject: Fw: Cambodia Forestry

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Subject: Cambodia Forestry

As the subject of the Cambodia Draft Forestry Law has come up, I thought it would be useful to give a recap on where we have been and come to generally on forestry in Cambodia. I have tried to keep this as brief as I can and will be happy to provide additional information or references as needed. I have also not dwelt on biodiversity issues. Glenn is better equipped there. I will be preparing a similar note covering the sector in Lao PDR. Please let me know if this is useful and if you need additional information.

Immediate Issues and Next Steps for the Bank.

Legislation. A draft law was submitted to the Council of Ministers by MAFF on February 1. The draft, which has not been provided to the Bank, is reportedly under review, but debate by the full CoM is not yet scheduled. The Prime Minister, however, is said to have ordered that the draft be forwarded to the National Assembly by March 1 (the significance of the SAC and IMF target dates in this are not known).

Government has not responded on Bank comments on most recent draft provided to the Bank. Without assurance on the points raised, the current draft can not be considered satisfactory to the

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Cambodia

Forest Concession Management and Control Pilot Project

Bank. Recently, the Bank has been trying to make arrangements for Government acceptance of additional legal technical assistance. Resources are available under the PHRD for the LIL project or under the LIL itself. Effective assistance could be provided while the draft is being considered at an interministerial level or at the National Assembly. Whatever the status of the draft at the time of the upcoming SAC supervision mission, the Bank should request an explicit schedule for further processing and consultation linked to the upcoming Bank assistance.

Forest Law Enforcement. Global Witness and Government are in indirect negotiations regarding public disclosure of information on alleged illegal logging activities. Depending on the outcome of these negotiations, the Bank will need to work with Government to identify an alternative independent monitor or to satisfy itself of the viability of the agreed protocols. The Bank may eventually be called upon to assist in dispute settlement between Government and Global Witness.

Concession System Restructuring. The Bank should request from Government a schedule of actions (between now and end-September, 2001) on the renegotiation of concession contracts and the processing of any cancellations and terminations. This should include steps on the recruitment and selection of legal and other advisers under the recently signed PHRD. The Bank is mobilizing consultants to review results of an ongoing industry sponsored study of royalties and revenue arrangements.

Forest Concession Management and Control Pilot Project. Government should complete contracting with the Project Adviser and proceed with consultant selection and other project activities. The Bank is continuing to work with concessionaires, NGOs and the DFW on field testing of biodiversity guidelines for concessions.

New Issues. The Bank should consider incorporation of second generation forestry and natural resource management policy issues into the proposed second SAC. Potentially important issues include: domestic timber market pricing; log export deregulation; decentralization of community forestry administration; judicial reform; Department of Forestry and Wildlife budget sustainability.

Donor Coordination. With the posting of a Senior Operations Officer responsible for rural sector issues to the Phnom Penh Office, as well as Bank predominance in the natural resource sectors, the Bank should consider assuming leadership of the Donor Working Group on Natural Resource Management. The Bank should also consider preparing a forestry sector update for the upcoming CG Meeting.

Background. Forests cover roughly half of the country (10-11 million ha out of 18 million ha). Some 3 million ha (most forested) are designated as parks and protected areas. At the peak, nearly 7 million ha of forests had been granted as industrial forest concessions. This amounted to essentially all of the commercially valuable area and also included marginal and unstocked areas. Cancellations, mostly affecting relatively less valuable areas, have reduced the area under concession to around 4.7 million ha. Most of the remaining forest amounts to scattered woodlands, open areas and flooded forests, which while of value to local communities and for environmental considerations, are

of limited commercial interest.

Deforestation is proceeding at a relatively slow pace (by regional and international standards), although there are increasing reports of conversions to agriculture. More significant is forest degradation largely due to illegal logging. There are no genuinely scientifically defensible estimates of annual allowable cut for the country, but indicatively 0.5 million cubic meters can be assumed. In contrast, total fellings, 90% of which were illegal in 1997, were estimated at over 4 million cubic meters. It is generally acknowledged that illegal logging has fallen substantially, but there is evidence that it is beginning to rebound. Logging, including illegal logging, generally focuses on large diameter valuable specimens. Collateral damage (road and track clearance damage to surrounding trees, etc.), and the long term distorting effect of removing sources of high quality regeneration, leaves an intact forest, but one that is significantly reduced in quality and value.

Government Policy. Starting in the mid 1990's Government embarked on an attempt to aggressively develop the commercial and industrial potential of the resource. This was motivated by a conventional view of the resource as an easy source of public revenue and as a foundation for industrial development as well as by political and corrupt private pecuniary interests. The policy mix included a range of discredited protectionist measures (log export bans, domestic processing investment requirements) and low royalties. Land allocation was inappropriate, concessionaire selection was noncompetitive and nontransparent, contracts were poorly conceived, local interests were not considered, and monitoring and compliance provisions were nonexistent. As a result, the concession system was dominated by large foreign interests, with essentially no accountability, very little incentive to practice sustainable management and Government had no countervailing regulatory capacity or a commitment to requiring acceptable standards of forest management. Bank sector work in 1995 estimated that sustainable revenues from forestry could eventually average \$100 million annually, but in practice have never exceeded \$12 million and are now in the neighborhood of \$8 million (an impact of the East Asia Financial Crisis has been depressed timber prices such that a more realistic target for timber revenues would be around \$30 million, especially considering the extent of forest degradation in the intervening years).

Government at the highest levels has made numerous pronouncements on its commitment to forestry reform and, especially, to controlling illegal logging. Delivery on these commitments has been mixed. At the DFW level, support for Bank assistance is strong and essentially all Bank initiatives have been enthusiastically supported and welcomed. Administrative capacity is seriously limited at both the DFW and MAFF levels limiting follow through.

Throughout the Bank's involvement in the forestry sector, an ongoing concern has been the depth and breadth of Government commitment to sustainable forestry and to due diligence in the management of public lands and forest revenues. Government's implementation and policy failures, while perhaps extreme, are not dissimilar to those seen in other forest rich developing countries. High levels of illegal logging and complicity from the military, senior political leaders and forestry officials are common features of the forestry sector. It was the depth of the problem, the potential of the sector vis-a-vis the poverty of the country, and the consensus among donors that

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raised the profile of forestry and made it a priority.

Bank Strategy. Following from the initial 1995 sector study, the Bank has attempted to assist design and introduction of reformed policies and strengthen capacity, while hedging with respect to uncertainties about Government commitment. Because of this reluctance, resources were first provided to Government through the Technical Assistance Credit, and through various ad hoc trust fund arrangements. Only in the last year was a LIL project approved and an implementation support PHRD mobilized. Attention has focused on four aspects: controlling illegal logging; forest management; concession system restructuring; legislative and regulatory reform.

Concession System Restructuring. Government's prior actions to place essentially the entire commercial resource under flawed concessions has conditioned and hamstrung the entire process. Bank and Government legal specialists have reviewed the concession contracts in detail and conclude that, although they are unfair to Government and flawed in various respects, they constitute binding obligations. In particular, Bank lawyers argued strongly that the Bank should not interfere in the contracts and that the Bank would be exposed to considerable risk by promoting arbitrary terminations or cancellations. Government's Bank-financed legal advisers recommended that the performance of individual concessionaires against various obligations in the contract could be used as the basis to either force renegotiation or to justify unilateral termination. This would require finding and documenting specific performance lapses related to financial obligations, forest management or other requirements. A Performance Review exercise was subsequently carried out for Government by ADB grant-financed consultants who identified systemic failure across essentially all concessions (as well as on Government's part). Rather than specifically identifying concessions for cancellation (with two exceptions), the ADB TA proposed a voluntary restructuring process. Building on these findings, Bank SAC conditionality was designed to require Government to pursue a voluntary restructuring process with concessionaires and to cancel for cause nonresponsive concessionaires (this conditionality is due to trigger in the Fall of 2001 and a series of preparatory actions is underway).

The Bank has had extensive discussions with some concessionaires on this program. An industry association has been formed and has broadly endorsed the approach. Concessionaires have been in discussion with Government on the requirements of the restructuring process, has negotiated a new standard contract (to be used as the model for bi-lateral negotiations). An industry sponsored study of forest royalties and revenue provisions is ongoing and is a critical ingredient to the restructuring/renegotiation process. Government has unilaterally canceled about 10 concession contracts (without consultation with the Bank) for reasons that have generally not been disclosed and which seem to include inadequacy of a resource capable of supporting commercial operations (an explicit justification in the case of two ADB recommended cancellations). These have not resulted in any ongoing dispute or claims against Government. Some concessionaires are clearly incapable and/or unwilling to voluntarily restructure. Others are positioning themselves to assume control of additional resources through consolidation of land from canceled or abandoned concessions. Others seem intent on operating without regard to the restructuring initiative and clearly doubt Government's intention to follow through.

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Some stakeholders, especially NGOs, are also unconvinced of Government's intentions and are not persuaded by the extended review and renegotiation process. Global Witness, in particular, has on several occasions called for immediate and unilateral concession termination on the basis of alleged involvement of concessionaires in illegal logging. Other NGOs have called for greater transparency in the restructuring process and for clear definition of the process. Their particular concern is local community issues and consultations. Donor agencies and the IMF have generally seem to have been satisfied with the process to date. ADB financed consultants, with whom the Bank and IMF consulted extensively, contributed heavily to the definition of the restructuring process. Particularly significant is that the ADB-financed consultants were unable to specifically document charges of illegal logging and raised concern that illegal logging would accelerate in the absence of concessionaires. This supports the gradual and, to the extent possible voluntary strategy being pursued. It does leave open the risk of concessionaire abuse of the interim period and of Government reneging on the final steps. The risks of concessionaire abuses are small relative to damage already incurred and the risk of Government default is managed by the tranching of the SAC.

Forest Management. The scientific and technical basis of forest management in Cambodia is extraordinarily weak. In addition to there being little knowledge on forest dynamics on which to develop harvesting or other management prescriptions, there is no capacity or physical or institutional infrastructure whereby Government can exert itself to influence forest utilization. In the absence of standards for routine and disciplined forest management, illegal logging has become the norm. In parallel with efforts to control illegal logging (see below), the Bank has supported development of a package of technical recommendations and standards covering harvesting, engineering works, biodiversity conservation, social issues, management planning and inventory. These have been developed through technical assistance working in close collaboration with the Department of Forestry and Wildlife (DFW). A comprehensive first draft of the "Cambodian Code of Forest Practice" has been prepared in English and translated into Khmer as a component of the new regulatory framework for concession forestry (see below). These general guidelines are intended to be used by the DFW and concessionaires in the development and evaluation of strategic and operational plans and as the basis for the specification of approvals and permit conditions.

Introduction of these provisions will be gradual due to the general nature of these guidelines, the limited capacity of Government staff to interpret field conditions and to apply judgment with respect to the application specific features of the guidelines, and because of severe constraints on the DFW in terms of mobility, communications, and infrastructure. The recently approved Bank-financed Forest Concession Management and Control Pilot Project LIL (\$4.8 million) will further support development of this system through technical assistance, training, provision of equipment and infrastructure. This project is experiencing minor delays due to recruitment problems caused by clearance procedures at the Ministry of Economy and Finance.

Illegal Logging. Illegal logging is a systematic and predictable result of the flawed policy and operational system for forestry in much of the developing world. In Cambodia, this has been

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Cambodia

Forest Concession Management and Control Pilot Project

accentuated by the affects of war and unrest and by continuing political instability. As noted, in 1997 illegal removals are estimated to have reached as much as 4 million cubic meters and possibly more. In the beginning of the Bank's interaction with Government on this issue, there was a general effort to deny and minimize the problem and to blame it on factors outside of Government's control (the Khmer Rouge, neighboring countries). Government's only substantive response to the problem was reintroduction in 1996 of a ban on log exports. This was never fully effective, poses various economic efficiency problems and is largely a diversion from the underlying problem. In addition, the Prime Minister has made numerous public statements on his determination to see illegal logging controlled. Government has claimed a 95% reduction in illegal logging. Until this logging season observers, including Global Witness, have not specifically challenged this assertion although there is little data to support any specific claim.

While the long term solution to an illegal logging problem needs to be rooted in sound routine sectoral and resource management, the crisis dimensions of Cambodian timber theft call for urgent and specialized measures. Bank-financed technical assistance introduced systematic data collection to estimate the severity and extent of the problem and the "Prevention/Detection/Suppression" framework as the basis for a coherent and sustainable forest law enforcement approach.

Currently, with Bank, FAO, UNDP, DFID, DANIDA and AusAID support, Government has put in place a Forest Crime Monitoring Project (this system is also specifically required under the IMF and SAC programs). This aims at supporting forest law enforcement by making available on a timely basis information on the general timber theft problem and on specific cases of illegal logging. The project provides training, equipment and expert technical assistance (identified by the Bank), A modern "Case Tracking System" has been instituted, remote sensing information is being routinely assessed and data and reports are being collected from the DFW and Ministry of Environment field staff. The most unusual feature of the Forest Crime Monitoring Project is that Government has officially recruited an "Independent Monitor" to report on the diligence of Government's own efforts. Global Witness, a UK-based NGO with an established program on Cambodia was selected to perform this role.

The Forest Crime Monitoring Project encountered substantial start up problems, but has generally proceeded well. The program involves several medium term capacity building activities and procedures for data collection and reporting will require more time to be fully institutionalized. Important issues have emerged on performance of the judicial system in handling cases of illegal logging brought by Government, the ability and willingness of Government to respond effectively to information on new cases and on the conduct by Global Witness of its work as Independent Monitor. Several high profile cases, where apparently strong evidence was presented in court have been overturned or dismissed by the judiciary. These cases are strongly suggestive of corruption and undermine the motivation of officials and staff to pursue new cases. In other incidents, Government pursuit of information may have been selective and possibly biased by personal considerations. These are difficult to disentangle from other capacity constraints but merit monitoring. Global Witness has on several occasions, including around the time of the recent Government/Donor meeting, enflamed the tensions inherently built into the Independent Monitoring

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arrangement. Its release of allegations to the media without notice to Government, the inclusion of particularly inflammatory language and aspersions against staff and senior officials may have ruptured the arrangement. Various parties are now attempting to reconcile Government and Global Witness and to promote agreement on mutually acceptable protocols and procedures.

Regulations and Legislation. Government's Bank-financed legal advisers provided Government with a detailed critique of the legislative framework for forestry development. Cambodian forest law (like much of the rest of the legal system) is a patchwork of instruments that date back into colonial times. Proposed legislation has been drafted at various time over the past seven years by Government, FAO, ADB-financed consultants and others. Satisfactory legislation was a condition of the first IMF program (canceled in 1997) and is required in both the current IMF program and the SAC. There are purely political aspects to the legislative process which account for some of the delay. These include rivalry between individuals and agencies. To a significant extent the Cambodian approach to drafting legislation by a lead technical agency is not conducive to a successful process for an intersectoral subject such as forestry.

Under the SAC, Government adopted a Sub-Decree on Forest Concession Management. This establishes the procedures and mechanisms for DFW administration of the concession system and incorporates directly or by reference the key products of Bank-financed technical assistance on concession management.

A specific legislative agenda has not been laid out for forestry despite considerable discussion and public debate. Within Government, which has repeatedly and independently expressed a commitment to enactment of a forestry law (the intent to enact a forest law is clearly implied in the Constitution, Article 58), there is interest in clarification of the administrative arrangements and assignment of responsibilities for control of public forests. Among other stakeholders, NGOs in particular, there is concern about acknowledgment and respect for local communities use of forest resources. Bank and IMF concerns include these and additionally relate to the orderly mobilization of the commercial potential of the resource base. In addition, throughout the drafting process a sometimes curious array of provisions arise including such arcana as a proposed requirement that registration of a marriage must be based on evidence that the couple has planted at least two trees!

The current drafting process was assisted by ADB-financed consultants who worked with a DFW drafting team. This team worked largely in isolation until a draft was released for public comment in May 2000. The draft that was released was a departure from the version supplied by the consultant and included provisions drawn from a wide variety of sources including colonial and other sources. These consultations were convened under the direction of an Under-Secretary of State of the Ministry of Agriculture, Forestry and Fisheries (MAFF) who assumed ongoing responsibility for the drafting process. There has been a mechanical approach to the drafting process at MAFF: all comments are noted and an effort is made to accommodate nearly all contributions, often without reference to guiding principle or objective. Updated English translations are available only at intervals and the translations have been of exceptionally poor quality.

The Bank has focused substantively, in detailed comments on earlier drafts (available on request), on four issues: definition of the national forest estate and the clarity and consistency of provisions for institutional jurisdiction over forest land and resources; provision for definition of feasible administrative arrangements for management of forest subsequent to the jurisdictional assignment; various provisions with respect to economic policies and revenue arrangements; and the need for adequate protection of customary users and use of forest resources. Discussions with responsible officials seem to find ready agreement on the economic policy issues (provisions on log trade, for example, were revised as suggested by the Bank). Discussions are amicable, but not definitive on administrative arrangements (there is consistent recourse by MAFF/DFW to language that is unclear in translation and which might be adequate for the concession areas but which will be less effective for other forest areas). On the general jurisdictional issue, as inter-sectoral and interministerial issues are involved it has been impossible to determine the viability of what is proposed by MAFF. Discussion with Ministry of Environment (which has authority under various instruments for parks and protected areas) only serve to reinforce the sense that existing legislation is unclear and that debate at the interministerial level is liable to alter the provisions of the MAFF draft. Ministry of Economy and Finance officials have declined to discuss work ongoing at the sectoral Ministry. On all these issues, the Bank position has not been to advance specific strategies or provisions, as various alternatives are feasible and would be satisfactory provided there is clarity and consistency.

Integrating comments and suggestions from various sources is a difficult challenge for Government, especially when their own guiding philosophy is so weak. NGOs have consistently complained of limited access to the drafting process. NGO criticisms have centered on an alleged Government-centric approach to the sector and on a view that MAFF/DFW are seeking to control all forest resources at the expense of local communities and nontimber resources. There is some validity in these criticisms, but some go well beyond international norms. FAO and NGO tends to recommend detailed and exhaustive definition in the law of nearly all issues so that future discretion is limited. The Bank and ADB, have tended to recommend aiming for enabling legislation and retention of discretion for subsequent lower level instruments.

Second Generation Issues.

Although absorptive capacity is a major constraint, in addition to the current priorities several additional issues may merit inclusion in the Bank dialogue with Government. Community forestry, although referred to in passing in the SAC and dealt with as a safeguard issue in the forest concession management context, is an issue that affects livelihoods of much of the rural population living outside of well forested areas. Government policy generally does not provide these people guarantees of access for subsistence purposes and does not provide for effective management of these resources. Similarly, although the required sums are small, neither Government, the Bank or other donors are providing significant investment resources to support agroforestry, village woodlots, fruit and orchard production, etc. Investment support for these would best be channeled through decentralized agricultural and rural development operations, but policy dialogue on decentralization of community forestry services and access to forest resources could be

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incorporated into SAC II discussions.

Log Export Policy is currently restricted in relation to controlling illegal logging. In addition to being ineffective as a law enforcement device, the ban is distortionary and reduces revenue potential and exacerbates domestic over processing capacity. A deregulation policy could involve the introduction of an export tax or other measures, but needs to be considered in the context of concession royalty reform and strengthened law enforcement. Government is similarly inclined to paternalistic and interventionist policies in the domestic lumber market. An intention is frequently indicated to exert quantitative controls on concessionaires to force allocation of timber to local markets. These are potentially very distorting and could contribute to corruption and other problems. To date efforts in this direction seem largely ineffective, but could become significant obstacles to concession reform.

Financial and administrative arrangements for the DFW also need to be reviewed and addressed by Government. Conventional public sector budgeting and civil service terms and conditions will not sustain the level and intensity of management being piloted under the LIL. Should these prove effective, special budgetary and staff remuneration provision will be needed and justified to maintain the concession management system (and the revenues which it will generate). Although centralized supervision and control of concessions by the DFW is essential, the administration of community forestry ought to be inserted into provincial and district rural development and agricultural development. Considerable dialogue and analysis will be needed to reach a consensus with Government on appropriate arrangements.

Alternative forest management regimes for areas taken from canceled concessions have not been elaborated in depth. DFW management of areas not suited to community management is a possibility, but Departmental capacity and policy need to be established.

Donor Coordination.

The Bank has expended considerable effort to work collaboratively with other donors (especially FAO and ADB) and NGOs (especially Global Witness). No other agency has the level or breadth of investment as the Bank in the sector, the high profile (and concomitant reputational risk), has worked with Government to visualize a development scenario for the sector, or has been able to mobilize the expertise needed to formulate specific programs. Nevertheless, FAO, UNDP and ADB are playing increasing, and increasingly disruptive, roles in the donor-Government process. In both the forest law discussion and the independent monitoring dispute, FAO has exacerbated tensions and has not been able to provide constructive alternatives or independent assistance. FAO and UNDP have both been ineffective in administration of the basic financial and operational support of the Forest Crime Monitoring Project. ADB was partially effective (with the support of the Bank) in the concession system review technical assistance, but has abandoned the effective work of its legal consultants on the draft forestry law. Other donors, have supported consultants that have become enmeshed in Government compliance with Bank SAC conditions without consultation with the Bank on TOR or consultant selection.

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NGOs are becoming increasingly active in the sector. Local NGOs, including the NGO Forum are relatively constructive and professional, but approach the Government (and especially Government technical staff) in a confrontational manner and with a highly loaded social agenda. International environmental NGOs are becoming increasingly active in Cambodia, but are seriously divided over priorities and approach. Conservation International (CI), a U.S.-based NGO with links to the Bank through the Critical Ecosystems Fund, has proposed a major conservation set aside in the Cardamoms Mountains (in the southwest). This area is currently under concession and the financial package offered made to Government by CI could result in difficulties coordinating activities and projects, not to mention maintaining the coherence of the concession system reform program.

The Bank-financed LIL provides Government with a senior Project Advisor who is expected to assist Government take a more active and decisive role in donor coordination. This should help to resolve some donor coordination problems, as should the appointment of a Senior Operations Officer to oversee the rural portfolio from the Phnom Penh Office. Nevertheless, considerable specialist effort will continue to need to be devoted to donor coordination.

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October 4, 2001

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Senior Minister
Ministry of Economy and Finance
Phnom Penh, Cambodia
Fax No.: 855 23 427 799

H. E. Chan Sarun
Minister
Ministry of Agriculture,
Forestry and Fisheries
Phnom Penh, Cambodia

H. E. Mok Mareth
Minister
Ministry of Environment
Phnom Pehn, Cambodia

Your Excellencies:

I would like to take this opportunity to forward two notes prepared for the World Bank relating to Cambodian forestry sector reform issues and to take note of several other topics related to forestry.

Comments on the draft Cambodia Timber Industry Association-sponsored Royalty Study. In response to the CTIA initiative to bring solid analytics to bear on the issue of forest royalties, the Bank commissioned several leading authorities to review the study prepared by KPMG. The attached note summarizes their findings and offers suggestions on how Government and its private sector partners might proceed to settle on defensible royalties and forest revenue arrangements in the context of forthcoming concession restructuring discussions. In the unanimous view of the experts we consulted, the draft study seriously under represents the economic value of Cambodia's industrial forest resource and needs to be considered cautiously, including with respect to royalty renegotiations.

While the attached note does not recommend any specific royalty rate or formula, the comments do suggest at least three important considerations for incorporation into a royalty settlement. One is that, on lands where timber production outweighs other potential uses¹, the basis for forest revenues ought to be the economic value of

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¹ This determination, while in principal an economic issue, should realistically be made separately from royalty rate setting through a forest land allocation and management planning process, such as that introduced through the Sub-Decree on Forest Concession Management.

Cambodian timber in reference to international forest products prices and not necessarily the profitability of domestic wood processing by the current concessionaires. Second, in the interest of both Government and its private sector partners, provision should be made for periodic review of revenue arrangements and levels in consideration of evolving domestic and international markets trends, price levels, technologies and other considerations. Third, in addition to the level of the implicit royalty rate, the choice of revenue *mechanism* is an important consideration that could help to strengthen sector governance. In particular, serious consideration should be given to making fixed charges (such as area fees) an important component of the revenue mix along with charges based on volume harvested. Such combinations can be designed to be revenue neutral and to fairly allocate various risks between Government and concessionaires, while being more transparent and easily monitored and administered than volume based royalties alone.

Environmental and Social Impact Assessment Terms of Reference. The second set of comments, prepared by a Bank consultant with substantial experience in Cambodia and regulatory practice worldwide, concerns sample terms of reference (TOR) circulated earlier this year for environmental and social impact assessment of concession operations. These TOR were prepared privately on behalf of concession operators in anticipation of requirements likely to be imposed by Government in relation to reforms in the concession system.

While recognizing the good intent behind the preparation of these TOR, these comments express serious concern about the value of the proposed work and suggest a need for further collaboration between industry and Government in the planning and assessment process and for serious consideration of the way in which environmental assessment review and clearance functions will be organized within Government. The comments include a number of recommendations to take the required work forward, including utilization of the first phase work for scoping of impacts and consultation with affected communities. With respect to the review and approval process, recommendations are made, such as limiting Government agency involvement in the preparation of plans and assessments and definition of a transparent review process with specified roles for the Department of Forestry and Wildlife and the Ministry of Environment on the basis of existing Cambodian law and regulation.

I hope that both these sets of comments can be reviewed by government specialists and incorporated into Government's further consideration of these issues. If the Bank can provide additional suggestions or comments as you move forward with the concession restructuring process, please do not hesitate to ask. As you know, the ongoing Forest Concession Management and Control Pilot Project (LIL) provides resources to support technical assistance and other support and the Bank has arranged for a technical assistance grant to assist Government in implementation; and Mr. Magrath, our forestry specialist, would be happy to organize whatever additional support and clarification may be needed.

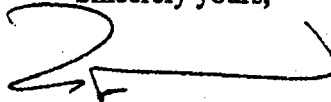
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Finally, I would like to congratulate Government on the preparation and adoption of draft forestry legislation. The draft legislation will go a long way in helping to solidify the forestry sector on a sustainable basis and to enhancing the economic and social contribution of the resource to Cambodian development. I recognize the hard work that went into the drafting process and the efforts that were made to consult widely and effectively with interested parties and stakeholders. I am pleased that the Bank was able to provide assistance in a timely fashion and want you to know that if the Bank can be of further assistance as the legislative process moves forward, you should please let me know.

In consideration of their interest in these matters, I am taking the liberty of copying this letter to the officials listed below.

Excellencies, please accept my best regards.

Sincerely yours,



Ian C. Porter
Country Director, Cambodia
East Asia and Pacific Region

CC. H.E. Sum Manit, Secretary of State, Office of the Council of Ministers
Mr. Ty Sokhun, Director, Department of Forestry and Wildlife
Mr. Mario de Zamaroczy, Resident Representative, IMF
Ms. Dominique McAdams, Resident Representative, UNDP
Mr. Jean Claude Levasseur, Resident Representative, FAO

The World Bank

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Belarus Resident Mission

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19 October, 2001

H. E. Chan Sarun
Minister of Agriculture, Forestry and Fisheries
Ministry of Agriculture, Forestry and Fisheries

H. E. Keat Chhon
Minister of Economy and Finance
Ministry of Economy and Finance

H.E. Mok Mareth
Minister of Environment
Ministry of Environment

Dear Excellencies:

Following my recent discussions with Government officials on the forest concession system restructuring process, I have taken the opportunity to consult with Bank Management and to review available documentation on the concession restructuring process. This includes the report prepared for Government by White and Case (1997), Asian Development Bank-sponsored reports by Fraser Thomas Limited, (1999, 2000), and reports prepared by Global Witness and the Royal Government's own reports on forest crime and illegal logging. I believe these reinforce the observations conveyed to Government during my mission and suggest the need for careful and deliberate consideration as Government moves forward with forest concession contract renegotiations and ratification.

As you will recall, under the Structural Adjustment Credit agreement, for second tranche release Government has committed to have completed the forestry concession contract review and taken actions based on the outcome of the review, within the framework of Cambodian law and the existing contracts, by: (a) terminating non-performing contracts, where appropriate; (b) requiring other concessionaires to present restructuring programs, satisfactory to IDA; and (c) not awarding any subsequent contracts outside of the scope, rules, and procedures set out in the Sub-Decree on forestry concession management.

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The World Bank recognizes the prudence with which Government is approaching these renegotiations and shares your concern about minimizing the risks associated with unilateral action by Government. Accordingly, we support Government in the continuation of a process that seeks to ensure that only concessionaires prepared to commit to full and complete compliance with Government's approach to economically, environmentally and socially sustainable forestry continue to operate. We are aware, also, of the additional protections incorporated into the draft model concession contract used as the basis for re-negotiations and general safeguards provided by the Sub-Decree on Forest Concession Management.

Nonetheless, Government should apply reasonable commercial standards to the selection of firms to retain and should, as suggested by Article 4.2 of the Sub-Decree on Forest Concession Management, take due consideration of corporate track record, patterns of compliance with law, regulation and financial obligations, and capacity to conduct technically sound operations. In this context, we would like to underline the need for Government to take account of well documented instances of serious default and deviation by various concessionaires. These include cases of convictions for involvement in illegal logging, pursuit of operations without compliance with Government regulations and requirement (in particular requirements for environmental assessment and public consultation), and failure to complete technically sound forest management plans. Some of this experience may have been partly the result of lax enforcement by Government in the past. In total, however, this pattern suggest that prudent commercial practice would lead to substantially higher rates of termination and non-renewal than was indicated as likely by Government officials.

Concern about the coherence of the restructuring process is, unfortunately, heightened by issuance of approvals for logging operations in the balance of 2001. These approvals are difficult to understand, in view of the ongoing negotiations, the incompleteness of management plans and the absence of filings of environmental assessment reports. We suggest that Government reconsider its options with respect to these approvals prior to resumption of operations in the upcoming dry season. Moreover, we strongly suggest that Government revise the permitting system so that henceforth permits can be issued to coincide with the natural logging season (for example October 1-September 30) as opposed to an arbitrary calendar year.

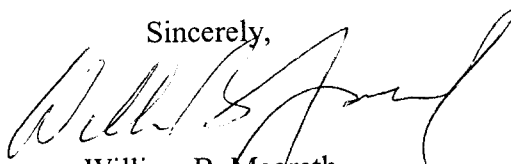
So as to ensure that future Government action on concession contracts does not adversely affect compliance with the terms of the Structural Adjustment Credit, we suggest that Government provide the Bank details on individual renegotiated contracts prior to final approval. In addition, may I call your attention to the Development Credit Agreement for the Forest Concession Management and Control Pilot Project under which the Government undertakes to provide the Bank an opportunity to review and comment upon any Forest Concession Management Plan prepared under the project. I hope that you will agree that this will assist Government in ensuring that such approvals are

appropriate and in accordance with international standards of good forest resource management.

Finally, we would like to acknowledge the additional time and effort that these measures may require. Please rest assured that the Bank will make every effort to provide resources under the Forest Concession Management and Control Plot Project and the associated PHRD implementation technical assistance grant.

If I can provide any additional information, clarification or assistance, please do not hesitate to ask. Because of their involvement and intense interest in these issues, I am taking the liberty of copying this letter to those listed below.

Sincerely,



William B. Magrath
Lead Natural Resource Economist
Environment and Social Development Unit
East Asia and the Pacific

cc. H. E. Chan Tong Yves
Ty Sokhun
Urooj Malik, Asian Development Bank
Jean-Claude Levassuer, U. N. F. A. O.
Ben Davies, UK DFID
John Buckrell, Global Witness
Mario de Zamaroczy, IMF

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December 12, 2001

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Minister of Agriculture, Forestry and Fisheries
Ministry of Agriculture, Forestry and Fisheries
Phnom Penh, Cambodia

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Excellency:

Forest Policy Reforms

The World Bank mission that visited Cambodia from November 27 to December 2, 2001, to review developments in the forestry sector has reported on its findings and recommendations and I would like to raise with you some of the serious concerns with the current situation and the risks that they pose to the success of the Government's forest policy reform efforts. These problems could adversely affect continued compliance with the terms of the Structural Adjustment Credit and of the IMF Poverty Reduction and Growth Facility operations and require your urgent attention.

Following Government's requests, the Bank mission worked with your staff and technical assistance advisers. It prepared an assessment of the forest crime situation and helped develop proposals related to the Forest Crime Monitoring and Reporting Project, the management of logging activities after December 31, 2001 and on next steps in the forest concession contract restructuring process. I attach the results of this work and would appreciate being kept informed of actions which the Royal Government takes or intends to take to follow up on these proposals and address the issues raised.

As I am sure you will agree with us, an urgency has been added to the situation because of the imminent elapsing of the 2001 logging approvals, the risks of an acceleration of illegal logging in the current dry season and because of the concerns that Government's international partners will raise at the upcoming Post-CG meeting in January next year.

Illegal Logging

Cambodia continues to face a serious timber theft problem. The level of forest crime appears to still be of worrisome proportions and higher than is recognized in official estimates and involves concessionaires, sub-contractors, and others operating within concession boundaries in disregard of Government standards and required procedures. The inconsistency of official estimates of crime and those of Government's Independent Monitor, Global Witness, and other observers is a serious concern and seems to be due to a series of problems involving the structure of forest management control

and compliance, the effectiveness of technical assistance, reluctance to accept technical assistance, and delays in mobilizing financial support. Government's decision to authorize logging during the balance of this year has also played a role in complicating the enforcement problem and may have given rise to future risks of accelerated abuses.

We believe that it is highly advisable that Government move quickly to resolve the problems facing the Forest Crime Monitoring and Reporting Project by acting on the recommendations made in Attachment 1. Specifically, it is proposed that Department of Forestry and Wildlife (DFW) immediately increase its field presence, utilizing funding under the World Bank-financed Forest Concession Management and Control Pilot project to support training and mobilization. It is also strongly suggested that DFW immediately move to more effectively separate investigation and enforcement activities, including management of the Case Tracking System, to be more independent from routine forest management functions. We also recommend immediate establishment of a Working Group, comprising DFW, the Department of Investigation (DI) (Ministry of Environment), the Focal Point, Global Witness, the FAO Chief Technical Adviser and the DFW Project Adviser, to commence weekly work programming meetings and to provide a mechanism for information exchange and greater cooperation and coordination in compliance monitoring and enforcement activities.

Also the Case Tracking System should be improved through greater precision and discipline in data entry, the ability to distinguish between major and minor forest crime, the ability to assign priorities to cases for investigation, and the re-establishment of geo-referencing of forest crime information in the DFW component of the system. Finally, we also recommend recruitment of an adviser to the Focal Point Coordinator. The adviser would assist the Focal Point in the review and evaluation of submissions from operational units and would ensure stronger internal quality control prior to release of reports.

Management of Logging Activities in 2002

Authorizations currently in place permitting concessionaires to proceed with logging activities up to December 31, 2001 present several complexities and problems in terms of enforcement of Government's policy of requiring full compliance with the terms of concession contracts and the Sub-Decree on Forest Concession Management and other laws and regulations. Given that no concessions have prepared and submitted for review and approval Forest Management Plans and Environmental and Social Impact Assessments, we believe that Government should enforce a full cessation of logging after December 31. Moreover, log stockpiles still in place in concession areas need to be carefully managed to prevent the co-mingling of illicit new fellings. Accordingly log transport should similarly be stopped as of January 1, 2002 pending completion of inventories of felled logs. These inventories should record full details of log location, volumes, species, condition, origin and other information needed to allow accurate future identification, royalty assessment and tracking. Only after complete inventory, marking,

mapping, receipt of full royalty payment and approval and public disclosure of a detailed log transport plan, should monitored and controlled log transport be permitted.

Government should continue with preparation of detailed plans for log inventory and proceed with definition of standards and guidelines for log transport that will provide assurance that additional illegal logging does not result from the clearance of existing log stocks from concession areas. These should take into consideration laws and regulations governing control of state property, collection and analysis of information on log inventories in relation to records of past logging approvals and royalty payments, and other factors that might influence the likelihood of future illegal logging in concessions and adjacent areas.

As agreed with the mission, attached as Attachment 2 is the draft Prakas on the “Implementation of provisions of the Sub-Decree on Forest Concession Management (suspension of activities and permits)” that the mission discussed with technical staff of the Department of Forestry and Wildlife. We believe that this draft contains the essential elements needed to provide guidance to DFW, other agencies and stakeholders and should be finalized as soon as possible. In the development of the additional procedures and standards, we suggest that efforts be made to ensure full and early public disclosure and interagency consultation within RGC.

Concession Management Contract Restructuring

In consultations with earlier Bank missions, as well as with other donors, Government has indicated that definitive progress was being made in the renegotiations of concession contracts and in the identification of concessions with whom it would not be appropriate to continue. As the Bank indicated in earlier correspondence, we recognize the value of continued discussions with concessionaires which might be able to ultimately satisfy Government’s requirements and standards for sustainable forest management. However, we do also believe that Government needs to act definitively with respect to concessionaires that are in clear and persistent noncompliance and which are unlikely to be viable long term partners.

As discussed during the mission, Government’s Legal Adviser has provided a detailed opinion on the contractual issues facing Government and has drafted templates of letters advising concessionaires of Government’s findings with respect to contract breach and the remedies which Government seeks to pursue. These provide a concrete mechanism whereby Government could move to resolve some of the more notable cases of default and abuse by concessionaires and advance negotiations with other concessionaires as suggested by earlier World Bank- and ADB-financed advisers. For convenience, these templates are provided as Attachment 3. We believe that Government should finalize its determination of which concessionaires qualify for immediate termination, and which qualify for other approaches and move the process forward with appropriate notifications.

With respect to royalty and taxation issues that affect negotiations with several concessionaires, please refer to our earlier correspondence on this issue. The mission suggests some limited amount of additional analysis and consultation within Government is needed to arrive at a negotiation stance on royalties and terms that would be commercially viable for both concessionaires and Government.

As discussed with the mission, we are concerned about the impact that current conflicts over the forest crime monitoring process are having and are likely to continue to have over the overall program. We would like to take this opportunity to urge you to take appropriate action to resolve the situation. The World Bank, along with other partners, would be willing to help on this matter.

Because of their interest in these issues, I am taking the liberty of copying this correspondence to the RGC and donor agency officials listed below.

Sincerely yours,



Ian C. Porter
Country Director, Cambodia
East Asia and Pacific Region

cc: H. E. Sok An, Deputy Prime Minister
H. E. Keat Chhon, Senior Minister of Economy and Finance
H. E. Sum Manit, Council of Ministers
H. E. Chan Tong Yves, MAFF
Mr. Ty Sokhun, DFW
Mr. Ben Davies, UK-DFID
Mr. Jon Buckrell, Global Witness
Mr. Jean-Claude Levasseur, FAO
Mr. Urooj Malik, ADB

October 3, 2002

Mr. Ty Sokhun
Director-General
Department of Forestry and Wildlife
#40 Preah Norodom Blvd.
Phnom Penh, Cambodia

Dear Mr. Ty Sokhun:

Subject: Timber Sale and Transport

I'd like to follow on our earlier discussions and talks with members of your staff regarding the management and control of existing stockpiles of felled logs. As you know, I view the mere presence of these logs in forest areas as demonstrative of the serious weaknesses of forest management controls and forest revenue systems in Cambodia. Moreover, any revision of the current prohibition on log transport risks abuse and fraud and contributing to renewed illegal logging. Nevertheless, I can understand the interest the Royal Government places in proper disposal of these logs, the full receipt of the revenues due and the potential contribution of this material to local and export markets. I also believe that a responsible, credible and transparent process is feasible and could help set the stage for introduction of improved management and control in the future and could also help renew confidence in the Government's commitment to forestry reform.

Risks and Experience

Several key principles should drive policy toward transport of parts of the existing inventory of logs in forest areas. These are all related to the disappointing and repeated patterns observed in earlier episodes of "old" log movement. The persistent cycle of transport of "old" logs and new illicit fellings needs to be broken. A disciplined, well-engineered and transparent program for the existing stockpiles could mark a break from the problems of the past. One consideration that provides hope that previous experience will not be repeated is the work now underway on instituting tighter controls and greater transparency in routine forest operations. For a system of transport controls to be credible, it must be introduced as this other development work accelerates and is applied in the field.

Suggested Operational Principles

In view of the weak controls and lack of supervision at the time of harvest, Government needs to give serious consideration to the possibility that some of these logs

RCA 248423 ☐ WUI 64145 ☐ FAX (202) 477-6391

were illegally felled. Therefore, a substantial burden of proof should be placed on any party claiming possession and seeking permission to transport. Applicants should provide clear and compelling documentary evidence that harvests were conducted in places and manners authorized by Government, that all royalties, fees and applicable fines and penalties have been paid in full to the National Treasury, and should submit a full plan describing the intended method of transport, routes, timing and other details of the proposed transport. Prior to approval of any transport proposal, the relevant Government agencies, including the Department of Forestry and Wildlife, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy and Finance, should evaluate and verify all claims regarding the origin of the concerned logs and proper receipt of payment, make the related documentation available for public inspection and comment, and define a transportation monitoring plan to ensure proper transport and to prevent abuse.

Criteria and Standards

In evaluating transport plan proposals and setting conditions on permits, Government should take into consideration three dimensions of the proposed chain of custody process: 1) how does the applicant intend to provide for the *identification* of the logs being moved so that they can be readily and reliably distinguished from illicit material; 2) how will logs whose movement has been authorized be kept physically *segregated* from other logs (and especially logs from new, illicit fellings); and, 3) how will the process be *documented* before, during and after transport? These and other aspects of an acceptable chain of custody system are described in some detail in the report on “*Technologies for Wood Tracking*” prepared on the basis of the meeting sponsored by the World Bank and the Worldwide Fund for Nature held in Cambodia earlier this year. I provided to you a draft of this in July and it is now also available on CD-ROM from my office. Considerable judgment will be involved in establishing sound procedures and I believe Government would benefit by convening an accelerated multi-stakeholder consultative process on this issue.

Planning is also needed to make provisions for handling of claims and material for which the submissions of concessionaires or other claimants do not satisfy Government. Where ownership, payment can not be satisfactorily established, or where agreement on transport procedures can not be reached, the appropriate provisions of Cambodian laws and regulation on forestry and on State property need to be brought to bear. These questions need to be fully explored and incorporated into a fully documented set of procedures.

Potential Technical Approaches

As we have discussed, and as the chain of custody report makes clear, various technologies, including optical barcodes and other computerized technologies are readily available and could be employed by the Department of Forestry and Wildlife to assist with the current problem. The report also makes clear that adequate controls are possible with less sophisticated and less expensive technologies provided attention is paid to vulnerabilities and opportunities for abuse. As we have also discussed, the Bank is ready

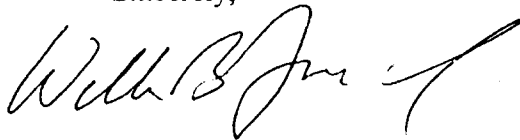
to assist the Department with the necessary equipment and technical assistance under the provisions of the credit for the Forest Concession Management and Control Pilot Project and we will do our best to help expedite procurement and consultant selection as needed.

Recommended Next Steps

On the basis of the principles discussed in this letter, prior to any change in existing policy, Government could consider preparing a detailed proposal for a revised system of controls and permits. This should be based on wide and transparent consultation with concerned stakeholders, including industry, representatives of the Natural Resources Management Working Group, NGOs and others. With serious effort and use of resources currently available to your Department, I believe that a concrete proposal that could gain wide endorsement and support could be prepared in as little as six weeks. This would require designation of a senior team of specialists from your Department and from related units of Government. They could be assisted by technical advisers already in place and additional expertise which could be mobilized on a short term basis using World Bank loan resources. The first steps would include designation of an inter-agency team and formulation of an initial work plan and budget. This team would benefit from consultation with the existing Inter-ministerial Commission on Forest Revenue Systems. I would be happy to assist you in this in anyway I can and will follow up with you and your staff at the earliest opportunity.

Because of their interest in these issues, I am taking the liberty of copying this letter to those listed below. Please be assured on my highest considerations.

Sincerely,



William B. Magrath
Lead Natural Resource Economist
Rural Development and Natural Resources Division
East Asia and the Pacific

cc. Mr. Chheng Kim Sun
Mr. Net Mony
Mr. Jean-Claude Levasseur
Mr. Urooj Malik
Mr. Robert Hagemann

The World Bank

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

14th Floor, Diethelm Tower A
93/1 Wireless Road
Bangkok 10330, Thailand

Telephone: (66-2) 252-2305-7
(66-2) 256-7792-3
Facsimile: (66-2) 256-7794-5

December 6, 2002

H. E. Chan Sarun
Minister of Agriculture, Forestry and Fisheries
Ministry of Agriculture, Forestry and Fisheries
Phnom Penh, Cambodia
Fax : 855-23 215982

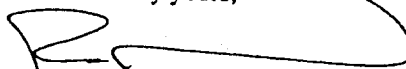
Excellency :

I am writing to express my most serious concerns about yesterday's violence outside of the Department of Forestry and Wildlife against people wishing to express views on the recently disclosed forest concession plans – input that, from my point of view, has been legitimate and constructive. This violence seriously undermines commitments to consultation and transparency made by the Government. At a time when the World Bank and others are urging expanded consultation on the forestry proposals before Government, these events do great harm to the credibility of that process.

For me to properly brief World Bank senior management, I would like to request specific information from the Government on what has occurred and the steps that Government intends to take to prevent a reoccurrence. Additionally, next Monday, Mr. Peter Stephens, our Regional Communications Advisor, will visit Phnom Penh and I will ask him, together with our Country Manager, Mr. Bonaventure Mbida-Essama, to look further into this issue and report back to me. Your assistance to them would be greatly appreciated.

Although there are many other issues we will be raising with you separately concerning the World Bank's support to forestry in Cambodia, I am taking the opportunity with this letter to convey our deepest concern for the most recent events. Because of their interest in these matters, I am copying this letter to those listed below.

Sincerely yours,



Ian C. Porter
Country Director, Cambodia
East Asia and Pacific Region

cc: H. E. Keat Chhon, Senior Minister of Economy of Finance
H. E. Sok An, Senior Minister, Council of Ministers
H. E. Sum Manit, Secretary of State, Council of Ministers
Mr. Ty Sokhun, Director-General, Department of Forestry and Wildlife
H. E. Dr. Aun Porn Moniroath, Secretary General, Ministry of Economy and Finance
Mr. Jean Claude Levasseur, Resident Representative, Food and Agriculture Organization of the United Nations
Mr. Urooj Malik, Resident Representative, Asian Development Bank,
Mr. John Buckrell, Global Witness

KINGDOM OF CAMBODIA
Nation Religion King

Ministry of Agriculture, Forestry and Fisheries

Phnom Penh, December 18, 2002

From: the Minister of Agriculture, Forestry and Fisheries

**To: Mr. Ian C. Porter, Country Director,
Cambodia, East Asia and Pacific Region**

Mr. Director,

The Ministry of Agriculture, Forestry and Fisheries acknowledged receipt of your letter dated 6 December 2002, requesting clarification on the incident took place in front of the Department of Forestry and Wildlife on 5 December 2002, caused by a group of people who declared themselves as representatives of local communities living in provinces with forest concessions. They came to complain about the process of public disclosure, the consultation on forest concession management and the social and environmental impact assessment report. The Department of Forestry and Wildlife (DFW) had continuously clarified these issues and that group of people had confirmed that they fully understood what DFW had explained to them. Nevertheless, they still demanded that the DFW organized a political forum workshop.

This demand protracted from 12:30 until 17:00 on 5 December 2002. At that time, about 50 demonstrators, who were not authorized by the authorities, blocked the access to the DFW from 17:00 until nearly 20:00, regardless the continuous conciliation efforts offered by the Chief of the Psar Kandal II District Council, Daun Penh ward. At 18:30, the DFW Director sought the assistance of the authorities to facilitate the locked-in staff of the department to go home. When the police arrived at the department, the people gathered in front of the department were leaving by themselves because of rain. The officials left the DFW premises safely. Under such circumstances, the authorities did not use force or violence against the demonstrators. What they did was to blow the whistle to facilitate the traffic.

At 20:46 on the same day, Mrs Eva Galabru from Global Witness wrote a slanderous email to the international media and the donor community, alleging that a woman was missing, about 12 people were injured and a man had his leg broken. She failed to mention that about 100 officials and foreign experts were taken hostages for nearly 3 hours. This can be verified with the international experts working at the DFW, as well as a Cambodian lady who was prevented from leaving DFW's premises to pick up her young child from school. After this incidence, on 6 December 2002 the spokesperson for the Global Witness, Ms Rosie Sharpe, issued a press statement to echo Mrs. Eva Galabru's email, accusing the police and the military police of using force, beating and using the electric batons against demonstrators, leading to one dead. Furthermore, the statement requested the World Bank to withdraw a US\$15 million SAC loan to the Royal Government of Cambodia.

According to a report from the ground, a number of representatives of the Global Witness and NGOs have barred some forest concessionaires from undertaking direct consultations with the local communities, since they consider this process as fruitless. Instead, they want the NGOs to organize such consultations in Phnom Penh. At the same time, according to the information we received from the Provincial Office of Forestry and Wildlife, some NGO workers have incited the

local people to protest against forest concession and land concession development. Moreover, according to a remark by the Ministry of Interior, this incident was intentionally prepared by some quarters to spoil the political climate before the general elections. On 12 December 2002, the Special Representative of the UN Secretary General for Human Rights issued a statement condemning the death of a representative of the forest community, allegedly caused by the crackdown associated with the use of electric baton during the rain. The two statements by Global Witness and the Special Representative of the UNSG for Human Rights were a slander. The spokesperson of the Ministry of Interior informed the public that the video tape received from Global Witness, which filmed the demonstration from the beginning until the end did not show any episode of the use of violence or electric baton by the police or the military police against the demonstrators. Witnesses to this demonstration, including the staff members of NGO Forum, who took part in the demonstration, also denied any use of violence by the authorities against the demonstrators. Mr. Hem Sao, who Global Witness and the Human Right group alleged to be electrocuted by the baton, was not on the list of the representative from the Preah Vihear Province. An unidentified person was transported to the Preah Kossamak Hospital, but died on the way and those who took him to the hospital told the hospital staff that he was dying from a heart attack. Some people were slightly injured due to congestion or slippery during the rain.

On a different matter, I am pleased to inform you that following many meetings within my department and with many donors, we have decided that more time is needed for the process of review of the concession plans. I therefore have instructed my staff that:

- (a) The period under which comments can be received from the general public be extended to January 31, 2003.
- (b) The consultations with the local communities be held for as long as is necessary, which we have always proposed in any case. These consultations will be done on the basis of work plans and terms of reference prepared by the DFW.

Please accept, Mr. Director, the assurances of our high consideration.

CC:

- Office of the Council of Ministers;
- Ministry of Economy and Finance;
- Ministry of Interior;
- Ministry of Environment;
- Ministry of Information;
- Phnom Penh Municipality;
- Inspection Directorate;
- Department of Forestry and Wildlife;
- Department of Agricultural Legislation.

រាជរដ្ឋាភិបាលកម្ពុជា
ក្រសួងមហាផ្ទៃ



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**Statement
By
The Spokesman of the Ministry of Interior**

On December 5th, 2002 at 12:30AM there were approximately 50 people from Preah Vihear, Rotanakiri, Mondulakiri, Stung Treng, Koh Kong, Kratie, Pursat, Kampong Thom, Siem Reap and Kampong Cham gathering outside the Department of Forestry and Wildlife demanding for organizing a workshop concerning forest management plans. This gathering did not ask for the permission from the local and competence authority at any level.

The illegal gathering of those people has been prolonged until 5:00 PM. At that time the protesters closed the gate of the Forestry and Wildlife department by not allowing the officials and staffs of the department to leave the office when the working hour was finished. The illegal activity of closing the gate of the Forestry and Wildlife department had continued until 6:30 PM. The Director the Forestry and Wildlife department had proposed competent authority to help the officials to be able to leave the office and get back home.

Acting upon on this proposal, Municipal Police and Military Police department had sent their officials to the Forestry and Wildlife department to help the department's officials to leave the office and get back home. When the Police and Military Police arrived, the protesters who were gathering outside the Forestry and Wildlife Department had dispersed themselves meanwhile it was raining. After that Forestry and Wildlife Department's officials were able to leave the office and go back home peacefully.

In this case, police and military police that went to disperse the crowd neither used the electric shock batons nor acted any violence on the crowd. They just blew the whistles to facilitate the traffic jam outside the department. The batons which were used by the police and military police at that time were all their everyday used normal plastic batons.

After this event, on the 6th of December 2002 the Global witness issued a statement by condemning police and military police for committing violent beaten and using batons to the crowd of which led to a dead of a protester, Hem Sao, from Preah Vihear. On December 12th, 2002 the United Nations Special Representative of the Secretary for Human Right in Cambodia has issued a statement by pointing at Cambodian authority for using electric shock batons in the rain which led to a dead of a representative of forest dependent community. The above two statements, Global Witness's statement and U.N. Special Representative's statement, are completely exaggerated and contradicted to the fact.

The spokesman of the Ministry of Interior would like to inform national and international opinions as the following:

- Through the video tape reviewing received from the Global Witness, which showed the entire activity of the protesters since the beginning till the disperse, we have seen no any activity of the police and military police beating or using electric shock batons to the crowd.
- Eyewitnesses of the event including NGO Forum official who attended the demonstration also affirm that no any violent act of the competent authority to the crowd in the event of evening of December 5th, 2002.
- Mr. Hem Sao who was said by the Global Witness and Human Right Organization to be "died because of the electric-shock baton" was not in the name list of the representative of the forest-dependent communities from Preah Vihear province. The victim was taken to Preah Kosamak Hospital. The people who brought the victim to a hospital told the hospital staff that he died because of fainting spell and asked the hospital to preserve the body for one night.
- For those who got minor injury in the incidence were caused by squeezing together and by slipping during the rainfall.

The Ministry of Interior has noticed that in the past few weeks there are some circles intentionally making political atmosphere trouble before the general election to come.

For example: the gun shot incident took place at Kampong Speu province on November 16th, 2002 which led to dead of Tith Keo Monyroath, second deputy commune chief of Sambo Commune, Samroang Torng District. Just a very short time after the incident happened; competence authority has actively investigated the case. When the competence authority was investigating, some circles have used this incident for their political benefit by calling this case as political motivated case. In contradictory, the result of the investigation through forensics analysis and the confesses made by the offender--Tit Keo Mony Roath's nephew-- who accompanied the victim to join the wedding ceremony in Krang Lear village Sabaur commune has indicated that he was the one who predisposition the gun hand's triggered and led to the death of his uncle.

All activities of the above-mentioned circles have reflected that their intention is really to poison the political atmospheres before the general election, the importance historical event of the country, which will be held in the few coming month.

Once again, the interior ministry would like to reaffirm that: The Royal government of Cambodia, with real political good will and determination, would try to do all the best and spare no efforts to ensure good atmosphere for free and fair election. The Ministry of Interior has had strict order to investigate the cases, and arrest suspects be preparatory to send to justice regardless of criminal activities including this related to the political party matters.

Phnom Penh, December 13, 2002

APPENDIX 1

Description of the Satellite Imagery Study Response to a letter sent by Eva Galabru, Global Witness

source: Forest Concession Management and Control Pilot Project - 5th Quarterly Report, March - May 2003 (Project Credit No. 3365-KH)

Dear Eva,

Thank you for sending me your comments. Let me address them one by one.

1) *"The study will show mainly changes from forest to non-forest, but not provide any indication on the condition of the forest":* ► We can't be more accurate than that in such a short period of time. *"and in particular whether areas should remain under production":*

- The information provided by this Satellite Imagery Interpretation Study is only one part of the information we are using to evaluate the SFMP. In other words, it is not because the satellite images do not reveal any degradation of the forest that it should remain under production (or the contrary). You seem to overlook that a consistent process has been developed by the DFW that we are assisting to review the SFMPs and ESIAs. Many tools are being used to analyze all the information provided by the companies, for example, to assess the quality and the reliability of the inventories carried out by companies.

2) *The study purports to show where logging has occurred in the recent past by examining whether new logging roads have been built since 2000. The assumption behind this is that in order to carry out logging (whether legal or illegal) one requires roads, therefore new roads are an indicator of logging. The assumption is really only valid only if we are dealing with untouched, pristine forest areas. Whereas in Cambodia most forest areas are intersected by roads, tracks and paths, which are not necessarily detectable with remote sensing, but that nevertheless enable logging to take place. So the study will not show satisfactorily where past logging has occurred.*

- We have never said that we intend to detect all the places where logging has occurred. This is not a forest crime monitoring exercise. One of its primary purposes is to evaluate whether the information provided by the companies in their SFMPs is reliable and relevant. As you said, it will not be possible to detect and to locate all the logged areas, but it will enable us to identify the most recent and most extensive logging activities. These activities are certainly the ones that affect most of the resource and these activities should be described in the SFMPs.

3) *The study is using late 2001, early 2002 images. Two logging seasons have come and gone, as well as extensive conversion of forestland in concession and other areas. In the last few months alone, 7,500 hectares of forest have been cleared by a high-ranking government official in the Samling concession in Snoul, most of coupes 3, 4 and 9 of Colexim have been sold and converted, the RCAF Division 12 in the TPP concession have cleared almost all the evergreen forest at the foot of Eastern Phnom Tbeng Mountain and the former security of GAT International have grabbed extensive parcels of land in the Southern part of the Kompong Thom concession. Surely the Concession Management and Control Pilot Project can afford to buy up-to-date images.*

- The logging suspension started from the beginning of 2002. Most the logging activities in forest concessions stopped at that time even though others are still going on. Thus, changes until early 2002 should provide a rather good estimation of recent logging activities prior to the logging suspension. This can be easily demonstrated when looking at the road networks within different concessions: e.g., Pheapimex - Kompong Thom, Silverroad... Once again the objective is not to evaluate precisely the logged area, but to use the road network as a proxy indicator to evaluate the information provided by the concessionaire.
- If such big changes happened during the last months, I would be very grateful if you would provide us with such evidence (maps). This would be very helpful to the TRT.
- I would like to remind you that the former GAT International concession was officially cancelled in June 2002 and that this cancelled concession is not included in the evaluation exercise. Moreover,

the examples you give rather demonstrate that when legal logging is suspended, illegal logging seems to take over.

- ▶ In many other tropical countries the forest cover is updated every 5 to 10 years. Until now we have 92-93, 96-97, and 2000 (only for concessions) forest cover interpretation and we will soon have 2002 interpretation. We have enough material to work on and I don't think that purchasing a new set of images will be of any significant help in the preparation of the management plans. On the other hand, I agree that for your own activities of crime monitoring you should be able to work on updated images.

4) The DFW GIS/RS staff prepared all the maps and GIS data for the concession management plans. It is written on the maps submitted by the companies and has been confirmed verbally by concessionaires - who by the way complained rather bitterly about DFW's excessive fees. I believe it is unrealistic for anyone to expect the DFW GIS/RS staff to produce for this on-going study anything different from what they produced for the concessionaires. Surely you do realize that this constitutes a classical example of conflict of interest.

- ▶ Nobody has ever disagreed with the fact that the DFW GIS/RS Unit prepared the maps for the concessionaires. Even DFW GIS/RS staff recognize it.
- ▶ Regarding the "excessive fees" about which the concessionaires complained, I would just like to remind everybody that the concessionaires were not required to work with the GIS Unit. They could have worked with any one else (or by themselves...) for less cost.
- ▶ The interpretation of 2000 Satellite Imagery by the DFW is certainly of good quality and is definitely of better quality than the 96-97 interpretation. That has been acknowledged by GIS and RS professionals. There is a competent team that has the capability to provide reliable work. Moreover, this team will be supervised by an independent specialist who has never worked in Cambodia before and he cannot be suspected of having any previous relationships with anyone in the country. I will also supervise some part of the work while the specialist is not in Cambodia. I have already looked at some preliminary results and I am quite pleased with the quality of the work. Indeed, I, myself, have checked the interpretation of the road networks in different concessions. It fits perfectly with the GIS Unit's interpretation. Even better, the road networks are sometimes wider on the GIS Unit interpretation inside and outside of the official coupes.

I won't repeat the limitations of this study, since Vincent Fesneau, did that during his presentation. I would just like to remind you that the objectives of this study are, in a very short period of time, to:

- evaluate the forest cover in Cambodia at the beginning of the year 2002;
- develop information on some general trends in the evolution of forest cover from 96-97 to 2002 inside existing concessions, cancelled concessions, and protected areas; and
- provide an estimation of the logged area by using logging roads as a proxy indicator at the beginning of 2002. This will be used by the TRT to assess the quality of the information provided by concessionaires in their SFMPs.

I think that it is important to remember that the objectives of this study are not to:

- evaluate the level of degradation of forest cover ;
- monitor illegal logging in Cambodia. (FRM/INDUFOR/SGS has no mandate to evaluate these activities); or
- provide a continuous survey of Cambodia's forests.

Best regards,

May 21, 2003

Mr. Ty Sokhun
Director General
Department of Forestry and Wildlife
Phnom Penh, Cambodia

Subject: Forest Concession Management and Control Pilot Project

Dear Mr. Ty Sokhun:

I would like to follow-up with you on discussions you have had with Mr. William B. Magrath of the Bank's Cambodia Country Office on how the recommendations of the recent Mid-Term Review Team's (MTR) report can best be operationalized.

Mid-Term Review Report. At the outset, I would like to say that I find that the MTR reflects a solid understanding of the project, its potential contribution and the limitations and constraints that have been faced. I believe it could be the basis for improved performance and long lasting development impact and would like to work with you to see project performance improve as the team suggests. It's open acknowledgement of public mistrust and lack of confidence, even as these may not be fully justified, is an important message for the Department of Forestry and Wildlife to reflect upon.

Broadly read, the review is supportive of the basic thrusts of the project and of the technical quality of much of the work that has been completed. Nonetheless, there are some aspects of the MTR that appear to be in error. For example, the observation that three concession Strategic Forest Management Plans have been accepted and that the concessions are awaiting approval for a resumption of logging (p. 15). Given the sensitivity of this issue, I strongly suggest that you provide public clarification on the status of these plans and logging approvals. In addition, some of the consultant's recommendations are not well advised in the view of the Bank. The World Bank cannot, for example, support the consultant's recommendation for temporary licensing of concession operations that might in any way be outside of the procedures envisioned by the Sub-Decree on Forest Concession Management (p. 16). I would, instead, suggest that concessionaires be directed to pursue the established planning sequence as rapidly as possible consistent with good technical performance.

Application of 5-year Compartment Planning. The MTR refers to a decision by the Department of Forestry and Wildlife (DFW) to enforce 5-year compartment planning as an integral part of the concession management system. As I indicated in my letter of 20 December 2002, I believe attention to mid-range planning issues is essential, and a 5-year compartment plan would be an effective way for these to be addressed. I am also convinced that the 2002 Forest Law permits the Department of Forestry and Wildlife

discretion to require concessionaires to pursue sound practice and particularly to require concessionaires to conform to the future planning sequence to which they have committed themselves in their Strategic Plans. As most, if not all concessionaires have indicated that they will prepare 5-year compartment plans if their long-term Strategic Plans are approved, I believe that there is no effective constraint to application of the full planning sequence. While I understand that you may wish to consult internally on this matter, I believe that clear and public confirmation that the full planning sequence will be applied is essential for the successful implementation of the balance of the project.

Community Consultations. I fully support the MTR recommendation that a Community Forestry Specialist be recruited under the project as soon as possible to ensure that adequate procedures and processes are pursued in future concession planning and control work. To operationalize this recommendation, I suggest that you consider preparation of something along the lines of a “Social Issues for Forest Concessions Sourcebook”. This would give concessionaires, the public and your staff practical guidance on incorporation of social issues into concession operations from the planning through to logging and post logging stages. This could build on the recommendations made in “Social Forestry Guidelines for Forest Concessions” (Fortech, 1998) and could be based on a consultancy, training program and pilot activities that could be implemented in the next 5 months. I suggest that you consider consulting systematically with interested NGOs and others on implementation of such a program.

Field Patrols and Supervision. Similarly, I fully endorse the MTR proposal that project resources be used more aggressively and visibly to support the presence of the DFW in forest areas including both ongoing and cancelled concession areas. To this end, it would be appropriate for DFW to assign project-financed vehicles, equipment and staff to work in the field with NGOs and others, including those with whom you are already working in partnership. In any case, it is important to be able to demonstrate that the project is enabling DFW to exert controls on resource use through a field presence. I suggest you consult with WildAid and Conservation International or others of your choice, and or develop your own program for field activities that the project can support and present it to the Bank as soon as possible using the MTR estimate of cost of mobile forest crime enforcement units (Annex 4) as a point of departure.

Forest Estate Delineation and Boundary Setting. It is unfortunate that the MTR consultants were not able to utilize the results of the ongoing satellite imagery assessment of changes in forest cover and forest degradation. This could have added considerably to the authority with which the team was able to offer an opinion on the overall performance of the concession system and the role of this project in strengthening it. It is, nonetheless, important that this ongoing work be completed and made available as part of the public debate on forestry in Cambodia. Looking further ahead, the current project should make every effort to support the data collection, mapping and other work needed to establish a workable permanent forest estate (including, but not limited to concession areas). In this direction, I suggest that you consider carefully any possibilities of cooperating, with the resources available through this project, with other agencies of the Royal Government and particularly the Ministry of Land Management on work related to forest mapping and demarcation. In addition, I suggest that you make an effort to identify ways to ensure

that concessionaires shoulder a reasonable share of the burden of boundary demarcation as part of the concession planning and operations processes, and work with other concerned agencies of Government to establish procedures and protocols for the necessary mapping and field work. From the Bank perspective, costs for such activities, within eligible expenditure categories under the Credit, could be financed by the Credit if agreed in advance. . Also, even if an extension of the entire project is not possible, it could be possible to extend the closing date for these specific activity if needed.

Public Affairs Capacity. Part of the mistrust and suspicion that characterizes the Cambodian forestry sector, I believe, is due to the limited availability of timely and accurate information. In my opinion, the Department of Forestry and Wildlife has not received adequate recognition for its efforts in this regard, for example, the disclosure last November of concession Strategic Forest Management Plans and Environmental and Social Impact Assessments. Nevertheless, more needs to be done. As proposed in the MTR, DFW should establish under the project a designated public affairs unit with terms of reference that include dissemination and disclosure of information and documentation on forest concession management and other forestry issues. This could be organized to be in line with and help fulfill obligations on the Forest Administration under Article 6, paragraph D of the 2002 Forest Law.

Work Plan and Extension Program. These recommendations are summarized in the attachment to this letter and I hope will help you plan your next steps. As an immediate step forward, I suggest that your Department prepare a detail work plan, including key activities and anticipated delivery dates, estimated budget, procurement plan and consultant terms of reference, for the next 6 months of the project that addresses the specifics of the MTR recommendations, particularly those highlighted above. This would build on the already approved program for the Forest Crime Monitoring and Control component, which you might also wish to extend, especially with respect to field activities and the possible need to finance the services of a new Independent Monitor of Forest Crime Monitoring and Reporting.

We hope that you would be in a position to submit such a work plan to the Bank no later than 26 June 2003. As you know, Mr. Magrath is in Cambodia and is available to work with you and your team on the necessary documentation requested above and to conclude an agreement with you on targets. I have also made plans for a World Bank Social Scientist and consultant Forester to visit Cambodia in June to help review your proposed work plan and to assist as necessary with Terms of Reference, consultant recruitment and other support as needed.

On the basis of delivery targets in the work program you submit, I suggest that we consult further no later than 15 October 2003 to assess progress and to determine whether the project has begun to move forward satisfactorily and, if so, whether an extension of the closing date is warranted. This review would coincide with the scheduled work of the multi-donor Forestry Sector Review and would take into consideration the views of a broad range of stakeholders on the impact and performance of the project. As input to the Bank's consideration of an extension of the project, I encourage you and your team to think as broadly as possible of the investment needs of the forestry sector as a whole

May 21, 2003

and submit by 15 October 2003 a proposed design for a one- or two-year extension of the project that would address the most important sectoral development constraints that you see facing forestry.

I suggest that your team move ahead immediately with assistance from your technical advisers with the ongoing work of the project, and at the same time undertake the suggested activities summarized in the attached table, including preparing for the Bank's review in June of the detailed work plan related to the key recommendations of the Mid-Term Review. Please let me know of any questions or concerns that you have or consult with Mr. Magrath at your convenience.

Because of their interest and involvement in these issues, I am taking the liberty of copying those listed below on this letter.

Sincerely,



Mark D. Wilson
Director
Rural Development and Natural Resources
Sector Unit
East Asia and Pacific Region

- cc. H. E. Chan Sarun, Minister of Agriculture, Forestry and Fisheries
H.E. Keat Chhon, Senior Minister of Economy and Finance
H. E. Im Chhun Lim, Minister of Land Management
Mr. Cheah Sam Ang, Project Director, Department of Forestry and Wildlife
Mr. Urooj Malik, Country Director, Asian Development and Co-Chair WGNRM
Mr. Jean-Claude Levasseur, Representative, U.N. Food and Agriculture
Organization and Co-Chair WGNRM

**SUGGESTED ACTIONS TO OPERATIONALIZE RECOMMENDATIONS
OF THE MID-TERM REVIEW**

| Issue/Topic | Suggested Activity/Product | Main Project Component | Proposed First Step | Target Date | Bank Support or Participation |
|--|--|---|---|------------------|---|
| 5-year Compartment Planning | Confirmation of application of 5-year Compartment Plan requirement | Planning and Inventory | Press Release or other public statement | June 1, 2003 | |
| Community Consultations | Pilot activities leading to "Sourcebook" or other guidelines on community/social concerns in concession planning and operations | Planning and Inventory | Terms of Reference | June 10, 2003 | Bank Social Scientist to assist and review |
| Field Patrols and Supervision | Project-supported field patrols | Forest Crime Monitoring and Prevention | Terms of Reference | June 10, 2003 | Bank Forestry Specialist to advise and review |
| Forest Estate Delineation and Boundary Setting | Program for project supported cooperation with other key land agencies for setting policy and giving operational directions to Department of Forestry and Wildlife and concessionaires | Planning and Inventory | Terms of Reference | June 10, 2003 | Assistance available under Bank-financed Land Management and Administration Project |
| Public Affairs Capacity | Designation of responsibility for public affairs and information dissemination function within Department of Forestry and Wildlife | Planning and Inventory/ Concession Control | Terms of Reference | June 10, 2003 | Assistance available from Bank's External Affairs Specialists |
| Work Plan and Extension Program | Short-term work plan and Terms of Reference related to the above | Project Management | Proposed Budget and Consultant Selection and Procurement Plan | June 26, 2003 | |
| | Plan for Project with Extension of Closing Date | Project Management | Proposed Budget and Work Plan | October 15, 2003 | |

Quality Enhancement Review Cambodia Forestry

Summary

Since 1995 the Bank has been closely associated with attempts to reform the forestry sector in Cambodia. This includes a forest policy assessment in 1996 and two lending operations, a SAC and a LIL in 2000. Despite tangible successes donor and NGO criticism of the Bank's work has been strong. Both groups have challenged the outcome of the Bank-Government work, as well as the process by which it was carried out. The main thrust of their criticism is that the Bank has not brought adequate pressure to force reforms---we have been too tolerant of foot-dragging by government. Critics acknowledge, however, that the Bank's presence is critical to bringing about change.

Successes include (1) a reduction by 4 million hectares of area in concessions with real progress toward good management of the remaining 2.5 million and (2) a substantial empowerment of civil society and donors in their battle to create a transparent forestry industry operating within the public interest. Good forest governance is far from being achieved, however, and much work remains to be done at both the institutional level and in the forest. While Donors and NGOs are impatient with the perceived slow rate of progress, the panel's judgment is that reform in this difficult area is probably occurring as rapidly as can be expected, and would not be moving at all without the Bank's involvement.

Despite these successes, the Bank's image, and indeed the Bank's effectiveness has suffered from the following: (1) the inability of the country team to coalesce around a shared strategy on substance and on process, (2) the early termination of the FAO/UNDP Forest Crime Monitoring and Reporting Project due to the breakdown of relations between the Forest Crime Monitor, Global Witness, and Government (3) not having in place a clear and well-articulated vision of how the recently-liberated 4 million hectares are to be occupied, and (4) an insufficiently well-articulated Bank commitment to non-concessionaire forest users, especially the rural poor in and near the forest. The panel concludes that the LIL and SAC have had limitations as instruments in addressing the long-term structural nature of Cambodia's forest governance problem. Nevertheless carefully selected forest-related SAC conditionality, that are squarely on the larger governance agenda and are completely under government control, should continue to be considered in forthcoming SACs.

We recommend extending the LIL and using the remaining funds to (1) carry out aerial and field surveys to verify the current status of the forest and establish a clear baseline for additional work, (2) analyze options for non-concession land use, with a focus on poverty, equity, traditional rights, and biodiversity protection (3) carry out a participatory ICR to work with stakeholders to develop a consensus around next steps, and (3) maintain pressure on concession reform.

In terms of the future of the Bank's involvement in forestry we note the forest sector is of strategic importance to achieve gains on the top two agenda items in Cambodia, governance and poverty reduction. Bank efforts in these areas will require a commitment by the regional and country management working in cooperation with the Task Team and EXT in order to develop and continuously refine a single coherent view on the substance and the process of our forest sector strategy, and to develop and implement a proactive communications and partnership-building strategy.

Successes

The Bank's 1995 Forest Policy assessment provided a solid diagnosis of the state of the forest sector in Cambodia and led to a correct focus on concession policy reform and forest governance. Subsequent TA and lending was, therefore, appropriately focused on reforming the concessions system and controlling illegal logging.

The 1996 Forest Policy Assessment identified over 6 million hectares under concessions from some 30 concessionaires. Over half of these concessions had been established in 1995 and 1996 under unclear criteria and among widespread allegations of cronyism. Actual concession implementation varied widely. In addition to lack of transparency in allocation, no systematic control of concession management was in place, harvest was far above sustainable levels and government was receiving only a small fraction of economic rent.

Important progress has been made, although key elements could be reversed at any time. Following discussion with Bank and Government lawyers, it was decided that no matter how irregular the allocation and monitoring system, existing contracts must be respected¹. Conditionality in the SAC and support to DFW under the LIL for the first time put teeth in the sustainability language in the contracts. This has reduced the concession area from 6.2 million to 2.6 million, with additional reductions pending. As remaining concessionaires have not responded in a timely manner to the requirements of government, a logging ban was imposed effective January 2002. While there is evidence that illegal logging has continued on some concessions, and government has created a loophole through the economic land concessions, there is no doubt that other concessions have suspended operations and overall log volume is greatly reduced.

On the institutional front a new forest law was drafted and passed that allocated institutional responsibility for forest land and established principles supporting transparent management in the public interest².

These Bank activities have significantly exposed and challenged the control of vested interests and empowered civil society and donors to hold government accountable. Specific examples include the cancellation of concessions, public disclosure of concession documents, and greatly enhanced transparency including third party monitoring.

¹ It is noteworthy that the decision of the Bank to respect these contracts was very unpopular with the Donor and NGO community, and contributed to widespread suspicion that the Bank would not take on vested interests.

² This law also created the legal figure of community forests.

Current Problems

For the Bank's critics the glass is half empty. Illegal logging is widespread, including on cancelled concessions, there is no clear plan for what to do with the land under cancelled concessions, and the government continues to be a hesitant partner. Because of the Bank's leadership in the reform effort it tends to be held responsible for the glass not being full. In addition there is a widespread view among donors and NGOs that through its emphasis on the concessions model the Bank has gotten too close to vested interests in government and the industry, failed to employ its remedies when appropriate, and not seriously entertained alternative community-based models. It should be noted, however, that both correspondence reviewed and conversation with the representative of Global witness indicate that despite criticisms of the Bank's performance, they indicated they do not want the Bank to exit.

Diagnosis

In the panel's judgment both the image and the effectiveness of the Bank is being seriously undermined by the inability of the country team to develop and coalesce around a shared strategy on substance and on process. This requires (1) a dynamic reform agenda that evolves as progress is made and, (2) a strategy to build effective and realistic partnerships with the critical stakeholders. The Bank's program has come up short in both areas.

Lack of evolution of the reform agenda. Although the reform agenda started off right—there was no alternative but to work on concession reform in 1996—the Bank has fallen behind the curve as this agenda progressed. In particular, the Bank has not been fully prepared to discuss alternatives outside the concessions model as 4 million hectares were removed from concessions as a result of the success of the concession reform strategy. On the other hand, the Bank's work program in this area is constrained as the Government has been hesitant to take on the issue and presently lacks the capacity to address it (apart from law enforcement). Although alternatives such as community-based models had been discussed internally and analytical work on social forestry issues has been ongoing through a PHRD TA grant, the Bank did not keep pace with the demands and expectations of the public, NGO and donor community. Consequently, options were not fully developed and discussed with government and stakeholders. This inability to keep up with the demand by producing and disseminating substantive results in this area, only strengthened the perception that the Bank was somehow too close to vested interests in the area of concessions.

Failure of the country team to develop and coalesce around a shared strategy. The lack of clarity on *where* we want to go has impeded agreement on *how* to get there, in particular how to deal with government, donors and NGOs. Widening the base of issues that the Bank is *viewed* to be working on in forest policy would create more points of contact with the substantial agenda of potential Donor and NGO partners. In addition the

Bank team needs to agree on how to manage relationships with key stakeholders: *e.g.* how to deal with the few skeptic NGOs who are not likeminded in terms of process and outcomes; when the Bank is to lead, when it should let others take the lead.

Donors and NGOs want the Bank to take the lead on analytical work, and in dialogue with government. The team needs to agree on a strategy to generate broad ownership in the former, and to better explain our limitations in the latter. On analytical work especially, everyone on the team needs to understand that in Cambodia, even more than in other countries, the Bank needs to balance high standards of analytical rigor with a process that strengthens partnerships. This also holds true for project implementation. Responsibility and accountability for this strategy and its implementation must be shared by the country management team and the TTL. Their interest and participation in the QER has demonstrated a high-level of commitment to the work and signals that the needed elements are coming together for this to occur.

Failure of the environmental crimes project. The coherence of the Bank-led reform has been badly damaged by the early termination of the FAO/UNDP Forest Crime Monitoring and Reporting Project due to the breakdown of relations between the Forest Crime Monitor, Global Witness, and Government. This left a fundamental leg missing from the concessions reform package. In retrospect that Bank should have allocated more resources to the project (see discussion of instruments below) and adequately funded and ensured implementation of a component so fundamental to overall success³.

Credibility. Doubts raised concerning the economic viability of concessions and the Bank's downgrading of foregone revenue estimates have done some harm to our credibility. These reflect both reduced timber prices since the 1996 analysis, and better knowledge with regard to the productivity of the forest.

Bank instruments. The panel feels that the early ESW and TA reports were of generally high quality. As suggested above, our analytical work did not adequately evolve as the concession situation changed. Bank work on the ground suffered from insufficient resources resulting from the choice of a LIL, which in any case was not structured as a learning and innovation exercise. As suggested above, the absence of Bank control in implementing the forest crimes component turned out to have been a serious error. The use of the SAC to carry governance conditionality within the context of the forest sector was fully appropriate and coherent with the loans governance objectives. The link to general conditionality through the development letter was a mistake fully recognized by management.

Recommendations.

Stay involved in the forest sector in Cambodia. This sector is of critical importance both for institutional and governance reform and for poverty reduction. Forest sector reform is in many ways critical to governance and institutional reform. First, as well

documented in the Bank's 2003 WDR, the OED Forest Sector Review and the work of Paul Collier and others, poor governance of natural resource wealth helps finance corruption and abuse of power in other segments of society, diverts entrepreneurial talent to "take not make", and permits government to be less responsive to its citizens. Were the Bank to exit from the forestry sector at this time it would hurt the Bank's credibility and effectiveness not only in the forest sector, but in the overall country program.

Expand ESW on alternatives for the forest sector in Cambodia, and include major stakeholders to the extent possible. This might include a learning ICR for the LIL. In order to ensure ownership and to generate consensus on the way forward this should be done jointly with our major stakeholders. In view of the ongoing reduction of concession land, and emerging interest in community-based models, solid analysis is needed of (1) the potential for community based forestry and (2) alternative concession and community based systems. Current estimates are that 80-90 thousand hectares are under community forestry. Indicative calculations by GTZ apparently indicate that nearly 9 million hectares (out of some 10-11 million of total forest) have potential for community forestry. Clearly much analytical work is needed.

Use remaining resources from the extension of the LIL to establish a new baseline of forest conditions and to strengthen partnerships. Carry out an aerial photography-based forest assessment complemented with field measurements and surveys. This survey should include identification of logging activities, sample forest inventories, and a mapping of communities. This would establish an updated baseline for considering future forest options. Its design and implementation should ensure that information generated is of high quality and, in the interests of complete transparency, fully available to the public, including both the source data (air photos) and the accompanying analyses.

Keep pressure on concession reform. The Bank must keep pressure on concession reform. This includes ensuring through Bank no objections the highest international standards in management plans (including social and sustainability criteria), as well as fully professional monitoring and evaluation of performance.

Continue to use Adjustment conditionality to achieve improvements in forest sector governance. Forest sector governance is critical to the larger issues of institutional development and national governance. Adjustment conditionality should focus on very well-defined governance improvements that are completely under the control of government.

Develop a strategic communications strategy and implement it. The communications strategy needs to fulfill three functions: (1) communicate the Bank's strategic thinking effectively to stakeholders and help to manage expectations, (2) guarantee effective communication and dialogue between the Bank and stakeholders to develop a coherent, shared implementation strategy, including a better understanding of the limitations of each of the partners, and (3) to develop the incipient **local** civil society into an effective constituency for institutional change. The Bank needs to shift its alliances and dialogue

from dependence on international NGOs and Donors to one involving an increasingly national constituency.

From: Steven N. Schonberger on 07/29/2004 07:13 PM ZE7
EASRD

To: Peter Jipp/Person/World Bank@WorldBank, Kimberly Versak/Person/World Bank@WorldBank
cc: Mudita Chamroeun/Person/World Bank@WorldBank, Hoonae Kim/Person/World Bank@WorldBank,
William B. Magrath/Person/World Bank@WorldBank, Nisha Agrawal/Person/World Bank@WorldBank,
Peter L. Stephens/Person/World Bank@WorldBank, Ian C. Porter/Person/World Bank@WorldBank
bcc:
Subject: Meeting with GW

Given the tone of the latest letter, I went to see GW - Mike Davis and Markus - with Mudita.

GW indicated following:

- They feel that "nothing has changed" despite assurance from Ian and NIsha that we would work in concert with the other donors and the results of the Indpt. Review
- Bank is trying to salvage the concession system as the main management system for production forests at all costs, in part at least to justify the money we've already sunk into concessions reform. While the concessions have been reduced this has nothing to do with the LIL (areas logged out) which is focusing on supporting continued concessions in the six concessions which represent virtually all of the commercially valuable areas.
- We have been pushing log transport independently of FA and the other donors
- The WB has endorsed that six concessions go forward through the LIL
- Our advocacy of the concession system demonstrates that we are not sincere in our indications that we would work with the other donors based on the results of the indpt. review which recommended stopping the concession system

I responded:

- In terms of transport, we responded to a request from govt. and discussed this with the other donors. We were not asked for approval but for our views on how this could be done.
- In terms of concessions, it is clear that we are not advocating this system for expansion but simply supporting an orderly wind down from the initial situation. This is confirmed by the provisions of the Subdecree on Forest Concessions (with which we have indicated our agreement) which stipulates that the cancelled concessions cannot be rebid out for forest concessions.
- I disagreed tha the six concessions recommended by TRT constitute the only viable areas in Cambodia. The fact that the TRT recommended the largest and politically most connected concesssion - Pheapimex - for cancellation - is encouraging.
- We have worked in close collaboration with the other donors on all aspects including the proposed transport and SFMP review. As the lead technical donor in the sector, we are often in the position of presenting the situtation to the group to clarify govt.'s position and suagesting ways forward, but we do so with the expectation that others will challenge these

views and this in fact does happen. We recognize that not all donors may be able to fully capture the issues being discussed at the time or may reconsider afterwards, but in this case the donors concerned should indicate their reservations or uncertainties as input to the process rather than express outside the consultative process that they are not sure if they agree or not. This hardly constitutes major dissension amongst donors.

- The disagreement in terms of concessions is now focused on whether it is reasonable to expect that any of the existing concessionaires will act or can be managed to act consistent with sustainable forestry practices. WB believes that this is possible if the SFMPs are reasonably good, while GW does not believe this is possible given the types of abuses which these firms engaged in previously.
- We have not endorsed anything regarding the SFMPs. The technical review team works for government and our responsibility is to ensure good TORs, qualified applicants and a transparent selection process. We have under the LIL the right to comment on the TRT results and we have chosen to join the other donors in supporting an independent review of the SFMPs recommended to continue. We are awaiting these results before we indicate our agreement or disagreement with the TRT and have not reviewed the plans or the TRT comments independently at this point. If we have concerns regarding the indpt. review, we will review directly the concerned plans.
- As regards the independent review, we agreed that our future engagement in forestry would be guided by the sector review, but not in the sense of following all recommendations but rather that this would be the basis for discussion and reaching consensus with other stakeholders on how we focus our future support. We are preparing comments to discuss with others.

We seem to have agreed on the following:

- While focusing on concessions as the key issue some years back seemed the right way to go, our own internal review agrees with the concerns of several stakeholders that we should have maintained a broader approach to forest resource management, particularly as the issue of post-concession management systems began to emerge. This was highlighted in our internal QER and shared at the forest review workshop. We are expanding on the previous support for partnership type approaches including to WCS and Wild Aid. We hoped to also support FAO community forestry but govt. did not agree to use credit funds for this.
- We agree that moving forward the emphasis should be on alternative management systems, including experiments with partnership forestry, combined with efforts to bring as much transparency and accountability to the annual coupe system in the mean time.
- If Government does not provide a reasonable plan for transport of existing logs, we should indicate clearly that we do not support the proposed transport given the risks. If govt. chooses not to transport, we will all accept that decision. In the case that govt. chooses to transport, the Bank TA should focus, inter alia, on ensuring the royalty status of the logs.
- If based on the indpt. evaluation and our own review, none of the SFMPs qualify for renewal, the concession system should be concluded. WB would consider the program successful in supporting an orderly process, introducing practical mechanisms of transparency and

technical requirements which are pioneering in the Cambodia context and we would consider this sufficient accomplishment.

Where we may end up disagreeing:

- If govt. proposes a log transport plan which incorporates the suggestions from us and the donor working group, then we would be supportive and GW would remain opposed.
- If the indpt review of the TRT recommendations and/or our own review concludes that some of the plans should go ahead, we will be supportive and GW will be opposed.

As WB and GW are about the only agencies dedicating significant time to forestry, it behooves us to work to help others clarify the areas where we disagree and why, rather than personalize the issue or imply there is some kind of conspiracy going on which is frankly counterproductive. As the indpt. review emphasized, the primary dialogue and accountability should be with govt. and not between donors or donors and NGOs. The later simply distracts from focusing on the very difficult, big picture issues and frankly plays into the hands of the vested interests opposed to reforms.

GW appealed that we not focus our efforts on trying to fix what is already in place and bad (concessions, Tumring) which they feel is hopeless or easily deviated, but instead focus on introducing examples of new good alternatives which might gain momentum.

While the meeting was often tense, overall there was a sense that we are on the same side but there are still some specific issues over which we disagree and depending on how govt. acts. we may end up on different sides of these issues. In that case, we know that they will use their advocacy tools as they have, but emphasized that we will keep our eye on the bigger picture and as long as they do as well there will be scope to work together.

The ride going forward will depend on what happens with the transport and SFMPs. Important that we keep our role relative to govt. clear in our discussions with govt., donors and NGOs, as well as letters, aide memoires, etc. as GW really wants to paint this as all WB unilateral decisions rather than WB responding to RGC initiatives which is what the donors still believe (accurately) to be the case. If some concessions continue, we'll just have to ride it out and meanwhile take more leadership on the development of alternative management options and help lead the charge in insisting on transparency and accountability in the annual coupe process.

Peter - this was all based on my involvement in your discussions during the last mission and with Bill during the SFMP review mission. If any major errors, let me know and I'll convey to GW.

Regards

ANNEX 5

DETAILED CHRONOLOGY OF KEY EVENTS

| Date | Event |
|-------------------------------|---|
| 1994 | Royal Government of Cambodia's First Concession Contract with SL |
| November 1995 | Joint World Bank/UNDP/FAO Forest Policy Assessment Mission |
| January – August 1996 | TORs for technical studies, joint Bank/UNDP/FAO review of draft Forest Policy Assessment, follow-up discussions and publication of Assessment. |
| June 1997 – January 1999 | Forestry studies and dialogue leading to National Forest Sector Policy (2002) under Technical Assistance (TA) Project |
| November – December 1997 | Supervision Missions on forestry sector and forestry studies under TA Project |
| December 1998 | Final supervision of forestry studies under TA Project /Identification Mission of FCMCPP |
| January 25, 1999 | Government Declaration on Management of Forests and Elimination of Forest Illegal Activity |
| May 6, 1999 | FCMCPP Appraisal Decision Meeting |
| June 12, 1999 | FAO/UNDP Forest Crime Monitoring Project – Forest Concession Review |
| July 19, 1999 – July 18, 2000 | ADB Project Preparation Technical Assistance for Sustainable Forestry Project |
| October 22, 1999 | FCMCPP Project Information Document (PID) at Infoshop |
| November 30, 1999 | WWF/TFT/WB/FA Forest Certification Workshop Consultation on proposed FCMCPP |
| December 11, 1999 | FCMCPP Appraisal Completion Note |
| January – May 2000 | Authorization to negotiate, discussions and negotiation of FCMCPP |
| February 2000 | Structural Adjustment Credit (SAC) approved |
| May 17, 2000 | ADB Forest Concession Review Workshop. Concession harvest volumes reduced following ADB/DFID Consultations, follow-up to ADB Concession Review |
| June 4, 2000 | ADB response to Global Witness comments on Cambodia Forest Concession Review draft Report |
| June 5, 2000 | FCMCPP Approved |
| July 6, 2000 | FCMCPP Development Credit Agreement signed |
| October 9, 2000 | NGO correspondence on Biodiversity Conservation Guidelines concluding in need for revisions done by WCS with FA and completed in 2002 |
| October 20, 2000 | |
| January 11, 2001 | PHRD Grant approved technical assistance in environmental, social and legal issues during project implementation |
| February 8, 2001 | Follow up with NGO Forum on possible involvement in project activities |
| February 27, 2001 | Forest Management Certification Meeting: FA with WWF |
| September 2001 | Bank Supervision Mission Management Letter to Government on Royalties and Cherndar ESIA TOR Global Witness expresses concern about cutting permits to FCMCPP TTL |
| December 16, 2001 | Government through MAFF issued a <i>Prakas</i> suspending logging effective as of January 1, 2002 |
| March 2002 | Government resumes log transport and is stopped after complaints |
| March 18 – 21, 2002 | Bank/WWF Joint Workshop on Log Tracking |
| March 1, 2002 | FCMCPP Forestry TA (FRM Forest Planning Advisor) mobilizes |
| May 8, 2002 | Government issues decision to cancel Hero Concession and Voot Tee Peanich Concession |
| June 2002 | CG Donor Meeting on benchmarks for disclosure of SFMPs/ESIAs and logging suspension Bank relocates FCMCPP TTL to Cambodia |
| June 10, 2002 | Bank Management Letter to Government advises that Bank's rating of project is at risk of being downgraded to Unsatisfactory Government Letter to Bank regarding forestry revenue offsets |
| June 16, 2002 | Government cancels GAT concession |
| July 29, 2002 | Global Witness letter to Bank regarding criticisms of FCMCPP |
| August 2002 | Forestry Law |
| October 3, 2002 | Bank sends letter to FA on principles for controlled log transport |
| October 2002 | Government agrees to disclose draft SFMPs and ESIAs |

| Date | Event |
|---------------------|--|
| November 11-12 2002 | Draft concession SFMPs and ESIAAs disclosed and protests occur at World Bank offices concerning numbers of copies and format in which available Communities approach FA for consultations on SFMPs/ESIAAs |
| November 13, 2002 | Government opposition politicians write to Bank President about forestry issues |
| November 2002 | NGO-led Workshops on SFMPs/ESIAAs; NGO-led discussions with communities; several sets of comments submitted |
| December 5, 2002 | Crowd in front of FA building on SFMP/ESIA consultations dispersed by police |
| December 13, 2002 | Bank Supervision Mission verifies distribution of SFMPs/ESIAAs on concession areas to commune offices |
| December 19, 2002 | Government thru MAFF sends letter to FAO, ADB and TWG regarding Global Witness' dismissal as Independent Monitor on Forest Crimes in Cambodia citing incident at FA on December 5, 2002 |
| December 20, 2002 | Bank Management Letter downgrades rating of FCMCPP to Unsatisfactory |
| January 13, 2003 | Mid-CG Meeting discusses MAFF Progress Report on Forestry and Fisheries Reform |
| February 2003 | FA begins recruitment process for Independent Monitor Project Technical Reviews recommend closure of two concessions Government's MTR begins |
| March – June 2003 | Forest Cover Survey |
| April 1, 2003 | TOR for joint Government and TWG Forest Sector Review Mission (IFSR) issued |
| April 7, 2003 | Guidelines for Control and Monitoring of Log Transportation prepared by FCMCPP for FA |
| May 21, 2003 | Bank Management Letter to Government on Government MTR report |
| May 29, 2003 | Government Letter to CTIA on evaluation of SFMPs/ESIAAs |
| June 24, 2003 | Bank sends resettlement specialist to visit Turring to follow up on NGO allegations and concerns |
| July 21, 2003 | Bank review of SFMP/ESIA consultations |
| July 24, 2003 | Government Response to Bank on MTR agreeing to Public Affairs Unit and reinstatement of compartment planning |
| August 28, 2003 | Government issues Joint <i>Prakas</i> (by MAFF and MEF) on Forest Revenue Management System |
| September 2003 | SL announces departure from Cambodia |
| October 9, 2003 | Workshop on Development Assistance to Cambodian Forestry, including Bank presentation |
| October 29, 2003 | SGS contracted as Independent Monitor |
| November 21, 2003 | Consultation on Bank consideration of SAC tranche release and Bank work in forestry in Cambodia |
| January 2004 | Bank participation in IFSR Workshop |
| April 2004 | Bank meeting with NGOs to discuss forestry issues |
| April 23, 2004 | Government request for comments by the Donor Working Group on Natural Resource Management on the plan for log transport beginning May 1, 2004 Distribution of Independent Forest Sector Review (IFSR) via Internet, CD and hardcopy |
| June 25, 2004 | Bank Management Letter to Government regarding public disclosure of revised SFMPs/ESIAAs |
| July 29, 2004 | Bank Country Office meeting with Global Witness to discuss log transport and FCMCPP |
| September 16, 2004 | Independent Review of two SFMPs/ESIAAs |
| October 19, 2004 | Bank comments on IFSR provided to Government and TWG |
| October 2004 | Social Forester mission to assist in developing social assessment and consultation procedures |
| December 2004 | Social Forester mission to assist in developing social assessment and consultation procedures |
| December 9, 2004 | A meeting with stakeholders in Bank Country Office to discuss JSDF grant support for community forestry |
| February-March 2005 | Social Forester's third mission to assist in development of social assessment and consultation procedures |
| February 3, 2005 | Bank seeks complementary donor support to complete of Independent Review of SFMPs/ESIAAs Draft Policy Facilitation Proposal for PROFOR ESSD Trust Fund submitted to TWG for comment |
| March 2005 | JSDF Proposal for Support to Community Forestry and Participatory Monitoring to be submitted |

ANNEX 6.
CAMBODIA'S FOREST MANAGEMENT REGULATORY REGIME

1. A successful forest regulatory regime needs to provide managers and regulators with the legal, regulatory, contractual and other bases on which to compel resource users to abide by acceptable standards and practices in the conduct of forestry operations in a wide range of potential circumstances. Regulatory systems should avoid unnecessarily rigid prescriptions and allow for flexible decision-making through well planned and monitored adaptive management and research. Room must be made for practical decisions to be based on local site conditions, the progress of forest stand development, needs of local users, site-specific biodiversity conservation considerations, and technical innovation. Guidance to regulators and operators must express clear expectations and should be written in such a way as to reduce the chance of misinterpretation. In developing countries, practical consideration must be given to: the skills and sensitivities of operators and field regulatory staff; the communications, mobility and other logistical capacities of controlling agencies; the range and types of equipment, forest types, terrain, weather and other aspects of the local forest industry. In light of the wide gap that exists between conventional logging practices and acceptable standards in most developing countries, regulatory regimes will need to be carefully and pragmatically sequenced in order to promote and encourage incremental improvement in a practical manner.

2. Since 1997, the regulatory regime for forest management in Cambodia has been developed incrementally through three linked efforts:

- Forest concession management studies under the Technical Assistance Project (1997 to 1999);
- Asian Development Bank-supported Sustainable Forestry Project (2000 to 2002); and,
- Forest Concession Management and Control Pilot Project (2002 to the present).

3. The regulatory regime consists of six specific components: overarching national legislation; legal regulations; legal standards of sustainable forest management; a three-tiered planning process; planning and operational guidelines that provide direction to the forest planning process at all levels; and contracts, permits and licenses.

4. Forest planning processes generally function at a number of levels, reflecting a range of spatial scales and time horizons. Technical guidance embodied or reflected in various reference material, as well as standard accepted forestry, engineering, social and environmental practice, are usually not, in themselves, mandatory requirements but become enforceable when stipulated in an approved license, plan, permit or contract.

5. The components of the regime are described below:

- **National Legislation.** An “umbrella” forest law (RGC Forest Law 2002) that establishes the long-term intent of forest management, and enables government to:
 - create a permanent forest estate to be managed by a designated, responsible agent of government (the Forest Administration);
 - define acceptable and sustainable uses of forest resources; establish procedures for environmental protection and the conservation of natural forest diversity;
 - protect the traditional rights of forest-dwelling people to access and use the forest;
 - establish criteria and procedures for the zoning and allocation of forest lands;
 - allocate forest lands to different uses (i.e., commercial concessions, community forestry, annual felling coupes, etc.);
 - regulate and control forest use and harvest;
 - collect fees and royalties on public use and harvest of forest resources;
 - define illegal activities in the forest, and establish enforcement procedures and penalties for non-compliance; and
 - regulate and control the transport, conversion and processing of forest products.
- **Legal Regulations.** Legal regulations pursuant to the Act (i.e., Sub-Decree on Forest Concession Management 2000, Sub-Decree on Community Forestry 2003) that establish:
 - broad management direction for different uses;
 - procedures for application and approval to use the forest and forest resources;
 - legal contracts and/or agreements between government and forest users establishing enforceable terms and conditions for resource use (i.e. model Concession Agreement);
 - standards for forest planning and management; and
 - procedures for the monitoring of compliance, and enforcement actions and penalties to be applied in cases of non-compliance.
- **Legal Standards.** Legal standards of sustainable forest management for each major forest zone, establishing:
 - long-term forest and ecosystem management objectives for the zone;
 - the nature and rates of acceptable use, and royalty rates due to government; and
 - mandatory forest management practices (i.e. silvicultural systems, rate-of-cut constraints) that apply nationwide.
- **Planning Process.** A three-tiered planning process, defined by planning guidelines (see below) and providing the basis for Government approval and permitting and for compliance monitoring and enforcement, consisting of the following levels.

- *Long-term (25-year) strategic forest management plans*, which include:
 - broad sustainable forest management, environmental and social objectives for the concession;
 - delineation of forest zones to define both protection areas (biodiversity reserves, protected area buffer zones and corridors, watershed protection areas, riparian reserves, fragile areas, traditional non-timber forest product areas important to local communities, and areas of cultural or historical importance) and the net operable working forest by major forest type;
 - a scientifically calculated medium- and long-term sustainable yield on the net operable working forest;
 - appropriate silvicultural systems and harvesting techniques for different forest and terrain types;
 - environmental and social impact management and monitoring programs;
 - ongoing community disclosure, consultation and participation programs; and
 - inventory, monitoring and evaluation programs.
- *“Rolling” 3-5 year compartment plans*, which include:
 - medium-term access planning, management and decommissioning;
 - more focussed community consultation leading to refined environmental and cultural resource zoning; and
 - medium-term silviculture and site rehabilitation operations.
- *Annual coupe plans*, guided by operational guidelines (see below), which describe:
 - harvesting methods and equipment;
 - operational inventory results;
 - tree numbers and volumes to be retained and removed;
 - location and design of forest access;
 - tree marking and log tracking methods;
 - on-site environmental and cultural resource protection and biodiversity conservation; regeneration and stand-tending activities; and
 - methods and results of annual community consultation programs.
- **Guidelines.** This comprises a set of planning and operational guidelines that provide direction to the forest planning process at all levels—strategic, compartment and coupe. Guidelines have been developed to give direction to planning through a range of field circumstances and site conditions, and thus not all of the prescriptions may apply to a specific area. In Cambodia, guidelines have been prepared relating to planning, inventory, community consultation and participation, biodiversity conservation, watershed and riparian zone delineation and protection, reduced impact logging, access management (road design, construction, maintenance and de-commissioning), and forest engineering. Planning guidelines have now been consolidated in a Forest Planning Handbook covering all levels of concession planning—strategic, compartment and coupe.

- ***Contracts, Permits and Licenses.*** Linking the above elements into an operable control system is rigorous and methodical documentation of the controlling agency's evaluation and acceptance of the operator's plans. This documentation must record and verify the expected adequacy of the proposed action, as judged in light of site-specific conditions and the overall objectives of management. For this reason, guidelines are not mandatory in themselves, but the prescriptions they contain become enforceable when stipulated in *approved* plans at the strategic, compartment and coupe levels.

6. **Environmental and Social Impact Assessment of Forestry Concession Management.** Environmental and social impact assessment of forestry projects should be integral to the underlying forest planning process. However, because of obligations mandated by the Law on Environmental Protection and Natural Resource Management, it is a separate process requiring parallel documentation. At a fundamental level, traditional ESIA fulfills a number of functions that are not substantially different from those required to develop a sustainable strategic forest management plan:

- Scope potential impacts based on an initial project design;
- Establish a reliable environmental and social baseline against which to measure future change;
- Establish environmental and social objectives, standards and performance indicators;
- Avoid or reduce impacts through early consideration in planning and design;
- Identify and quantify benefits and residual impacts or risks (i.e., those that cannot be avoided or mitigated);
- Establish monitoring programs, with “thresholds” that will trigger management action;
- Consult with affected communities and accommodate their needs in the management plan; and
- Provide guidance to more detailed planning which, in turn, will lead to operational approvals and implementation.

7. In light of the foregoing, ESIA in forest resource management should focus less on “academic” impact analysis, and more on ensuring that forest management planning avoids or minimizes environmental and social impacts by:

- Setting clear and appropriate goals, objectives and principles for sustainable forest management activities;

- Ensuring that government policies, legislation, regulations and institutional organization support and facilitate sound, sustainable natural resource management;
- Ensuring that management activities directed at natural ecosystems are as consistent as possible with the ecological processes that create and maintain those systems;
- Limiting site disturbance, soil degradation and watershed disruption through good operational practices;
- Incorporating long-term community co-management, planning and development programs into program design through constructive public consultation processes;
- Providing potential beneficiaries with the skills and information necessary to participate effectively in the project; and,
- Establishing well-conceived environmental and social monitoring programs.

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