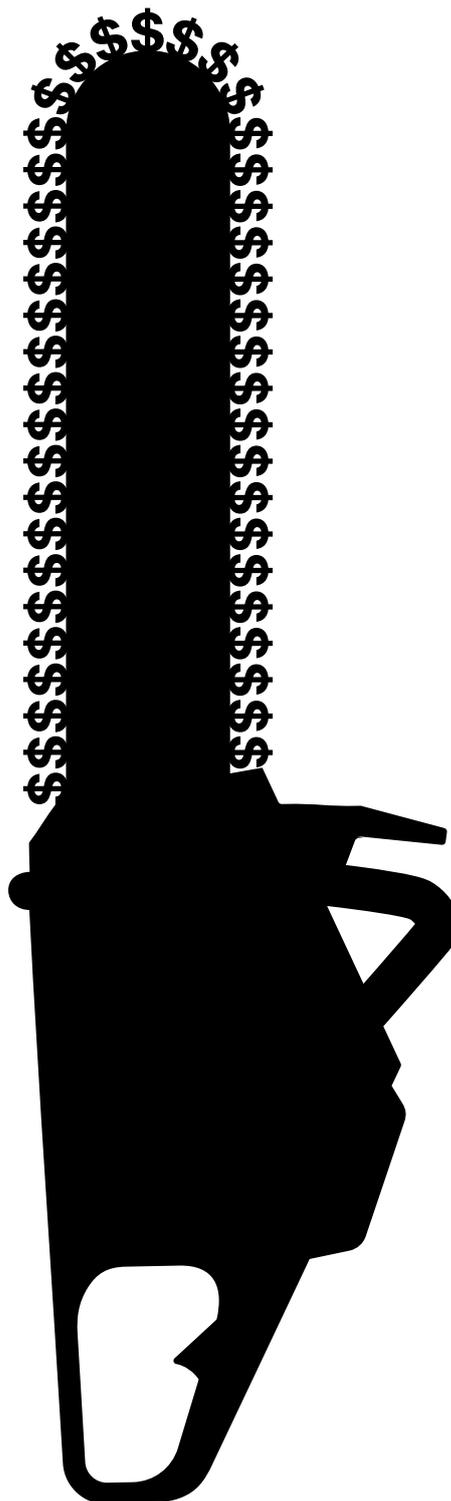




global witness



THE COST OF LUXURY

————— Cambodia's illegal trade in precious wood with China —————

February 2015

The remains of a Cambodian forest, now inside an economic land concession, Ratanakiri Province, 2013. Photo: Chris Kelly



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EXECUTIVE SUMMARY

China's craze for luxury rosewood *Hongmu* furniture has given rise to a multi-million dollar timber smuggling operation in Cambodia. The Cost of Luxury is the result of an eight month covert investigation into the rush for Cambodia's last precious timber. It documents how one man - Cambodian tycoon Oknha Try Pheap - is at the helm of an all-encompassing illegal logging network that relies on the collusion of state officials and supposed enforcement agencies to poach rare trees like Siamese Rosewood (*Dalbergia cochinchinensis*), traffic logs across the country and load them onto boats bound for Hong Kong.

Strict laws protecting rare and luxury tree species came into force in 2002 amid outcry over massive deforestation, yet our investigations show that the Try Pheap Group is loading as much as 900m³ of timber onto ships for export every day, sourced in large from the country's protected areas and national parks. Oknha Try Pheap, previously personal advisor to Prime Minister Hun Sen, is gutting forests illegally and under the auspices of land clearance for industrial agriculture (under so-called 'economic land concessions'). He has been allocated land concessions far larger than the legal limit and appears to be using them to launder luxury timber from protected areas both within and outside his concession boundaries. This large-scale industrial takeover is helping drive tree and animal species to extinction, while stripping indigenous and forest-dependent communities of resources on which their livelihoods depend.

Testimony from government and industry insiders, including those on Try Pheap's pay-roll, enabled researchers to map out complex systems of cronyism and complicity, beginning with loggers, timber traders and saw-mill owners, and extending to the military, police, border units, and government ministries. Loggers in this network are apparently granted safe passage, immune from timber confiscations or penalties. The Try Pheap Group has even been given exclusive rights to purchase any timber that is seized by enforcement authorities, to sell on at a profit. One of Try Pheap's alleged middle-men, Hom Hoy, is a two-star General with the Prime Minister's Body Guard Unit, Brigade 70. Numerous informants also described the tycoon's close relationships with Ministry of Environment and Forestry Administration officials.

Try Pheap Group timber should not be considered legal until proven otherwise because:

- The company and its affiliates deploy workers, accompanied by government enforcement agencies, to seek out **luxury-grade wood** such as Siamese Rosewood, which the Cambodian government banned from harvesting and exporting in 2013. This species is also protected under international law, listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora in 2013;
 - The Group is gutting timber from **economic land concessions** – a leasing system intended not for logging but for large-scale agriculture. None of the Group's land concessions should be considered legal as they cover forested land, are larger than the maximum size limit and have not undergone required community consultations. Nearly 20,000 hectares of concession-land within Virachey National Park, home to indigenous populations and several endangered plant and animal species, was taken back from the Group by the Government in late 2014;
 - The Group is also using its land-concession permits to clear forests beyond the allocated boundaries, **laundering valuable and protected timber** from surrounding areas;
 - The Group is **exporting timber in forms prohibited for export**, namely unprocessed logs and sawn timber thicker than 25cm in diameter.
- Despite the fact that such harvesting, transportation and export is occurring, ostensibly, under government permits, Cambodian and Chinese regulatory authorities must not overlook the Group's fundamental violation of national and international laws.
- Despite this, demand for Cambodian timber is growing fast, particularly from abroad. 85 percent of Cambodia's timber exports are destined for China and the volume of Hongmu logs exported there grew by 150 percent between 2013 and 2014. Global Witness investigators tracked Try Pheap Group timber from source via transit depots to the Vietnam border crossing at O'Yadav and to the International Port of Sihanoukville, where logs are shipped to locations such as Hong Kong. Over a period of four weeks, researchers observed TPG's trucks entering the port on a regular basis, counting at least 30 containers each day.
- Global Witness obtained copies of export documents for timber valued at US\$5.6 million, sent without interception to the Kin Chung Transportation Company in Hong Kong. One document cited the Forestry Administration as exporter, on behalf of the Try Pheap Group. The invoice had a hand-written alteration by a customs official more than doubling the value of the timber, a change not reflected in its customs export permit. Documents resulting from spot checks by customs officials on two containers in a separate export lot stated that they contained 'luxury timber', which is illegal to harvest in Cambodia. Both containers were approved for export regardless. This timber also appeared to have been exported without a valid customs permit. Such breaches indicate that Cambodia's national laws are being routinely flouted at each stage of the timber route from harvesting to export, and that even government-approved exports should be treated as suspicious.
- Investigations into the Kin Chung Transportation Company in Hong Kong reveal a logistics company with a capital shareholding of just HK\$2.00, its office registered in a residential apartment, with no listed contact details or public presence as a timber trading

company. When contacted, the Directors of the company claimed to have no knowledge of the Try Pheap Group, no involvement in the aforementioned timber imports from Cambodia in March 2014 and no idea why their company had been associated with such shipments. Such a response only further raises suspicions about the legality of Oknha Try Pheap's timber trading business.

The following urgent actions are required by the Governments of Cambodia and China, and State Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to avert the destruction of critical forest habitats and the livelihoods of the communities that rely on them:

Recommendations to the Royal Government of Cambodia:

1. Investigate the holdings of the Try Pheap Group and all affiliated entities for illegal activities and compliance with national laws. In the case that illegal activities are found, take action to cancel the related government permits and initiate prosecutions against those responsible. Awaiting the outcome of such an investigation, the Try Pheap Group should be prevented from acquiring any additional permits and licenses (including for timber exports) and be excluded from participating in timber auctions;
2. Establish a judicial investigation into the issuance by various Government authorities of permits and licenses awarded to the Try Pheap Group to harvest, collect, trade and export luxury timber species;
3. Take urgent steps to enforce the Forest Law and other relevant legislation, and strengthen regulations to protect rare and endangered tree species;
4. Auction off all confiscated currently timber held by the Ministry of Agriculture, Forestry and Fisheries and Ministry of Environment through a public bidding process overseen by independent observers, and place the revenues generated in a fund dedicated to protecting rare and endangered tree species. Following this, amend the Forest Law to require that any future confiscated timber is immediately destroyed;
5. Further support, both in policy and practice, the efforts of local community groups, including indigenous peoples, to protect their forests from illegal logging and other unsustainable activities. In particular, prioritise funding and resources to speed up the recognition of Community Forestry areas and the registration of indigenous community land titles;
6. Take steps to ensure Cambodia is compliant with CITES listing of Siamese Rosewood by the end of 2015. Including undertaking and publishing a scientific study of the species' distribution and providing the support necessary for the Cambodian CITES Management Authorities to issue export licenses in compliance with CITES regulations.

Recommendations to the People's Republic of China:

1. Take immediate steps to halt the import of all Hongmu tree species from Cambodia which are included in the Cambodian government's list of rare tree species;
2. As an interim measure, ensure that the State Forest Administration's forthcoming guideline on timber trade and investment contains a clear statement that Chinese companies that import, trade and process wood must not purchase illegal timber and that companies using timber from high risk areas must carry out thorough due diligence on their supply chains. This due diligence should include companies reporting publicly on what checks they carry out and the findings these checks yield;
3. Introduce legislation which prohibits the import, trading and processing of illegally harvested timber and products derived from such wood, and which contains a requirement that companies using timber from high risk areas carry out thorough due diligence on their supply chains. This due diligence should include companies reporting publicly on what checks they carry out and the findings these checks yield.

Recommendations to the authorities of Hong Kong Special Administrative Region:

1. Take immediate steps to halt the import of all Hongmu tree species from Cambodia which are included in the Cambodian government's list of rare tree species;
2. Take urgent action to introduce legislation which prohibits the import, trading and processing of illegally harvested timber and products derived from such wood into Hong Kong, and which contains a requirement that companies using timber from high risk areas carry out thorough due diligence on their supply chains. This due diligence should include companies reporting publicly on what checks they carry out and the findings these checks yield;
3. Investigate the operations of Hong Kong-based timber trading companies, such as the Kin Chung Transportation Company, and ensure that they are only importing timber which is legally sourced.

Recommendations to the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora:

1. Remove the exemption in the current listing of Siamese Rosewood in Appendix II which means that not all types of processed timber of this species are covered (otherwise known as the Annotation five limitation);
2. Extend the listing in Appendix II to include Burmese Rosewood (*Dalbergia bariensis*) and Burmese Padauk (*Pterocarpus macrocarpus* Kurz).

INTRODUCTION

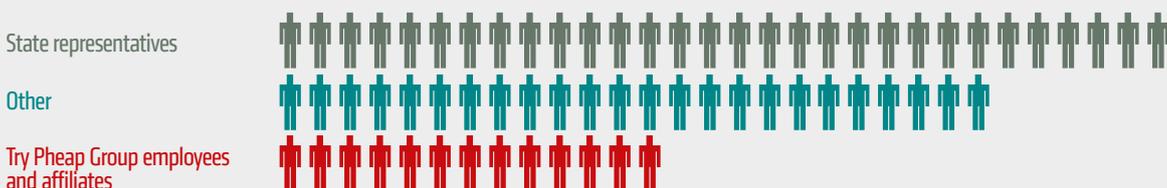
Cambodia is reported to have the fifth highest deforestation rate in the world.¹ In 1970, forests covered approximately 70 percent of the country's territory but by 2013 total tree cover (including plantations) was estimated at only 43 percent.² Between 2000 and 2012 the country lost 7.1 percent of its forest (12,600km²), 70 percent of which (8,900km²) was lost in the most dense areas.³ Illegal logging, combined with the conversion of forests for commercial agricultural purposes (many of which are illegal themselves) has been blamed for much of Cambodia's forest loss.⁴

Cambodia's forests are critical ecosystems, not just for a large number of internationally endangered species living there, but also for the majority of the country's population who are rural and depend on natural resources for their livelihoods. This includes indigenous ethnic minorities who have traditionally lived in the most isolated north-eastern and south-western reaches of the country. The forests are also an essential part of the country's watershed which provides sustenance for the central rice growing and fisheries areas. The area focused on in this report – Virachey National Park (VNP) in the country's remote northeast, see Map 2, page 15 for details – is of particular importance; a 2014 study found it supported several internationally rare and endangered species.⁵

Faced with domestic and international criticism relating to the destruction of Cambodia's forests in the mid to late 1990s, the Government engaged in a nation-wide forest sector reform process; albeit rather reluctantly. In December 2001, Prime Minister Hun Sen announced the suspension of all logging operations, effective from 1 January 2002.⁶ Global Witness, which had been campaigning against illegal logging in the country since 1995, welcomed this decision but recommended that companies which had committed extensive illegal logging not be allowed to resume their activities. Disappointingly, commitments to reform the sector were not implemented and by 2007 Global Witness concluded *"Cambodia's shadow state continued to generate money from the timber sector. The same officials charged with implementing reforms actively subverted them, with the result that illegal logging has continued in a variety of forms."*⁷

DIAGRAM 1. PEOPLE INTERVIEWED DURING THE EIGHT-MONTH RESEARCH PROJECT

Interviews were held with: 6 village chiefs, 6 commune council officials, 5 Royal Cambodian Armed Forces officials, 4 customs officials, 3 border officials, 2 soldiers, 2 forestry administration representatives, 2 ministry of environment representatives, 10 villagers, including forest defenders, 9 NGO workers, 3 journalists, 1 community forestry group, 1 timber trader, 5 logging depot staff, 4 loggers, 3 Try Pheap Group timber traders and 1 truck driver.



In late 2013 and throughout 2014, researchers working with Global Witness spent a total of eight months monitoring illegal logging across Cambodia, including four months of the rainy season in the north-eastern Ratanakiri and Stung Treng Provinces. They followed up on leads from local media and civil society that the area had once again become a hotbed of illegal logging under the control of Cambodian businessman Onkha Try Pheap; in particular the logging of protected trees for their luxury grade timber.⁸ They visited illegal logging camps, and observed the felling of luxury timber and rough-hewing of rosewood logs at first hand. The team travelled extensively, exploring a significant proportion of the logging tracks that penetrated the forest and following the vehicles transporting wood to transitory log depots and to warehouses under the control of the Try Pheap Group (TPG).⁹ They followed trucks transporting TPG's timber in containers from the company's depot in Ban Lung town, to the Vietnam border crossing at O'Yadav and to the International Port of Sihanoukville. They monitored trucks owned by the company entering the port continuously over a four week period.

The researchers interviewed sixty-seven individuals during this period, some on a number of occasions (see Diagram 1, below). Interviews included villagers who were either negatively affected by or involved in the illegal activity; loggers, truck drivers, timber traders and timber depot workers employed by TPG; other illegal loggers; soldiers and gendarmes extorting 'road tolls' from the passing timber-transporting vehicles; officials from the Royal Cambodian Armed Forces, border and customs units; Forestry and Environment enforcement agencies; local government authorities; representatives from community forestry groups and an international conservation organisations; and journalists and NGO workers.

Researchers documented these illegal activities by film and photograph, many of which are reproduced here and on the accompanying website. The team recorded GPS¹⁰ waypoints for logging locations, logging tracks, sawmills and TPG warehouses and log depots, where the team found luxury wood being stored and loaded into containers. Over the course of the investigation valuable information was pieced together from individuals working at the heart of Onkha Try Pheap's enterprise about how the network of hundreds of loggers and middlemen actually functions and the individuals that ran it.

PROTECTING CAMBODIA'S FOREST: THE LEGAL POSITION

“[The] laws of the country are binding, and a desire to promote private sector investment cannot excuse non-compliance with the requirements of the law.”¹¹

– United Nations Special Rapporteur on the situation of human rights in Cambodia, 2007.

Since Cambodia's basic forest and land laws were reformed in the early 2000s, the legal framework has contained provisions which protected the country's forests and the livelihoods of those who depend on them. However, as this report shows, such laws are being flouted by companies and the government authorities responsible for their enforcement.

ELEMENTS OF CAMBODIA'S LEGAL FRAMEWORK WHICH ARE BEING IGNORED BY ILLEGAL LOGGERS AND THE ALLOCATION OF CONCESSIONS

The Land, Forest, Protected Area and other laws and accompanying sub-decrees protect Cambodia's forests from exploitation and harvesting in the following ways:¹²

- protects Cambodia's forests from exploitation and harvesting, placing limits on the government's ability to remove forested areas from the 'Permanent Forest Reserve' except for public interest purposes;
- gives additional protection against harvesting of rare tree species, particularly Siamese Rosewood and trees which local communities rely on for resin tapping;
- only allows forested areas to be re-allocated for private use (for example commercial concessions) if they have lost their public interest purpose;
- only allows forests in Protected Areas to be cleared if they are in areas zoned for sustainable or community use;
- allows Economic Land Concessions to be allocated only after environmental impact assessments and consultations with local communities have been completed, once any resettlement issues have been addressed, and within strict maximum size limits;
- prohibits the export of unprocessed logs, rough sawn timber thicker than 25cm in diameter and all forms of Siamese Rosewood.

According to statistics from the Cambodian Government, demand for timber is growing fast; in 2008 it was 262,511m³, in 2013 it had

grown by 20 percent to 318,385m³ and is predicted to grow a further 12 percent to 358,939m³, by 2018.¹³ Currently, ninety percent of the country's timber supply (for both domestic and export markets) originates from land clearing activities in large-scale agricultural leases, known as Economic Land Concessions (ELCs).¹⁴ Government sources also point to wood auctioned from confiscated timber stockpiles as an important source.¹⁵ It is likely that timber from ELCs and confiscations will play a predominant role in meeting this future demand, given the current significance ELCs play, the immaturity of plantation timber growth during this period and the fact that the moratorium on logging concessions remains in place since 2002.¹⁶

Cambodia's forests are protected by a range of laws; see left for a summary. This section examines their key components starting with the laws governing ELCs. Such concessions can be granted for a period of up to 99 years and must not exceed 10,000 hectares (ha).¹⁷ ELCs should be granted for the purposes of “increasing agricultural and industrial-agricultural production”, developing the land “in an appropriate and perpetual manner based on a land use plan for the area”, increasing employment opportunities, promoting living standards and ensuring “perpetual environmental protection and natural resources management”.¹⁸ ELCs can be allocated on any land that has been registered and classified as state private land, upon completion of environmental and social impact assessments, “for which there have been public consultations, with regard to economic land concession projects or proposals, with territorial authorities and residents of the locality” and once re-settlement issues have been addressed.¹⁹ The protection of forests in relation to ELCs was reiterated in a May 2014 Inter-Ministerial Proclamation which states “Companies must assure that they never cut trees in the protected areas and areas outside the location of the companies' concession land, and never collect and purchase illegal timbers from the outside areas to use for legal trade in the companies' location.”²⁰

According to the Land Law (2001) forests fall within the public property of the State and only if such forested areas lose their public interest use, can they be re-classified as State private property and granted as land concessions, including ELCs.²¹ In short, ELCs cannot be granted on public property, an area which currently includes the vast majority of forested land in Cambodia. State private land may include land that was previously the public property of the state but only under limited circumstances and, further, only if the procedures for transferring the land to state private property have been followed correctly; a rare occurrence.

The Forest Law (2002) describes wide ranging provisions to protect the forest, allowing the declassification of forested areas from the “Permanent Forest Reserve”, only in the public interest and in line with the National Forest Sector Policy and National Forest Management Plan.²² Likewise, the Protected Area Law (2008) only allows

ECONOMIC LAND CONCESSIONS AND THEIR NEGATIVE IMPACTS

Below: Recently bulldozed forest and farmland in Ratanakiri Province, cleared to make way for an Economic Land Concession, 2013. Photo: Chris Kelly

*“[ELCs were] meant to bring benefits for the state, the rural economy and the local population by generating state revenue, developing the land and increasing employment, ELCs have instead worsened the situation of vulnerable families, aggravated landlessness and fuelled land conflicts.”*³² – ADHOC, 2013

As of late 2013, 2.6 million ha of land had been leased to private companies in the form of ELCs, equivalent to 73 percent of Cambodia’s arable land and representing an increase of 16.7 percent since 2011.³³ Latest Government data shows that the majority of a total 272 ELCs on record were established, at least on paper, as rubber plantations (146); the purpose of a further 61 ELCs are not disclosed.³⁴ Of these 272 ELCs (illustrated by Map 1), 117 are owned by Cambodian companies, 55 are Vietnamese, 41 are Chinese and the remainder are Thai, Malaysian, Korean, Indian, Singapore, US, UK, French and Japanese, with 15 ELCs recorded as having an unknown nationality.³⁵

Of particular concern is that ELCs have disproportionately impacted on forested areas where indigenous peoples have traditionally lived and despite promises of reform, 70 percent of recently allocated concessions have been inside protected areas.³⁶ Cambodian law recognises traditional shifting cultivation agriculture and land tenure systems and also provides for any rural and forest dependent community to register exclusive rights to protect and use forest resources under the Community Forestry model.³⁷ Unfortunately, across the country these local people’s rights are being trumped by political power and business interests. Illegal logging and ELCs



have become two sides of the same coin; ELCs are used as a cover to access valuable timber, and once forests are cleared, industries like rubber move in. In some cases, revenues from the timber cleared are an essential source of finance for the agribusiness project.³⁸

In addition, many of the ELCs are not meeting their productive use objectives (as described above). The Land Law obliges concessionaires to exploit their land within twelve months, any failure to do so, without proper justification, is considered grounds for cancellation.³⁹ Investigations by local civil society organisations however revealed that a number of ELCs are not being developed after the land has been cleared of all forest. In 2007 the Cambodian Special Rapporteur for Human Rights noted “*Many concessions have not been exploited within 12 months of their issue, or have remained inactive for over 12 months, without sanction*”.⁴⁰

Like the forest sector in the 1990s, the government has promised to reform ELC management. In May 2012, Hun Sen, the Cambodian Prime Minister, issued Directive 001 announcing a moratorium on the granting of new ELCs and a review of those that already existed. But by June, the granting of at least 12 concessions totalling more than 80,000 ha had been documented.⁴¹ The government

subsequently clarified that the moratorium did not apply to concessions that were already ‘agreed in principle’, though there is no public list of such concessions.

During the second half of 2014, the Cambodian Government created a number of initiatives with the stated objective of resolving the rising number of land disputes sweeping the country. These include the formation of an ‘Inter-Ministerial Commission to Inspect, Demarcate and Assess Economic Land Concessions’⁴² which has already resulted in the cancellation or reduction of land concessions belonging to 18 private companies, all of which were due to be in protected areas. However, despite these contracts being cancelled, a number of people informed Global Witness that operations on these same concessions have continued unabated.⁴³

Below: A villager rests in the shade of a large tree cleared to make way for an Economic Land Concession in Ratanakiri Province, 2013. Communities often know nothing about the deals struck for their land until the bulldozers arrive. Photo: Chris Kelly



LAND DISPUTES: PROTEST, CONFLICT AND THE TARGETING OF HUMAN RIGHTS DEFENDERS

Below: Chut Wutty, a well-known Cambodian environmentalist who was shot dead while investigating illegal logging in Koh Kong Province in 2012. Wutty was posthumously honoured by U.S. President Obama for his forest protection work in 2014. Photo permission obtained by Global Witness.



It is estimated that more than 770,000 people (roughly 6 percent of the population) were adversely affected by land grabbing between 2000 and 2013, for example by land loss and worsening food insecurity.⁴⁴ The first months of 2014 saw a renewed wave of violent land grabbing that affected 2,246 families across twelve provinces alone.⁴⁵

Victims of land grabs, such as those caused by ELCs, only have the option of public protest because Cambodia's politicised judiciary frequently works alongside the Government to quash dissent and harass and intimidate activists. Cambodian NGO ADHOC reports that in 2013 *"land conflicts have been marked by court processes biased towards the interests of the wealthiest party, the destruction of villagers' property and fields, continuous intimidation and unlawful convictions of community representatives and human rights activist"*.⁴⁶ Crack downs on peaceful protestors are common as illustrated by the events of 10th to 13th November 2014 when the authorities arrested members of the Boeung Kak land rights activists group, opposition party members and monks. Their peaceful protests led to the arrest and sentencing of 15 people over just four days.⁴⁷ Each received the maximum possible sentence with their convictions upheld on appeal on 26 January 2015, albeit with some sentences and fines marginally reduced.⁴⁸ This appeal took place less than a week after the Special Rapporteur for Human Rights cited the case as evidence of the politicisation of Cambodia's judiciary.⁴⁹

It is worrying that the human rights situation in Cambodia in connection with land rights issues appears to be worsening. In some

instances, individuals who have supported the efforts of communities to defend their rights have themselves been targeted. Amnesty International reports that *"Death threats, attempted killings and murders of HRDs [Human Rights Defenders] have been recorded in the reporting period [2010 – 2014]. However, the perpetrators of these crimes often remain unidentified and are rarely brought to justice; (...) land and housing rights activists continue to be targeted in the context of a continuing crisis over land, with forced evictions, land disputes and land grabbing affecting thousands of people."*⁵⁰ The most prominent of these killings occurred in April 2012 when Chut Wutty, a well-known environmentalist and investigator of forest crime, was shot dead in Koh Kong Province. Wutty (shown in the photograph above) was posthumously honoured by U.S. President Barack Obama in September 2014.⁵¹

Within six months of Wutty's murder, Hang Serei Oudom, a journalist on the Virakchun Khmer Daily newspaper, was found dead in the boot of his car. Mr Oudom was well known for his reports on forest crimes; for months prior to his death, he had been working on cases that linked members of Cambodia's elite to illegal logging activity in Ratanakiri Province.⁵² This trend echoes global research by Global Witness into the increasingly deadly threats forest and land activists are facing; between 2002 and 2013, at least 908 people were killed in 35 countries protecting rights to land and the environment, with the death rate rising to an average of two activists being killed each week in the last four years.⁵³

OKNHA TRY PHEAP: THE KING OF ROSEWOOD

Below: Oknha Try Pheap, Director of the Try Pheap Group. Source: Photo permission obtained by Global Witness



Oknha Try Pheap,⁵⁴ the Director of the Try Pheap Group of companies is a prominent and powerful Cambodian tycoon.⁵⁵ Articles in the Cambodian national press describe Try Pheap as a personal advisor to Prime Minister Hun Sen (between 2010 and 2012) and the ‘god-brother’ of Bun Rany, Hun Sen’s wife.⁵⁶ Local media recently reported that Try Pheap funded the construction of a Cambodia People’s Party office in Preah Vihear Province in 2011 to the tune of US\$30,000, donated US\$100,000 for a new Headquarters for the Boeng Per Wildlife Sanctuary (shortly after the Ministry of Environment had granted him almost 10,000 hectares of land within the sanctuary for a rubber plantation), and made US\$100,000 donation to the Cambodian Red Cross, an institute closely affiliated to Bun Rany.⁵⁷ Try Pheap intends to open a timber museum in Kandal Province in 2015, which includes an ornate throne carved from Beng (see right); a rare species supposedly protected from harvesting by law.⁵⁸

According to official documentation, until December 2014 Oknha Try Pheap controlled development concessions totalling approximately 48,444 ha, see details in Diagram 2. As of January 2015, this total was reduced to only 29,589 ha following the cancellation by the Government of two ELCs in VNP totalling 18,855 ha.⁵⁹ Nevertheless, the company’s remaining three ELCs which total 15,188ha are still larger than the maximum legal limit⁶⁰ and two of them are located within Wildlife Sanctuaries.

A significant number of those interviewed between November 2013 and August 2014, including representatives of the Forestry Administration, described how Oknha Try Pheap has strong support from the Government and the armed forces, as well as the Prime Minister.⁶¹ The granting to TPG of permits on very favourable terms to collect and export timber, with specially negotiated prices for timber confiscated by the authorities⁶² would appear to be consistent with such connections.

Below: A "throne" carved out of rare and protected Beng timber, Oknha Try Pheap's timber museum in Kandal Province, 2014. Photo: The Phnom Penh Post

DIAGRAM 2. INDUSTRIAL DEVELOPMENT CONCESSIONS BELONGING TO OKNHA TRY PHEAP

 Economic Land Concessions ¹⁴²		 Mining Concessions ¹⁴³		 Special Economic Zones ¹⁴⁴	
Try Pheap Import Export Co., Ltd.	9,916 ha, Beng Per Wildlife Sanctuary	Try Pheap Co., Ltd. (Region 1)	4,200 ha, Stung Treng Province	MDS Thmorda SEZ	2,265 ha, Pursat Province
MDS Import Export Co., Ltd.	4,402 ha, Pursat Province	Try Pheap Co., Ltd. (Region 2)	1,800 ha, Stung Treng Province	Try Pheap Ou Ya Dav	136 ha, Oyadav border crossing, Ratanakiri province
MDS Import Export	870 ha (previously 1,950ha), Phnom Samkos Wildlife Sanctuary	Hong Fu Try Pheap Mining Development Construction Co., Ltd.	6,000 ha, Stung Treng Province		
Try Pheap Import Export Co., Ltd.	9,709 ha, Virachey National Park				
MDS Import Thmorda SEZ Co., Ltd.	9,146 ha, Virachey National Park				
34,043 ha ■ ELCs cancelled at the very end of 2014		12,000 ha		2,401 ha	



Try Pheap's middlemen allegedly originate mostly from the military at provincial and national level, for example Brigade 70 (Hun Sen's Body Guard Unit) and Kraing Chek Military School.⁶³ Such close relations were confirmed by TPG's inclusion in the 2010 formal sponsorship programme of specified military units by Cambodian companies. According to this list, the TPG sponsors Battalion numbers 101, 102, 103 and 825.⁶⁴

Global Witness wrote to Oknha Try Pheap on 22 December 2014 to ask for his comments on the evidence presented in this report, but by the time of publication, no response was received.

RESULTS OF FIELD RESEARCH INVESTIGATIONS IN NORTH-EASTERN CAMBODIA

“They come and cut trees without informing the local authorities. They electrocute the fish, they destroy the forest, the logging trucks destroyed the roads paid for by the Asian Development Bank; our livelihoods are lost”

– Indigenous Commune Chief from Ratanakiri province discussing the impact of Try Pheap’s operations inside Virachey National Park, June 2014.

Cambodia’s remaining forests are being decimated in a number of ways, frequently with the complicity of government authorities tasked with their protection, and Try Pheap appears to be at the heart of this destruction. The following section analyses the various modalities of forest clearance used by the company and how they relate to other large-scale investment projects, such as ELCs.

The Try Pheap Group’s illegal logging activities

In February 2013, MAFF gave Try Pheap Import Export Co. Ltd. permission to purchase all wood felled inside ELCs in Ratanakiri, and sell the timber domestically and via exports.⁶⁵ This is despite the fact that only two of the 31 ELCs located in Ratanakiri Province were at the time owned by TPG (see Diagram 2 and Map 2). At the request of the Ministry of Environment (MoE) the TPG had already been given permission to export up to 100,000m³ of timber derived from the clearance of its own ELCs in Ratanakiri, since February 2012.⁶⁶ Such permission appears to contradict statistics from the Cambodian government that no timber was harvested from any ELCs owned by TPG in Ratanakiri during 2011 or 2012, suggesting that these ELCs and permits were primarily being used to launder timber harvested outside their boundaries.⁶⁷

While monitoring TPG’s operations on the ground, researchers observed that forest clearance activities and timber stockpiles in TPG’s log depots in the forest, Ban Lung (the provincial capital of Ratanakiri), the company’s Special Economic Zone in Oyadav and main depot in Udong all primarily contained the two rosewood species (Siamese Rosewood and Burmese Rosewood) and Burmese Padauk. Likewise, timber which the team observed at the Forest Administration offices and sawmills in the area was mainly rosewood.⁶⁸ Researchers also saw timber that had been seized by the Forest Administration being stored at offices in Cheysen, Rovieng and Chheb Districts in Preah Vihear Province, and Borkeo, Konmom, Lumphat and Vuensai Districts in Ratanakiri. Interviews with those involved

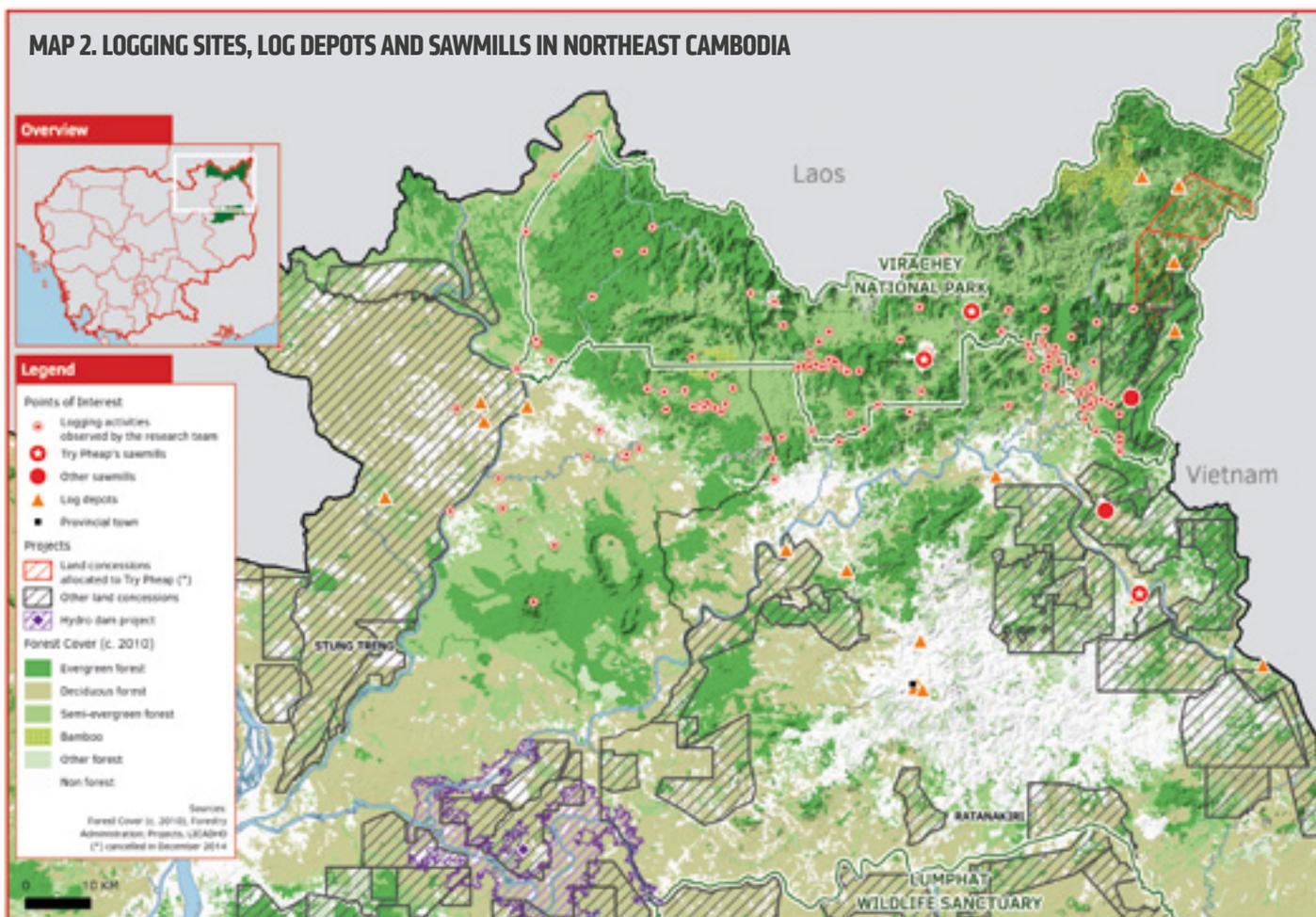
in the illegal logging throughout VNP and the forests in its southern vicinity showed exactly how easy it is for TPG to harvest timber outside ELC areas and bring it to TPG’s provincial depots where it is mixed with timber transported from inside the ELCs.⁶⁹ In fact, most of the timber in the Park and surrounding area (see Map 2) is reportedly being harvested either under commission by or for sale to TPG. Evidence of timber being laundered through concessions is consistent with extensive media coverage in the Cambodian press⁷⁰ and NGO reports.⁷¹ Despite the adverse publicity, the illegal activity continues.

Having cleared Lumphat Wildlife Sanctuary in southern Ratanakiri Province of all luxury wood over the last five years (see Map 2), TPG’s middlemen were reportedly transferred to Virachey National Park, leaving behind a broken sawmill.⁷² The forests in certain districts of Ratanakiri Province – Veunsai, Andong Meas and O’Chum – are now also reportedly empty of luxury timber.⁷³ However, logging workers told investigators they were still able to find an abundance of rosewood inside VNP, in the lower area of Taveng District.⁷⁴ On one occasion this resulted in a military police headquarters based in Veunsai District becoming almost deserted after logging operations ceased. The military police are alleged to have subsequently established a sub-office in a part of the park where logging is now rampant; as one Commune Chief commented *“The office of the military police runs after the timber.”*⁷⁵ The research team also tracked down at least three four-metre wide logging tracks recently cut through the forest in Ratanakiri and saw logging activities inside the Park (as shown in Satellite Image 1).⁷⁶

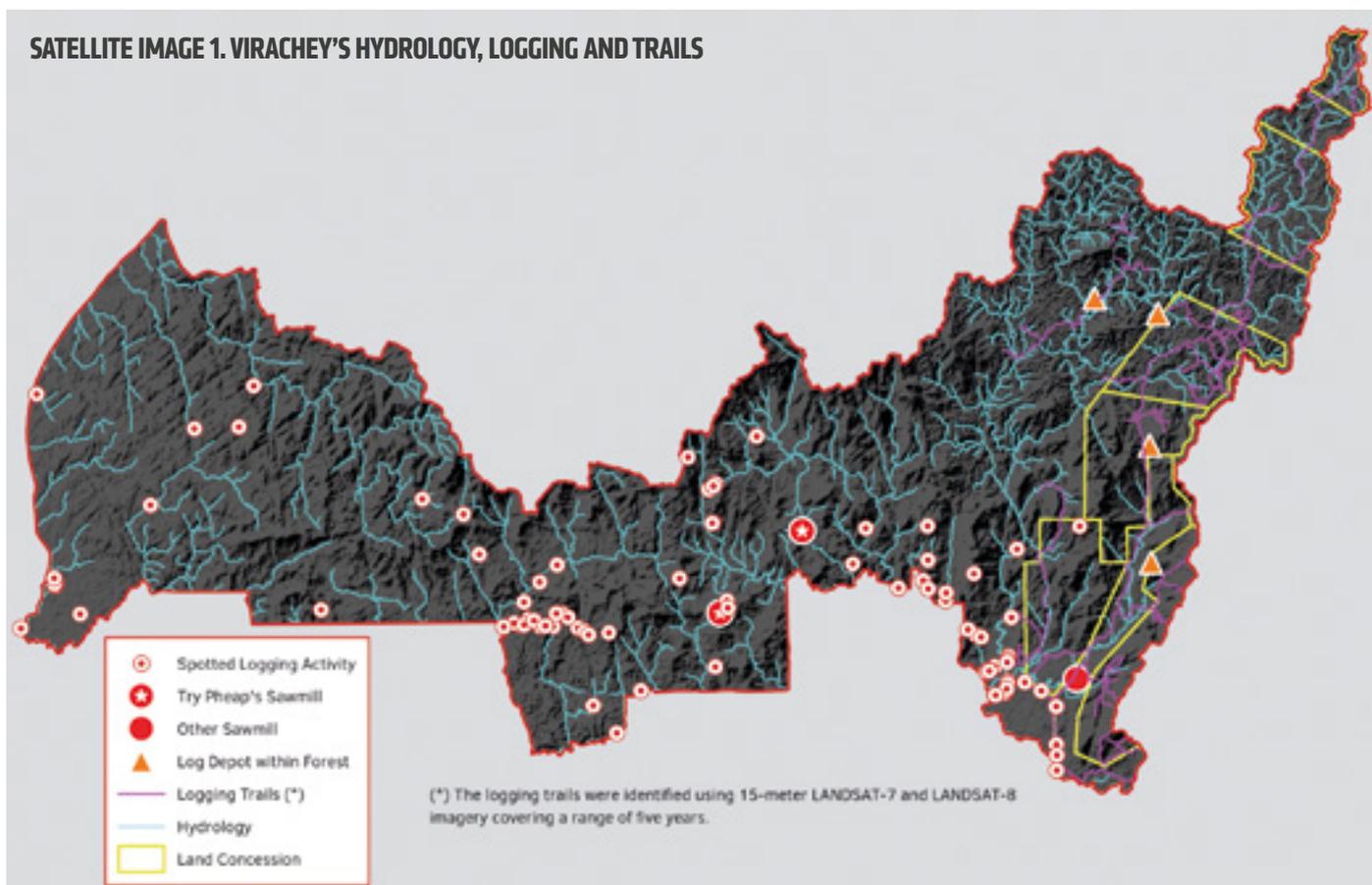
Loggers and villagers interviewed by the team throughout VNP claim that there is no significant control being carried out by the Forest Administration and TPG’s employment of military personnel is allowing the illegal loggers to operate with impunity. As previous Global Witness reports show, elements within the Cambodian military have been directly involved in logging, and have provided vehicles for the transportation of illegally logged timber for years.⁷⁷

Much of the logging taking place beyond the limits of TPG’s ELCs is of luxury timber tree species such as Siamese Rosewood and Burmese Padauk (*Pterocarpus macrocarpus* Kurz, known as ‘*Thnong*’

MAP 2. LOGGING SITES, LOG DEPOTS AND SAWMILLS IN NORTHEAST CAMBODIA



SATELLITE IMAGE 1. VIRACHEY'S HYDROLOGY, LOGGING AND TRAILS





in Cambodian) protected due to its classification as a rare timber species.⁷⁸ The fact that logging is taking place beyond the concession areas is supported by an analysis of satellite imagery. This shows the spreading out of access roads from TPG's ELCs in Ratanakiri into the permanent forest estate (see Satellite Image 1). It should be noted that there are no villages located in this area.⁷⁹

TPG's particular interest in rosewood has been well documented. In October 2014, the Phnom Penh Post published details of a leaked report by a "major international conservation group" which alleged that Try Pheap had made more than US\$220 million in unreported profit from illegal logging of rosewood in the south-western Cardamom Mountains.⁷⁸ The report revealed that Try Pheap's MDS Import Export Company used permits for clearing timber within the Stung Atay hydropower dam reservoir (see Map 1) and three ELCs in Phnom Samkos Wildlife Sanctuary as a cover to fell rosewood from the surrounding areas.⁸⁰ Coverage of the report concludes that the TPG transported more than 16,000m³ of rosewood out of the Cardamoms via the permit to clear the dam reservoir, despite the stock in the reservoir being estimated as of only 1,000m³. Global Witness has not verified these claims although they are consistent with our own evidence.

The research team also obtained documentation relating to the involvement of TPG in illegal logging in other areas of Cambodia. For example, a transport permit from 2011 authorising the company to transport timber worth US\$486,971.71 from an unspecified ELC in the Boeng Per Wildlife Sanctuary.⁸² Global Witness was not able to ascertain if this permit pertained to the ELC in the wildlife sanctuary belonging to TPG, or to a different concession.

The illegal logging network controlled by Oknha Try Pheap

Loggers and villagers in the forests of Veunsai, Taveng and Andong Meas Districts, Ratanakiri Province, informed researchers that Try Pheap's middlemen are being deployed into VNP to cut paths through the forests to the border with Lao and Vietnam, and to fell luxury-grade trees.⁸³ They claim that each month Try Pheap's middlemen (*Meka* in Cambodian), accompanied by a MoE representative and local villagers, demarcate a new area extending some ten kilometers ahead into the intact forest.⁸⁴ Subcontractors are allocated specific areas of the forest and put in charge of the entire logging and transport process. They own heavy machinery, chainsaws, and

Above left and right: Timber in two depots belonging to Oknha Try Pheap. The left depot is located in the Siem Pang area of Stung Treng Province and shows trucks owned by the company ready to be loaded with rosewood. The right image is of one of Oknha Try Pheap's depots in Ban Lung Town, Ratanakiri Province, and clearly shows Siamese Rosewood and timber thicker than 25cm. Photos: Global Witness, 2014

small trucks, and typically employ a large number of villagers to find and mark luxury timber tree species. Migrant workers are also employed to cut trees and partly process the logs for easier transport.⁸⁵ TPG reportedly controls at least 15 major logging depots in and around VNP and three more in neighboring Stung Treng province.⁸⁶

Villager after villager told researchers how they had first tried to protect their forests and fight back against Try Pheap's illegal logging activities. But after receiving threats from his employees and the local authorities, combined with offers of cash gifts and traditional ceremonies, many had buckled under pressure and become complicit.⁸⁷ As one explained "*If we did not log, how we can feed and raise our families, and if we do not cut the trees the company is doing it anyway. Logging for money is better than losing the forests without anything taken*".⁸⁸

At least 89 people were identified by name, during interviews, as being part of TPG's network of Meka and loggers. Amongst these individuals were three police officers, a former court prosecutor, two men of Vietnamese nationality, one soldier, three individuals with alleged links to other known illegal logging businessmen and two staff members of an international conservation organisation.⁸⁹ Each sub-contractor operating within this network marks timber he clears with a specific identification code.

One of Try Pheap's alleged middlemen, Hom Hoy, is a two-star General with Hun Sen's Body Guard Unit, Brigade 70. General Hom Hoy is the most powerful of TPG's Meka, has served Try Pheap for a number of years in Pursat and Kampong Thom Provinces and is now responsible for illegal timber production for the company in Ratanakiri's Veunsai District.⁹⁰ A phone call in October 2014 to a person close to Hom Hoy confirmed this arrangement. He has reportedly operated in Vuensai since July 2013 with soldiers from Pursat and from border units.

Researchers interviewed various commune and village chiefs from four villages which had signed contracts with middlemen to fell trees on their communal land.⁹¹ Interviewees in one village described how they had been visited by General Hom Hoy who was accompanied by soldiers. Global Witness has obtained a copy of a contract between the villagers and the General, in which Hom Hoy offered to construct a bridge and a village hall, apparently in return



Above: Large rosewood tree felled and with logger's unique identification code, Ratanakiri Province. The identity of the individual in the photo has been hidden for their protection. Photo: Global Witness, 2014

“Try Pheap spent money to build CPP’s headquarters, but he didn’t build a bridge or road in the community. The park rangers of Virachey, the military police, the soldiers – all are looking for timber for the company. The environmental officials and the Director of Virachey, the military police and soldiers, the District Chief - all are seeking timber for the company. They work for the company. If villagers sell the timber, they confiscate and chainsaw it. If they don’t sell the timber to the company but sell it to others, they will face crackdown”

– Indigenous local authority, Ratanakiri Province, June 2014.

for their consent for his men to log in the area. They agreed to Hom Hoy’s proposal only reluctantly, believing they had no choice. However, after all of the luxury trees had been felled, the middleman’s loggers moved on but the village hall and bridge were not built. Such practices have apparently been repeated in other communes in the region; however, not all local authorities are involved in logging activities.

Commune officials in a different area described how sub-contractors working for TPG attempted to lure local authorities and elders into giving the company rights to illegally harvest local timber by paying for a traditional ceremony, providing gifts and cash

payments; before intimidating them into signing contracts for such logging rights.⁹²

Global Witness wrote to General Hom Hoy on 22 December 2014 asking for his comment on his involvement in Oknha Try Pheap’s illegal logging activities, but by the time of publication no response had been received.

How the Try Pheap Group profiteers from confiscated timber

Cambodian law provides for timber which is unclaimed or seized to be confiscated and processed through public auctions, the proceeds of which go to the national budget.⁹³ Evidence gathered suggests that the TPG is using this process to obtain and profit from illegally sourced timber across Cambodia.

In June 2014, in a development described by local NGOs as ‘breath-taking’, Try Pheap was granted exclusive rights to collect all seized timber from MAFF and MoE facilities across the country, which reportedly included timber held as evidence in ongoing cases against illegal loggers.⁹⁴ The purpose of permit No. 854 issued by the Council of Ministers was to clear these stores and avoid losses of timber due to it rotting or unspecified “illegal activities”.⁹⁵ The permit further recommends that TPG export this timber as soon as possible, in accordance with authorisation already given to the company to export 100,000m³ of timber (page 14). A subsequent letter issued by the Council of Ministers in reference to this permit recommends that MAFF negotiates a price for the timber acquired with TPG, who can subsequently sell it for a profit and destroy the remainder.⁹⁶

This license follows media reports from 2013 of an announcement by the Forestry Administration that TPG had obtained the exclusive right to collect nearly 5,000m³ of confiscated luxury timber, from provinces across the country, after paying the government approximately US\$3.4 million.⁹⁷ Thun Sarath, Deputy Director within the Forestry Administration is quoted as saying that Try Pheap “*offered double the amount pledged by a consortium of seven local companies who had bid [in a timber auction], and won, the contract to purchase the country’s confiscated luxury wood stocks about three years ago ... but [the consortium] had only deposited a fraction of the bidding money, in violation of the contract*”.⁹⁸ It appears that the timber was sold to Try Pheap without his company having to take part in a new auction. Although neither permit specifies the species or grade of timber, a 2014 report from MAFF described in Cambodian media confirms that rosewood species (including Siamese Rosewood) constitutes a significant proportion of confiscated timber.⁹⁹

Evidence from the field investigations suggests that TPG’s middlemen are protected from having their illegally sourced timber from being confiscated.¹⁰⁰ Furthermore, timber confiscated from loggers not working for Try Pheap’s network has been seen being transported by TPG trucks to the company’s depots.¹⁰¹ However it is unclear if this timber had already been obtained by the Group through the aforementioned permit, or if this confiscated timber was being stored in the depots temporarily by local authorities for another reason.



Above: A rosewood tree recently felled by Oknha Try Pheap’s logging network, Preah Vihear Province. Photo: Global Witness, 2014

Since most timber cut illegally in Ratanakiri is of luxury species, these permits put the TPG in a very favourable economic position; in fact a de-facto monopoly on the trade of luxury wood from ELCs is created. In addition, permits issued to the TPG enables illegally harvested timber, for which no royalties, taxes or fees have been paid, to be laundered into the formal market and then sold. This mechanism not only undermines the basic principles of the Forest Law but also facilitates continued demand for precious woods while the species become increasingly endangered, which in turn simply increases their value and subsequent commercial demand.

The use of confiscated timber auctions as a means for criminals to illegally cut but retain timber has been revealed in previous Global Witness research in Cambodia, Honduras and Madagascar.¹⁰² Auctions have also been used across the Mekong region as a mechanism to launder rare timber into the formal economy, thereby allowing traders to circumvent any existing protection for endangered species.¹⁰³

In conclusion, Oknha Try Pheap and the companies he controls appear to have used his significant high level political and business connections to gain what is essentially a monopoly on all clearing, trading and export of rare luxury timber species in Cambodia. A significant proportion of these activities are taking place under government license, despite being in contravention of key legal safeguards. They are also having a devastating impact on the country’s last remaining forests and the local indigenous and forest-dependent communities. The extent of TPG’s capture of the forest sector and the Group’s international links are illustrated in Diagram 3 and further examined next.

Oknha Try Pheap's timber export business

By interviewing TPG workers and drivers, the research team was able to establish, and subsequently follow, the routes for timber cleared in Ratanakiri and Stung Treng Provinces. The timber is first transported via a number of temporary log depots in the forest to TPG depots in Chey Sen, Chhep, Siem Pang, Khum Ong, Veunsai, O Chum, Taveng and Andong Meas, before being consolidated at four warehouses located at TPG's provincial headquarters in Ban Lung Town and at the O'Yadav border crossing with Vietnam (see Map 2). Researchers took coordinates of all the logging sites and temporary log collection points along the way to TPG's main depots (see Diagram 3, right and Map 2, page 15).

Researchers monitored TPG's O'Yadav timber depot, located within the company's Special Economic Zone and saw numerous containers being loaded with Siamese Rosewood and other luxury timber species. As can be seen from the photo, a significant proportion of them included luxury timber which was either roughly hewn logs, or square timber thicker than 25cm, both unprocessed wood forms which are illegal to export. The investigators watched the O'Yadav border crossing for 14 days and saw on average 15 containers each day crossing into Vietnam. TPG truck drivers interviewed confirmed that these containers belonged to the company, held timber from the depot and were destined for the Vietnamese port of Qui Nhon, from where the containers were shipped to China.¹⁰⁴ It was not possible to verify this information through checks in Qui Nhon, but in the past significant volumes of illegally harvested Cambodian timber were discovered by Global Witness investigators to have been exported via the port.¹⁰⁵ The major volume of TPG's timber, however, is trucked to Sihanoukville Autonomous Port from where it is being shipped to China.¹⁰⁶

Trucks transporting the luxury wood that the team had previously observed and filmed whilst being loaded into containers at TPG's warehouses in Ban Lung, Thmorda (Pursat Province) and Udong (Kompong Speu Province), were then followed to the international port of Sihanoukville. Over a period of four weeks, in April 2014, researchers observed TPG's trucks entering the port on a regular basis, counting at least 30 containers each day. This amounted to an estimated 900m³ of TPG-acquired timber stock passing into the port daily, an estimate which was confirmed by information given to the team by a Custom's officer.¹⁰⁷ This volume of timber exports would mean that the company's 2012 authorisation to export 100,000m³ of timber could be fulfilled through this port alone in under four months.



Above: Timber inside shipping containers in Oknha Try Pheap's O'Yadav Special Economic Zone, on the border crossing with Vietnam. Containers clearly include Siamese Rosewood, unprocessed logs and sawn timber thicker than 25 cm, all of which are banned from export. Photo: Global Witness, 2014



Right: Piles of luxury timber in Ratanakiri Province, 2013. Due to Oknha Try Pheap's high level political and business connections, his illegal logging network is able to get away with ignoring the law with impunity. Photo: Chris Kelly

**Dodgy dossiers:
analysis of the Try Pheap Group's timber exports to Hong Kong**

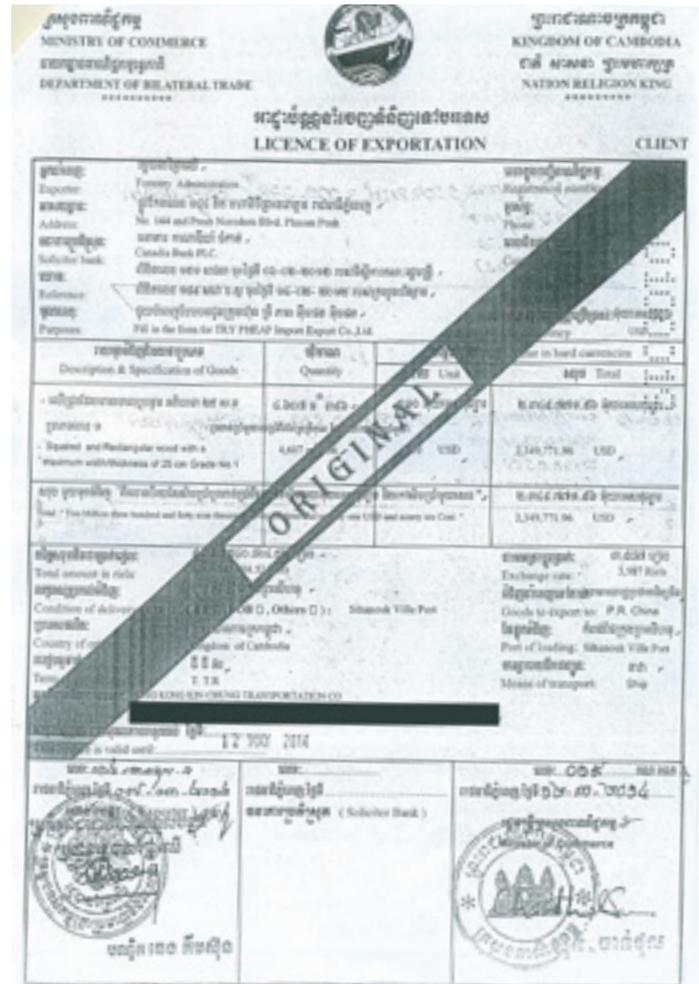
In the course of its investigations Global Witness obtained a number of documents relating to the exports of timber by the Try Pheap Group to a company based in Hong Kong.

The first set of paperwork consists of three documents. An Export Licence (No. 019 POR.NOR.PO.TO.POR) was issued by the Ministry of Commerce to the Forestry Administration as the named 'Exporter' (apparently on behalf of Try Pheap Import Export Co. Ltd.) for export to a Hong Kong based company: Kin Chung Transportation Company. This license was dated 7 March 2014 and relates to 4,607m³ of '1st Grade timber',¹⁰⁸ valued at US\$2.4 million at an FOB¹⁰⁹ price of US\$510/m³. It should be noted that according to official Government procedures, the Forestry Administration should only be authorising timber exports not act as the actual exporter.¹¹⁰

An invoice for this same timber lot was issued by Try Pheap, on 7 March 2014, to the same Hong Kong based company for the same FOB price of US\$510/m³, No. 169 TP IMP EXP-PP. However, a note on the invoice, handwritten by an official from the Customs & Excise Agency, describes a 'temporary agreement' in which the timber being exported was actually valued at US\$1,200/m³, making the total value for the export of the 4,607m³ of timber US\$5.5 million (more than double the original price). The export tax due for this amount according to the invoice was US\$829,331; equivalent to the 15 percent tax rate for wood exports introduced in 2011.¹¹¹ A Customs Export Permit (No. 34 OR.KO.RO), dated 14 March 2014, was issued to the Try Pheap Group relating to the Export Licence mentioned above, for the export of 4,607m³ at the lower price of US\$2.4 million. This export permit also references the Try Pheap-issued invoice number 169 TP IMP EXP-PP, but does not mentioned the hand-written increase of timber export value.

The second set of paperwork (also three documents) relates to a subsequent export by the Try Pheap Import Export Co., Ltd under Custom Declaration ref. E242. Document E242 was dated 28 March 2014 and covers the export of 104.9m³ of 1st Grade timber for a total of US\$125,972, at a FOB rate of US\$1,200/m³.

The related invoice (No. 237/TP-PP) was issued on 24 March 2014 by Try Pheap to the same Hong Kong-based company as mentioned in the first set of documents above, also at a FOB value of US\$1,200/m³. An accompanying 'Letter of Agreement to Guarantee of Consignor', also dated 28 March 2014, signed by Try Pheap, refers to the same invoice (237/TP-PP) and Customs Declaration (E242) and gives the numbers of ten containers exported under this lot. The inspection documents for those ten shipping containers by the Office of Customs and Excise on 28 March 2014 states the content of the



Above: Export license No. 019 POR.NOR.PO.TO.POR, issued by the Ministry of Commerce to the Forestry Administration apparently on behalf of Try Pheap Import Export Co. Ltd. for timber exports to the Kin Chung Transportation Company Ltd.

four containers which were opened during the inspection, as being 'luxury timber (1st Grade)'; the same classification as the current list of rare species described above, which it is illegal to harvest. Global Witness tracked the containers, and at least one of them travelled from China back to Sihanoukville at the end of November 2014, but its contents are unknown.¹¹²

Finally, the Customs Declaration and Invoice in the second package refer back to Customs Permit No. 34 OR.KO.RO; a document which is part of the first set of paperwork. This Customs Permit relates to Export License number 019 of the first set and is only for a total of 4,607m³ of timber, a timber export quota which had already been met through the earlier exported timber lot. This means that this second export of timber by Try Pheap may have been done without the correct Customs Permit, which could constitute fraud.



In summary these two packages of documents, apparently relating to two separate exports of timber by Try Pheap to the same company in Hong Kong raise a number of serious questions.

- Why was the Forestry Administration the declared exporter for the first timber lot, when all other accompanying documents refer only to Try Pheap?
- Why did a customs official make a hand-written correction to the invoice issued by Try Pheap which more than doubled the value of the timber being exported?
- Why did the customs export permit for this lot (issued one day after the hand-written amendments were made) not reflect that change in the value of the exports?
- Why did officials from the Office of Customs and Excise approve an inspection of Try Pheap's containers for export which contained luxury timber, which is illegal to harvest in Cambodia? The presence of this luxury timber cannot be excused as being part of the confiscated timber obtained by the company, as that permit was not issued to TPG until four months later.
- Urgent investigation is also needed into why the second lot of 104.9m³ of timber appears to have been exported under the auspices of an already expired Customs Permit.

Global Witness wrote to the Forestry Administration on 22 December 2014 asking for clarification on their involvement in Try Pheap's

timber exports. They responded that such a role was standard procedure and that *"for all timber-export companies, the Forestry Administration fills in the forms on behalf with export fee charge of 1 percent of FOB payable to the state's budget"*.¹¹³

In conclusion, not only is Try Pheap, and the companies he controls, involved in illegal harvesting of timber in Cambodia. The Group also appears to be involved in a multi-million dollar export trade of timber to Hong Kong, including illegally logged timber, without the correct export permits and licenses, and with the connivance of the very authorities charged with enforcing Cambodia's forest protection laws.

THE INTERNATIONAL BATTLE TO PROHIBIT THE GLOBAL TRADE IN LUXURY AND ENDANGERED TIMBER SPECIES

In March 2013, Siamese Rosewood was added to Appendix II of CITES alongside other rosewood species, a change which came into force in June of that year.¹¹⁴ Inclusion in Appendix II means that any exports of Siamese Rosewood require a license issued by the relevant national CITES management authority, issued under a quota system.¹¹⁵ However this CITES listing contains a significant loophole which urgently needs amending because it only covers logs, sawn timber and veneer sheets, rather than all products of Siamese Rosewood.¹¹⁶

CHINESE IMPORTS OF CAMBODIAN TIMBER

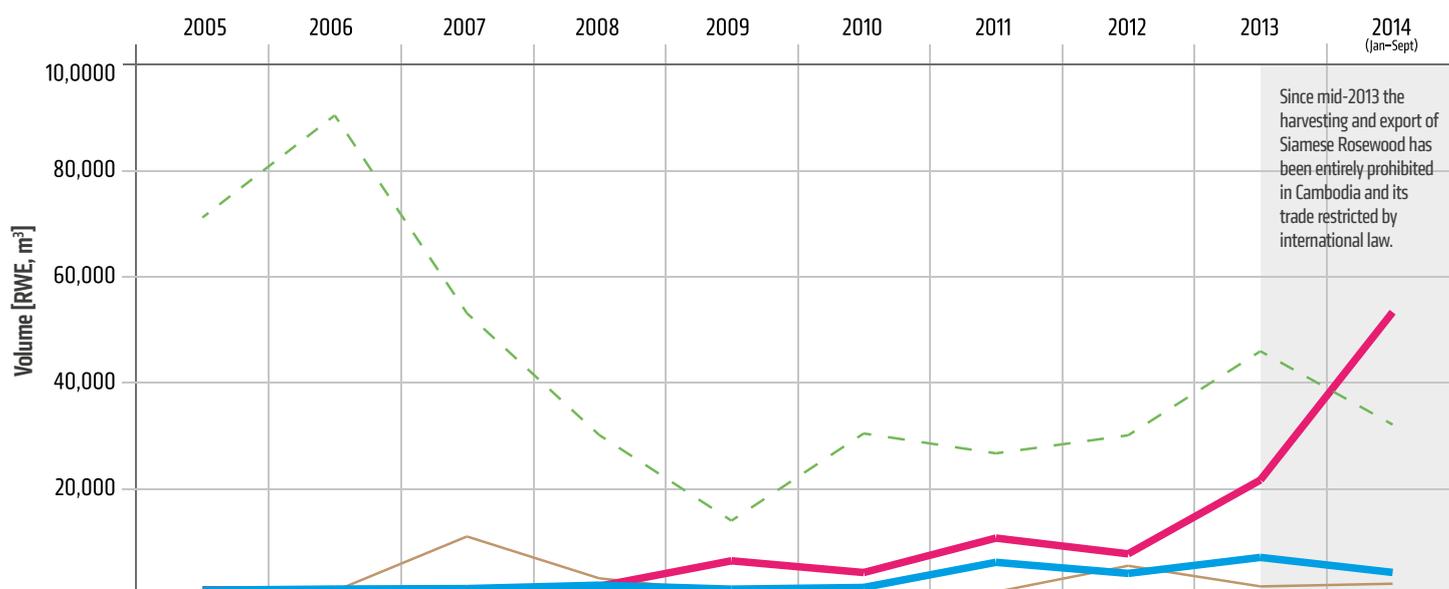
Sawn, all species (RWE)

Hongmu, logs

Hongmu, sawn (RWE)

Logs, other species

DIAGRAM 4. CHINA TIMBER IMPORTS FROM CAMBODIA, JANUARY 2005 – SEPTEMBER 2014¹⁴⁵



China is not just an important timber export destination for the Try Pheap Group. Indeed, according to the most recently available Cambodian Government statistics (from 2011), 85 percent of all timber exports went to China.¹¹⁷ Within this timber trade with China, demand for so-called ‘Hongmu’ timber species is becoming increasingly significant. Official Chinese Customs’ data¹¹⁸ include 33 species of timber in their luxury ‘Hongmu’ timber classification (translated as ‘red woods’), including Siamese and Burmese Rosewood (*Dalbergia bariensis*) and Burmese Padauk (*Pterocarpus macrocarpus* Kurz, Thnong), species native to Cambodia.¹¹⁹ According to this data, 55,748m³ Round Wood Equivalents (RWE)¹²⁰ of Hongmu timber was imported from Cambodia between January and September 2014 alone. Of the total of some 541,138m³ of logs and sawn wood (RWE) that were imported by China from Cambodia over the last 10 years, 110,202m³ RWE (equivalent of 20 percent) were Hongmu species (see Diagram 4, above).

This Chinese customs data demonstrates that the import of all timber species from Cambodia has increased dramatically since mid-2009. The earlier fall in imports of sawn timber from Cambodia (between 2006 to 2009) evident in Diagram 4 is likely to be due to the ban of export of such timber in 2006. Imports recorded in the first nine months of 2014 have already exceeded the average of those from 2005 to 2013 (60,126m³) by 43 percent. The increase in imports of Hongmu species logs in the nine recorded months of 2014 is even more dramatic, with a 152 percent increase on the 2013 total imports, and a 901 percent increase on the average total annual import volumes between 2005 and 2013.

During the first nine months of 2014, Hongmu species represented 97 percent by volume of all Cambodian log imports into China

(52,405m³ out of a total 54,094m³). This is after the trade limits for Siamese Rosewood introduced by CITES came into force (as indicated in Diagram 4). It also must be noted here that Chinese import data distinguishes between ‘logs’ and ‘sawn wood’ imported from Cambodia. This allows us to further understand the illegal nature of the trade, since the export of logs and sawn timber thicker than 25cm in diameter has been banned in Cambodia since 2006.¹²¹ Also of note is that during this same period, Cambodian Government timber export statistics report zero exports of logs to China highlighting a major discrepancy between how both governments are reporting their trade in timber.¹²²

Global Witness could not establish the proportion of the CITES-listed Siamese Rosewood involved in this Hongmu trade; Chinese import data does not record which rosewood subspecies has been imported, nor if such timber has been imported under a CITES licence. However, at the time of writing, the Cambodian CITES Management Authority confirmed that no export quota for Siamese Rosewood had been yet established nor any export licenses issued.¹²³ The extensive field observations by the research team however suggest that a high proportion of timber exported by the Try Pheap Group to China is Siamese Rosewood.

The devastation of Cambodia’s forests and local communities to feed Chinese demand also highlights the urgent need for other rare and protected tree species¹²⁴ to be added to CITES’ Appendix II listing, particularly Burmese Rosewood (*Dalbergia bariensis*, Neang nuon) and Burmese Padauk (*Pterocarpus macrocarpus* Kurz, Thnong).

THE GLOBAL TRADE IN LUXURY WOOD: THE ROLE OF CHINA

The social and environment devastation caused by China's Hongmu market is not confined to Cambodia; this demand is well documented as a significant driver of logging of other endangered species across the world such as Rosewood, Ebony (*Diospyros ssp.*) and Sandalwood (*Pterocarpus santalinus*). For example, Global Witness and the NGO Environmental Investigation Agency (EIA) demonstrated in 2010 that more than 95 percent of illegal precious wood (rosewood and ebony) purchased from timber barons in Madagascar was bought by just 15 to 20 major Chinese buyers.¹²⁵

EIA's investigations in to the trade in Siamese Rosewood in the Mekong region concluded that between 2000 and 2009, the region provided almost 70 percent of China's Hongmu imports, and within that, Burmese and Siamese rosewood and Burmese Padauk were most heavily targeted.¹²⁶ In Thailand, remaining stands of Siamese Rosewood are now highly fragmented; limited to a mere 100,000 trees (equivalent to about 63,500m³) in a small number of protected areas.¹²⁷ EIA has further revealed that in all Mekong countries, weak or non-existent law enforcement and widespread corruption are facilitating rosewood's extinction and increasing demand for other luxury species, such as Burmese Padauk. They concluded "*Siamese Rosewood has become so rare and valuable that the practice of logging it is now more akin to wildlife poaching*".¹²⁸

The illegality and impunity of TPG's operations in Cambodia highlighted in this report echo EIA's conclusions about the trade in Siamese Rosewood across the Mekong.¹²⁹ Protected trees are being harvested from dam reservoir clearance sites and agribusiness concessions, and permits for such clearance are also being used to launder illegally sourced timber from the surrounding area. Often Government enforcement authorities are complicit in these illegal activities, as well as military officials and local communities, drawn by the promise of vast profits. Furthermore, even when illegally harvested rosewood is seized by local authorities, it is frequently auctioned onto formal markets, through mechanisms which are often corrupted and deliberately used to launder illegal timber.

Research by the NGO Forest Trends has highlighted the dramatic price rises of China's rosewood market; rising 15 times between 2005 and 2012.¹³⁰ Media interviews with Chinese furniture traders meanwhile indicate that CITES listing of Siamese Rosewood has only further fuelled enthusiasm in the species.¹³¹ Forest Trends go on to describe how Shenzhen, the border crossing between mainland China and Hong Kong's new territories, plays a central role in rosewood timber imports to China from Southeast Asia, Latin America and Africa, particularly since 2010. Their research identified Hong Kong's advantageous tax and customs procedures as a reason why traders favour it as a port through which to import luxury timber into China, via Shenzhen. This is concerning given that in 2010 WWF estimated that as much as 30 percent of all timber imports to Hong Kong could be illegally sourced.¹³²

Since the CITES listing of Siamese Rosewood came into force in June 2013, it has not been possible to import the species directly into mainland China without a CITES import permit issued by the State Forestry Administration, which in turn requires export permits from the country of origin.¹³³ According to traders EIA interviewed in early 2014, because Hong Kong Authorities were yet to introduce such regulations for Siamese Rosewood, it "*enabled companies ... to import goods, reload them into new containers and re-export to China, thereby obscuring the origin ... [which] also provided opportunities to mis-declare the species and potentially evade the CITES restrictions*".

The only trade-based law controlling the import of timber into Hong Kong is the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586), which limits the trade of endangered species listed on CITES.¹³⁴ In September 2014, Authorities in Hong Kong finally updated this regulation in line with CITES lists and consequently licenses are now required for the 'possession' of Siamese Rosewood.¹³⁵ Hong Kong's Agriculture, Fisheries and Conservation Department subsequently wrote to traders informing them that this change would come into force on 27 November 2014, with a three month grace period for full compliance (ending in February 2015).¹³⁶ In order to stem the demand for illegally sourced luxury timber it is critical that these licensing requirements are rigorously enforced at the point of import in Hong Kong, as well as in coordination with CITES-based timber trade restrictions with mainland China.

WILL NEW CHINESE GUIDELINES ON THE TIMBER TRADE BE ENOUGH?

In response to increased scrutiny of China's role in the global timber trade, the government's State Forest Administration (SFA) has produced a series of voluntary guidelines for Chinese companies. The first of these, published in 2007, is for Chinese companies overseas that engage in silviculture and the second, issued in 2009, covers 'Sustainable Overseas Forests Management and Utilisation by Chinese Enterprises'.¹³⁷ Both contain pertinent instructions to Chinese businesses. The 2009 guideline, for instance, states "*Chinese enterprises shall fully respect the ownership of the host country to its forest resources and strictly observe its laws, regulations and policies when managing and utilising the forest resources in foreign countries*".¹³⁸

However, despite their merits, neither guideline address the companies inside China that import, process and make products from timber, and whose expansion has so accelerated the flows of wood through the country's ports and across its borders.

The SFA is currently developing a new voluntary standard entitled 'Guidelines for Overseas Sustainable Forest Products Trade and Investment by Chinese Enterprises'. Over the past year, SFA staff have sought inputs from a wide range of other organisations and deserve considerable credit for organising an open consultation on the initiative. The draft circulated in early 2014 builds on the themes set out in the 2007 and 2009 guidelines and states clearly that Chinese companies should not buy illegal timber. However, the ability of the guideline to have a positive impact is hampered by its narrow scope, which extends only to "*Chinese enterprises that engage in forest product trade and investment and related activities in foreign countries*". This once again excludes the importers, processors and manufacturers within China who are by far the most significant Chinese players in the global supply chain and who are critical to efforts to end the destruction of forests caused by illegal logging.

Unless the scope of the guideline can be broadened, there is a risk that it may add relatively little, in practical terms, to the 2007 and 2009 guidelines. This would be a significant missed opportunity, as a guideline that directly confronted the problem of illegal timber imports into China, and which laid out the measures that companies should take to keep their supply chains clean, could provide a useful stepping stone to the binding legislation which is undoubtedly needed.

During 2014 Global Witness prepared a range of submissions for the SFA and its associated research institute, the Chinese Academy of Forestry (CAF), and held several productive discussions with SFA and CAF staff on the guideline and related issues. We have been making three recommendations in particular to the SFA on how to make the new guideline as useful as possible:

1. The new guideline should state clearly that Chinese companies that import, trade and process wood must not purchase illegal timber and that companies using timber from high risk areas must carry out thorough due diligence on their supply chains;
2. The SFA should publish detailed guidance for Chinese companies on how to carry out this due diligence as a means of meeting their responsibility not to buy illegal timber;
3. The SFA should introduce a system of monitoring and public reporting on implementation of the new guideline and also the existing 2009 guideline on sustainable overseas forest management.

With respect to the second of these recommendations – about companies carrying out due diligence on their supply chains – Global Witness has prepared a detailed proposal for the SFA on what this might look like. We have used as a model a supply chain due diligence standard that the Chinese government commissioned and endorsed in its capacity as a UN Security Council (UNSC) member.¹³⁹ This UNSC due diligence guide concerns the trade in conflict minerals (metal ores mined and traded in a way that fuels armed violence) and is based the following five elements:

- Strengthening company management systems, including chain of custody controls
- Identifying and assessing risks in the supply chain
- Designing and implementing a strategy to respond to identified risks
- Ensuring independent third-party audits
- Publicly disclosing due diligence and findings

Based on our experience of researching both the forest and minerals sectors, Global Witness believes that this methodology could be effectively applied by companies to timber supply chains as a means of screening out illegal wood products.¹⁴⁰ The latest version of our proposal to the SFA is available on our website.¹⁴¹

GLOBAL WITNESS INVESTIGATIONS: HONG KONG

Below: Left: Residential apartment block in Hong Kong at which the Kin Chung Transportation Company is registered. Right: The post box outside another of the properties owned by one of the Directors of the company. Neither has any company signage or evidence of timber operations. Photo: Global Witness, 2014



The Hong Kong company named in the Try Pheap Group's export licence and relevant invoices, Kin Chung Transportation Co. Ltd. is registered at an address in Hong Kong's new territories, in a building converted from government housing to a 'home purchase scheme'. Consequently, no businesses are officially allowed to operate from the address. The Company has a share capital of HK\$2.00, divided into two shares of HK\$1.00 each allocated to its two directors, both of whom record their residential address at the same location.

Searches on available databases confirmed that one of the Directors currently owns three other properties in Hong Kong, while the other owns only the property at which the company is registered. No company signage could be seen at the company's registered address, nor could any registered telephone, fax, website or email addresses be found. Furthermore, Kin Chung Transportation Co. Ltd. does not appear to have any public track record of operating as a timber trading company. Company searches indicated that neither director owns any other companies in Hong Kong. Individuals interviewed at two of their other properties did not have any knowledge of the company or any timber traders operating out of the location, and no signage could be found.

Global Witness made contact with the Directors of the Kin Chung Transportation Company Ltd. who explained that they "*provide a wide range of logistics services*" on behalf of customers (primarily from mainland China) to move containers of goods around, including timber. The company receives only a small transportation fee for providing this service. They claim to normally have no knowledge of the content of the containers they transport, are not responsible for checking the legality of the relevant permits and licenses, nor do they take any responsibility for handling any fees relating to the imports.

The Directors said they had never previously seen the invoice or other export licenses from Cambodia relating to the March 2014 timber exports by the Try Pheap Group to their company and have no idea why their name and address were used in relation to these shipments. However, the role they described is similar to the agency role played by Hong Kong companies on behalf of mainland-based timber importing companies, in order to avoid CITES restrictions, as described by EIA above.

CONCLUSIONS

Increasing demand in China for luxury *Hongmu* red-wood is fuelling a multi-million dollar timber smuggling racket in Cambodia. Global Witness investigations over a period of eight months have revealed the dynamics of this timber network, operating across forested areas of north-eastern Cambodia, centred on Virachey National Park. At the heart of this web is Oknha Try Pheap, a prominent Cambodian tycoon with close ties to the Prime Minister. His companies, operating under the banner of the Try Pheap Group, appear to enjoy immunity from state interception or prosecution, thanks to far-reaching collusion that encompasses members of the Royal Cambodian Armed Forces, the police, and forest law enforcement agencies.

85 percent of Cambodia's timber exports are destined for China, and the volume of Hongmu logs exported there increased by 150 percent between 2013 and 2014. The volumes being illegally cleared, transported and exported by the Try Pheap Group are staggering. Based on observations at Sihanoukville Port, a daily average of 900m³ of timber are loaded by Try Pheap Group onto ships for export. Global Witness obtained two separate sets of export documentation for more than 5,000m³ of timber by Try Pheap to the Hong Kong-based Kin Chung Transportation Company, valued at US\$5.6 million in total. Spot-checks by customs officials of two of these containers found they contained 'luxury timber' which is illegal to harvest in Cambodia, but the officials approved their export anyway. This indicates that even export timber that appears to be government-approved should be treated as highly suspicious.

Meanwhile, investigations into the Kin Chung Transportation Company in Hong Kong revealed that its capital shareholding is only HK\$2.00, its registered office is in a residential apartment from which businesses are not allowed to operate and the company appears to have no registered telephone, fax, website or email. Research into the company's properties, its Directors and their other business relationships could find no physical facilities through which the volume of timber they are importing could be processed, nor any track record of timber trading. Most mysteriously, when contacted the Directors of the company claimed to have no knowledge of the Try Pheap Group, no involvement in the aforementioned timber imports from Cambodia in March 2014 and no idea why their company had been associated with such shipments. Such a response only further raises suspicions about the legality of Oknha Try Pheap's timber trading business.

The fact that such harvesting, transportation and export are taking place under government permits is no excuse for Cambodian or Chinese authorities ignoring the fact that national and international laws are being flouted. Timber harvested, processed and exported by the Try Pheap Group or its affiliates should not be considered legal until proven otherwise for the following reasons:

- The luxury species the company targets are protected by Cambodian law, particularly Siamese Rosewood which the government banned from harvesting and export in 2013;
- In 2013, the international trade in Siamese Rosewood became further controlled through the species' listing by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- The Group's permits for economic land concessions and hydro-dam clearance sites do not comply with Cambodian law because they cover forested areas, are larger than maximum size thresholds and have not undergone required community consultations. Evidence also suggests that the Group is using such permits to launder luxury timber species from surrounding protected areas beyond its concession boundaries;
- The Group is exporting timber in forms prohibited for export, namely unprocessed logs and sawn timber thicker than 25cm.

These laws are in place to protect Cambodia's citizens and the eco-systems they rely on. Try Pheap's illegal logging network has destroyed protected forests across Cambodia, and had a significant negative impact on the livelihoods of local indigenous and forest-dependent communities. This rush for precious timber is pushing species such as Siamese Rosewood (*Dalbergia cochinchinensis*) to the brink of extinction.

The Cost of Luxury highlights major regulatory and enforcement gaps in forest protection which must urgently be addressed by the Royal Government of Cambodia, the People's Republic of China, the authorities of Hong Kong Special Administrative Region and State Parties to CITES. In November 2014 Hong Kong Authorities finally introduced regulations in line with CITES listing, meaning that licenses are now required for the 'possession' of Siamese Rosewood. In order to stem the demand for illegally sourced luxury timber it is critical that these licensing requirements are rigorously enforced at the point of import, as well as in coordination with CITES-based timber trade restrictions in mainland China.

Meanwhile, China's State Forest Administration is working on new voluntary 'Guidelines for Overseas Sustainable Forest Products Trade and Investment by Chinese Enterprises'. However, this reports highlights the urgent need for binding legislation in both jurisdictions which prohibits the import, trading and processing of illegally harvested timber and products derived from such wood, and which contains a requirement that companies using timber from high risk overseas locations carry out thorough supply chain due diligence.

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