

Minutes

Forestry Law Enforcement and Governance (FLEG) Mission

FA's Meeting Room
23rd March 2006

1. Welcome by Chairman

The meeting began with a welcome from the Chairman, H.E. Ty Sokhun at 16:00. The main purpose of the meeting was to discuss the findings of the Forestry Law Enforcement and Governance (FLEG) Mission.

2. Presentation on Cambodia FLEG Assessment Mission

2.1 Mission Objectives

In introducing the mission objective, Mr. Nalin Kishor, Team Leader, presented 3 focused areas, the first of which was timber theft prevention and forest security, the second was independent monitoring, and third was case management and judicial follow-up.

2.2 Forest Law Enforcement Review and Finding

Mr. Michael C. Dyson, Consultant, informed the meeting that the CTS (Case Tracking System) is not being used optimally nor as an intelligence planning tool. Moreover, the information is not centrally stored and accessible by all agencies. He continued that the lack of knowledge of community policing principles and investigation & tactical policing techniques has resulted in a lack of a structured crime prevention strategy. There is limited collection of evidence due to an uncoordinated, ineffective and allegedly corrupt system. For risk management, Mr. Dyson indicated that there is a high frequency of events and too many excuses available to evade prosecution.

2.3 Preliminary Recommendations Regarding Money Laundering and Related Issues

Mr. Theodore S. Greenberg, Senior Financial Sector Specialist, emphasised financial investigation techniques that will stop money laundering.

In order to prevent money laundering, he raised 11 recommendations:

- Cambodia should adopt and comply with money laundering legislation drafted by NBC
- Enact and implement the compliant asset forfeiture legislation.
- Create an Forest Crime Asset Forfeiture Fund for financial resources to fight forest crime
- Initiate properly predicated criminal investigations and prosecutions of timber crimes
- Seizure and confiscation of assets of crime should be used to the fullest extent possible
- Use the draft of money laundering law to create an inter-agency committee which includes FA, MoE, MoI and Gendarmerie
- Participate in WB expert group working to identify timber related to financial transactions
- Sign, ratify and domesticate into national legislation the convention on transnational organized crime
- Enact legislation to create special procedures for forfeiture involving timber crime
- Establish a Forest Crime Task Force (FCTF)
- Create a Forest Crime Fusion Group (FCFG)

3. Comments and Feedbacks

Mr. Eang Savet

Mr. Eang Savet (FA) reacted that some figures in the presentation were not correct.

Preliminary findings of CTS are not acceptable as its results are not consistent with FCMRU's findings, all of which are entered into the computer data base on a monthly basis. In clarification of the lack of access to the information, he explained that this is a confidential matter. Criminal information is not for disclosure to the public, and should not be known by all agencies. It is for the competent authorities only, otherwise, we will lose our opportunity to defeat crime.

In response to the finding “Not used as intelligence or planning tool”, he continued that FCMRU has updated information on a monthly basis, taken action accordingly, and monitored actions every month. Additionally, the FCMRU reviews its progress at FA level every 3 months.

Reacting to the finding of suppression methods being “uncoordinated”, Mr. Eang Savet clarified that it is true because it is also a confidential matter. If we coordinate with other agencies, our information will be revealed and we would not be able to take any action for suppression.

Mr. Eang Savet responded further on the renaming from “Independent Monitor” to “Forest Practices and Crime Monitor (FPCM)”. He commented that some recommendations are not logical, as the WB has created more and more groups that have not complied with the Forestry Law, or with the existing structure. Article #76 of the Forestry Law states that all forest crimes are the responsibility of Forestry Administration Officers as juridical police. Other agencies and NGOs who want to report or take action should refer to Article #78 which states that agencies or NGOs have an obligation to stop criminal activities that they see and report the to FA officers for action or legal procedures. Within the existing structure, FA has a National Committee for Combating Forest Clearing and Land Encroachment. It also has a subcommittee at the provincial level and a task force at the district level.

Mr. Arvid Sloth

Mr. Arvid Sloth commented that forest crime issues need to be regarded as crimes against natural resources. Every day fish, land, and wood are stolen. The crimes nowadays are more relevant to land grabbing by large and small actors. “Land” is the place where urgent decisions and actions in particular need to taken. He expressed that he had hoped that the mission would have considered crimes related to land and forestry under a single umbrella and suggested how that could be done. Now we may face a risk of having several crime monitoring systems dealing with the natural resources.

H.E. Ty Sokhun

H.E. Ty Sokhun raised concerns related to money laundering. The recommendation for establishing an inter-agency task force is not new for him, or for Cambodia. Many committees have been established, particularly during the period of 1994-1998, at national, provincial and district levels to deal with issues including forestry. However, we have suffered from such committees and task forces when they have had no particular/specific/competent agency responsible for the issues, and we had no-one to refer to in relation to failings. Recently, RGC established the National Authority for Land Conflict and Resolution.

Referring to money laundering, H.E. Ty Sokhun stated that by introducing this theory, the mission was trying to bring something from the sky to Cambodia. Most local people are poor and do not have a bank account, so how do they commit money laundering? It is not only local people, some urban people do not know about bank accounts. He had expected that the team would have spoken about methods for assessments of forest law enforcement and governance, yet did not see any of these elements in the presentation. Finally, whilst appreciating the mission’s efforts of informative results, he questioned the real intention of the mission.

Mr. Theordore S. Greenberg

In feedback to the above comments, Mr. Theordore S. Greenberg responded that he had presented information collected by his team. Concerning the creation the new group, he clarified that actually his team proposed only 2 groups: “Forest Crime Fusion Group” and “Forest Crime Task Force”. It is recommended that the government will have a small, centrally located and capable facility that it does not currently have. The money laundering law is considered highly by the Council of Ministers and drafted by the National Bank of Cambodia (NBC). The draft defines the legal movement of money within the country, as well as that coming into, and moving out of, Cambodia. The law will provide Cambodia with the special opportunity for international cooperation in law enforcement.

Regarding confiscated equipment, he recommended it be sold, as such equipment has value. To enable this, RGC should enact legislation to create special procedures for forfeiture involving timber crime. For example, some countries have laws to sell confiscated equipment.

Mr. Nalin Kishor

In addition to Mr. Greenberg's clarification, Mr. Nalin Kishor expressed his appreciation for the comments from Mr. Eang Savet regarding the different figures of crime, confiscated sawn timber and other logging equipment. Regarding the independent monitor and fusion group, he distinguished that they are not similar. The fusion group is an internal team that can access all internal information, whereas an independent monitor must independently and actively gather all kinds of information on forest crime.

To the SGS questions on costs he responded that this was premature as ideas were still in the early development phase. The mission has tried to widen the scope of analysis in other sectors beside forestry such as judiciary and protection of money laundering systems. Finally, he expected that this work would become tools for guidance.

H.E. Y Dan

In feedback to Mr. Greenberg's comments on the creating the special procedures for forfeiture involving timber crime, H.E Y Dan clarified that the Cambodian court system judges crime based on confiscated evidence. FA has its own forest crime judicial police, authorized to seize criminal evidence, compile information, and submit it to the provincial/municipal prosecutors. The courts judge cases based on pictures and other available evidence. However, tractors and sawmills are located very far away in the deep jungle and are difficult to access, and therefore, must be destroyed at the site.

H.E. Kong Srim

H.E. Kong Srim apologised for not having provided comments to Recommendation #9, due to his limited knowledge of the English language. However, according to the explanation by H.E. Ty Sokhun, he was aware that the mission has recommended establishing special procedures for forfeiture for timber crime. His opinion was that this is not necessary because some of the provisions are already in the Forestry Law, which has also defined the structure and roles of FA, and procedures for forest crime. This is enough to manage this sector and is being implemented, the problem is that we cannot catch the offenders.

It is beyond the capacity and duty of the court to arrest offenders, this is the duty of FA. The court waits for documents from the prosecutor and investigates the case based on these. The court can only confiscate illegal cut timber. He also noted that most of the judgement processes were delayed by the judge or court, not by the Ministry of Justice. For instance, at the end of 2005, the Ministry of Justice ordered all provincial/municipal courts to report forest crime, however, those courts have not replied, and we have no capacity to do this kind of work. In conclusion, he suggested how to encourage all levels of prosecutors, judges and courts to strictly implement the existing Forestry Law.

Mr. Chea Sam Ang

Mr. Chea Sam Ang raised the point that there is not enough space in prison to keep the poor who commit minor forest crimes. Regarding money laundering, he asked whether the poor could transfer money.

For recommendation #9 about the establishment of a special group, he said this was a misjudgement. Actually, the delay of prosecution/judgement was coming from the implementers.

Mr. Theodore S. Greenberg

On behalf of the WB mission, Mr. Theodore S. Greenberg stated that the report will respond to all major concerns regarding the forestry sector. As the Prime Minister emphasized, forest destruction is

a very crucial issue in Cambodia, and that most forest crimes involve wealthy and powerful people. Therefore, part of mission focused on money laundering as a response to such difficult challenges.

4. Closing of the Meeting

H.E. Ty Sokhun expressed his sincere appreciation to all members, FLEG mission and WB office in Phnom Penh for their participation, contributions, recommendations and findings. As a result, we found the presentation of the mission to be very informative, but it was quite difficult for us to follow or understand in terms of the many sophisticated technical words. However, he said he is very happy to hear from Mr. Steven that the mission will try to simplify the report language. He suggested the mission also look at the history and background of the Cambodian forest reforms. Experiences and lessons learnt from the past are the most valuable ones. He hoped that the highly educated mission members would consider these comments of this meeting in order to improve their report.

The meeting finished at 18:40.

The mission's presentation can be found on the www.twgfe.org.

Participants

1. H.E. Ty Sokhun	TWG-F&E Chairman
2. H.E. Yin Kim Sean	Secretary of State, MoE
3. H.E. Y Dan	Secretary of State, MoJ
4. H.E. Kong Srim	Deputy Prosecutor General, Appeal Court
5. Mr. Chea Sam Ang	Deputy Head, FA
6. Mr. Nalin Kishor	FLEG Coordinator and Technical Specialist, WB
7. Mr. Theodore S. Greenberg	Senior Financial Sector Specialist, WB
8. Mr. Michael C. Dyson	Consultant, WB
9. Mr. Yang Phirom	Consultant, WB
10. Mr. Steven Schonberger	Rural Sector Coordinator, WB
11. Ms. Mudita Chamroeun	Rural Development Officer, WB
12. Ms. Nisha Agrawal	Country Manager, WB
13. Mr. Eang Savet	Chief of FCMRU, FA
14. Mr. Suon Sovann	Chief of Legal and Litigation Office, FA
15. Mr. Chris Price	DFID Advisor
16. Mr. Arvid Sloth	Danida Advisor
17. Mr. Yuzuru Kimura	JICA Advisor
18. Mr. Men Marina	Secretary, TWG-F&E
19. Dr. Robert Tennent	Forestry Project Manager, SGS
20. Mr. Bruce Telfer	Forest Director, SGS
21. Mr. Thorsten Huber	Associate Professional Officer, RECOFTC
22. Ms. Noelle O'Brien	Program Manager, Capacity Building Services, RECOFTC
23. Mr. Eng Mak	Deputy Director of General Information Dept., MoI
24. Mr. Pang Naren	Chief of 3 rd Office, General Information Dept., MoI
25. Mr. Sokkheng Novin	Vice Chief of Administration, DNCP/MoE
26. Mr. Sear Sambath	Chief Office, Gendarmerie
27. Mr. Eu Phyrum	Deputy Director of Recalculation Dept., Council of Ministers
28. Mr. Vann Monisovan	Deputy Chief of Focal Point Office, Council of Ministers
29. Mr. Sophoan Rath	Project Management Specialist, USAID
30. Mr. Lim Hor	Deputy Director General, MLMUPC
31. Mr. Iv Kim Say	Judge, Phnom Penh Municipal Court
32. Mr. Sok Srun	CTSP Admin Officer, FA
33. Mr. Hem Van Yuth	Deputy Dept. Director, CDC
34. Ms. Suon Pin Kanika	Deputy Officer, MEF
35. Mr. Ho Sivyong	Deputy Chief Officer, MoC
36. Ms. Anna Beloff	NRM Officer, FAO

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| 37. Mr. Sao Sopheap | Assistant Representative (Programme), FAO |
| 38. Mr. Goseki Kazuhiro | JICA Chief Expert, CBFSP |
| 39. Ms. Kazumi ITO | Program Assistant, JICA |
| 40. Mr. Guo Ge | Assistant General Manager, Everbright Wood Co., Ltd. |
| 41. Mr. Thai Hang Meng | Secretary, CTIA |

Recorded by

Men Marina
Secretary
TWG-F&E Secretariat