

**BANK MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
CAMBODIA FOREST CONCESSION MANAGEMENT AND CONTROL  
PILOT PROJECT (Credit No. 3365-KH)**

Management has reviewed the Request for Inspection of the Cambodia Forest Concession Management and Control Pilot Project (Credit No. 3365-KH), received by the Inspection Panel on January 28, 2005 and registered on February 4, 2005 (RQ05/1). Management has prepared the following response.



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## Abbreviations and Acronyms

ADB	Asian Development Bank
AusAID	Australian Agency for International Development
ARD	Associates in Rural Development
BNPP	Bank-Netherlands Partnership Program
BP	Bank Procedures
BTO	Back to Office Report
CAS	Country Assistance Strategy
CG	Consultative Group
CI	Conservation International
DAI	Development Alternatives, Incorporated
DANIDA	Danish International Development Agency
DfId	Department for International Development (United Kingdom)
DFW	Department of Forestry and Wildlife
EA	Environmental Assessment
EAP	East Asia and the Pacific Region
EASRD	East Asia Sector Rural Development
ESIA	Environment and Social Impact Assessment
FA	Forestry Administration
FAO	Food and Agriculture Organization of the United Nations
FCMCP	Forest Concession Management Control and Pilot Project
FRM	Forêt Ressources Management
GAT	Grand Atlantic Timber
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
IDA	International Development Association
IFSR	Independent Forest Sector Review
IMF	International Monetary Fund
IPDP	Indigenous Peoples Development Plan
IPN	Inspection Panel
ITTO	International Tropical Timber Organization
LIL	Learning and Innovation Loan
MAFF	Ministry of Agriculture, Forestry and Fisheries
MEF	Ministry of Economy and Finance
MOE	Ministry of Environment
MTR	Mid-Term Review
NGO	Nongovernmental Organization
OD	Operational Directive
OED	Operations Evaluation Department
OP	Operational Policy
OPN	Operational Policy Note
PAD	Project Appraisal Document
PHRD	Japan Policy and Human Resources Development Fund
PIC	Public Information Center
PID	Project Information Document
<i>Prakas</i>	Regulation issued by a Government office or officer, also known as a Ministerial Order
PROFOR	Program on Forestry
QAG	Quality Assurance Group
QER	Quality Enhancement Review
SAC	Structural Adjustment Credit

SDR	Special Drawing Rights
SFMP	Strategic Forest Management Plan
SGS	Société Générale de Surveillance
TA	Technical Assistance
TFT	Tropical Forestry Trust
TOR	Terms of Reference
TRT	Technical Review Team
TTL	Task Team Leader
TWG	Technical Working Group
UNDP	United Nations Development Programme
USAID	United States Agency for International Development.
USD	United States Dollar
WCS	Wildlife Conservation Society
WGNRM	Working Group on Natural Resource Management
WWF	World Wildlife Fund



## I. INTRODUCTION

1. On February 4, 2005, the Inspection Panel registered a Request for Inspection, IPN Request RQ05/1 (hereafter referred to as “the Request”), concerning the Cambodia Forest Concession Management and Control Pilot Project (“FCM CPP” or “the Project”), Credit No. 3365-KH, financed by the International Development Association (IDA).
2. *Structure of the Text.* The document contains the following sections: Section II provides information on the Request; Section III presents background information and analytical work on the Project, including the overall country context for World Bank (“the Bank”) operations and policy dialogue in Cambodia, and key events during implementation. Section IV discusses special issues and lessons learned, and Section V considers Management’s intentions moving forward. Section VI presents Management’s conclusion. Annex 1 contains the Requesters’ claims, together with Management’s detailed responses, in table format.

## II. THE REQUEST

3. The Request for Inspection was submitted by the NGO Forum on Cambodia acting on its own behalf and on behalf of affected local communities living in the districts of Tbeng Meanchey in Preah Vihear Province; Siem Bok and Sesan in Stung Treng Province; and Anlong Veng in Oddar Meanchey Province, Cambodia (hereafter referred to as the “Requesters”). These four districts are respectively located in the concession areas of the companies Cherndar Plywood, Samraong Wood, Everbright and Pheapimex. See Map 1.
4. Attachments to the Request received by Management from the Inspection Panel are:
  - (i) One letter from representatives of four affected communities (English translation) instead of the two letters referenced in the NGO Forum letter of January 21, 2005; and
  - (ii) Report prepared by Global Witness providing details of the case and the violations of Bank policies that allegedly occurred.

No further materials, i.e., the correspondence between NGOs and the Bank, referred to in item (3) of the NGO Forum letter, were received by Management in support of the Request. Management wishes to note that prior to the Request for Inspection, neither the four local communities who submitted the letter noted under item (i) nor their representative had previously communicated with the Bank on the specific claims asserted in the letter.

5. The Request contains claims that the Panel has indicated may constitute violations by the Bank of various provisions of its policies and procedures, including the following:

- OP 4.01, Environmental Assessment (January 1999)
- OP 4.04, Natural Habitats (September 1993)
- OD 4.20, Indigenous Peoples (September 1991)
- OP 4.36, Forestry (September 1993)
- OP 8.40, Technical Assistance (October 1994)
- OPN 11.03, Cultural Property (September 1986, reissued August 1999)
- OP 13.05, Project Supervision (July 2001)  
OD 13.05 (August 1989 and January 1996)
- BP 17.50, Disclosure of Operational Information (September 1993)  
World Bank Policy on Disclosure of Information (August 2001).

6. The Requesters claim in their letter that:

- “Through flawed project design and poor implementation, the World Bank has promoted the interests of the logging concession system and the concessionaires...
- A key element of the FCMCPP has been assisting the companies in their production of [strategic] forest management plans (SFMPs) and environmental and social impact assessments (ESIAs). The concessionaires have been required to produce these as a precondition for continued logging. The Bank is thus using loan money to benefit logging companies that have a track record of timber theft, tax evasion and human rights abuses...
- By allowing its project to endorse the [SFMPs and ESIAs] of six of these companies, the World Bank has increased the likelihood that they will continue to maintain control of their concessions. At the same time, the Bank has not succeeded in introducing any additional checks and balances to the concession system that would compel the companies to operate differently from the way that they did before.
- The World Bank project endorsement has in fact strengthened the position of these six companies, which hereon will present their operations as having the World Bank seal of approval. Some companies are already using this endorsement to deflect criticism of their past and future actions, making it even more difficult for adversely affected communities to hold them to account.



- Through its acts and omissions, the World Bank has contributed to a set of outcomes that stand to inflict harm on forest-dependent communities in the near future.”

The Requesters’ letter and the attached report from Global Witness claim that the Bank has violated all the policies noted in para. 5 above. The claims and Management’s response are presented in Annex 1.

### III. THE FOREST CONCESSION MANAGEMENT AND CONTROL PILOT PROJECT

7. ***The Project.*** The IDA Credit of SDR 3.6 million (USD 4.82 million equivalent at the time of approval) for a Learning and Innovation Loan (LIL) was approved on June 5, 2000. The legal agreement was signed July 6, 2000 and the project became effective on October 20, 2000. A Japan Policy and Human Resources Development Fund (PHRD) Grant of USD 240,000 was provided for technical assistance during implementation. The project was originally scheduled to close on December 31, 2003. The Closing Date was extended at the request of the Borrower to June 30, 2005. As of February 2005, a total of USD 3.7 million (73 percent) was disbursed out of the IDA Credit of SDR 3.6 million equivalent (USD 5.1 million, reflecting SDR appreciation against the USD).

8. ***Project Objectives.*** The overall project development objectives (Schedule 2 to the Development Credit Agreement) were to demonstrate and improve the effectiveness of a comprehensive set of forest management and operational guidelines and control procedures in forest concession areas, and to establish an effective forest crime monitoring and prevention capability. The project was formulated with the expectation and understanding that greater knowledge was needed about Cambodian forestry and about the ways in which reforms could be advanced. As a LIL, the project was specifically expected to generate better understanding of the following issues (PAD, p. 4):

- ***Maintaining Commitment.*** The Government’s commitment to sustainable forestry threatened strongly entrenched interests. A hypothesis behind the project was that increased revenue flows, professional support from the Department of Forestry and Wildlife (DFW, now the Forestry Administration or FA), and local support related to socially responsible operations would help to overcome resistance to reform;
- ***Private Sector Support.*** The then newly established Cambodia Timber Industries Association (CTIA) supported the proposed project, although its membership was acknowledged to include enterprises not fully committed to, or currently capable of practicing, sustainable forest management. Moreover, the full costs of sustainable management could include significant reductions in timber supply and could lead to resistance from some concessionaires unless paired with other suitable policy or regulatory reforms, which would need to be identified and considered as part of the project; and

- *Monitoring and Supervision Requirements.* While the elements of the reformed regulatory system were defined in detail, the FA monitoring and supervision requirements would depend, in large part, on concessionaire response. The rate at which concessionaires could absorb the proposed innovations and adjust their operations was not known. Petty and large scale corruption were characteristic of the forestry sector and learning was needed to discover how regulations could be made more effective in the face of extremely low salaries and difficult working conditions.

9. ***Project Components.*** The project consists of four components (PAD, p. 5):

- *Forest Planning and Inventory Component* (USD 1.3 million). This supports the FA in providing guidance to and exercising quality control over concessionaire preparation of detailed long- and short-term forest management plans. It includes conduct of field surveys and inventories, and assessment of management constraints, biodiversity and social issues, and risks of timber theft;
- *Concession Regulation and Control Component* (USD 2.04 million). This component strengthens the capacity of the FA to oversee concession operations and to ensure compliance of operations with plans and conditions;
- *Forest Crime Monitoring and Prevention Component* (USD 1.11 million). This component strengthens the capacity of the FA and Ministry of Environment (MOE) to systematically and regularly monitor illegal logging and to launch effective prevention activities. It introduces systematic data collection and analysis techniques, and provides equipment and contractual services, training and technical assistance; and
- *Project Management and Institutional Strengthening Component* (USD 0.97 million). This component establishes a Project Management Unit in the FA, including construction of a small office building, and provision of equipment and staff training.

The project was subsequently modified in 2003, as indicated in para. 60; this modification did not require an amendment to the Development Credit Agreement.

10. ***Project Organization.*** The project is implemented by the DFW, which in 2003 became the FA as a result of the reorganization of the DFW pursuant to the Forestry Law of 2002. The FA is a semi-autonomous agency of the Ministry of Agriculture, Forestry and Fisheries (MAFF). A Deputy Director of the FA serves as Project Director. Under the project, the FA established a Technical Review Team (TRT) to conduct concession plan reviews. Staff from various units within FA and MAFF are involved in the project. The forest crime monitoring and prevention function was initially supported by a project of the United Nations Food and Agriculture Organization (FAO) and United Nations Development Programme (UNDP) in 2000, using Global Witness as an “Independent Monitor.” This role is now contracted to a commercial firm under the FCMCPP.

11. The Government-Donor Consultative Group (CG), which the Bank chairs, and the associated Working Group on Natural Resources Management (WGNRM), although not formally party to the FCMCPP, have consistently been engaged in discussion and informal oversight of the project and the sector dialogue. The WGNRM was recently restructured into four Technical Working Groups (TWGs), with the Forestry and Environment TWG chaired by the Director of the FA and DANIDA as Lead Donor Facilitator.

## **PROJECT BACKGROUND**

12. The project developed as Cambodia, one of the poorest countries in the region (USD 290 per capita income in 2000), emerged in the mid-1990s from decades of war and isolation. Its institutions were fragile and violence and social dislocation were ongoing, with disarray extending to all parts of the economy. By the late 1990s, the Government had begun an ambitious structural reform program, with the support of the Bank and other donors. The Bank's 2000 Country Assistance Strategy (CAS) for Cambodia discussed the governance challenges facing the country: "[governance] overshadows almost all of Cambodia's development problems" (CAS, p. 1). The CAS built on awareness of the excessive role of the military in national life, the limitations and weak capacity of the public administration, low civil service salaries, widespread corruption, and other problems; it set out building "the foundations for sustainable development and poverty reduction" as the Bank's main objective in Cambodia (CAS, p. v). The CAS acknowledged the risks to Cambodia of faltering political commitment to reforms in the face of powerful special interests or a return to social unrest and political instability. During his February 2005 visit to Cambodia, World Bank President Wolfensohn told Government ministers, diplomats and others that Cambodia must tackle corruption because good governance is key to a stronger economy.

13. **Analytical Work.** The Government, the Bank and others engaged in an intensive examination of forest policy following a sector analysis by the Bank, UNDP and FAO, presented in early 1996. That report, "Cambodia: Forest Policy Assessment" (Report No. 15777 KH), laid out the enormous economic, social and environmental potential of the forest resource and identified serious weaknesses in the Government's approach. Concessions stood out as a critical constraint to the emergence of sustainable, diverse and socially responsible forestry in Cambodia. Illegal logging was also seen as a serious threat to the sector. The Bank, UNDP and FAO recommended a strategy involving development of an improved regulatory and legal framework, re-examination of concession contracts, trade policy reform for log and forest products and other measures. Subsequent studies estimated 3-4 million cubic meters of illegal logging in 1997-1998 and showed a continued pattern of grossly inadequate fiscal returns (DAI, 1998, Fraser Thomas, 2000b). At that rate of exploitation, the forest would be exhausted in five years.

14. The project was identified in December 1998 at the conclusion of the program of technical studies supported by the Bank under the Technical Assistance Project (TA Pro-

ject, Credit No. 2664-KH).<sup>1</sup> These studies, which included consultations, workshops (see Annex 2) and specialist input, helped establish the legal and contractual framework for concession regulation and clarified the basis for the Government's use of its right to terminate concession contracts. The identification mission reviewed this work, considered the role of other donors, and concluded that appropriate management of the concessions would require substantial investment to build capacity and operationalize the desired policy reforms. In early 1999, the Government embarked on reforms to enforce forest law, shut down illegal operations, and raise forest royalties.

15. A design alternative considered was the targeting of a small number of concessions for intensive technical assistance and development as "model" operations (Appraisal Completion Note, December 11, 1999). This was rejected, because of the Bank's obligation to comply with OP 4.36 on Forestry, the risks for the Bank in aligning with any particular concessionaire, and the important need to deal with system-wide regulatory deficiencies. Project preparation and appraisal were completed in 2000.

## PROJECT IMPLEMENTATION

16. **Project Supervision.** Since approval of the project in June 2000, Bank staff conducted nine formal supervision missions, including a Mid-Term Review (MTR). The Task Team Leader (TTL) was based in a neighboring country during the preparation and early implementation period of the project, and in Cambodia from August 2002 until December 2003. This allowed regular on-time and face-to-face communication with the Government, donors, and other partners. The Credit was augmented by several trust funds, including a Recipient-executed PHRD Grant (TF026419) of USD 240,000 and a grant from the Bank Netherlands Partnership Program (BNPP) of USD 164,000 to support project implementation. The Bank has utilized a substantial supervision budget (see Table 1), including trust funds, especially relative to the Credit amount. See Annex 3 for supervision frequency and composition.

Source	2001	2002	2003	2004	2005	Total
BB	35	23	39	120	112	329
TF	41	113	37	0	0	190
<b>Total</b>	75	136	76	120	112	519

17. **MTR.** The Government commissioned consultants to assist in a project MTR in February 2003 and a report was prepared and made available publicly in April 2003 (DFW, 2003f). The MTR recognized serious problems that had arisen during implementation, suggested that the FA redouble its efforts to utilize project resources and proposed expanded use of project resources for forest concession control, forest law enforcement work, and reinstatement of compartment-level planning. It highlighted the lack of trust

<sup>1</sup> Technical studies addressed forest policy, legal aspects, log tracking and forest law enforcement, and forest concession management.

and credibility that was facing the FA and as an initial measure proposed establishment of a Public Affairs Unit under the project. The MTR suggested an arrangement for the resumption of logging (the Bank advised against this in a Management Letter from the Rural Sector Director to the FA Director on May 21, 2003, see Annex 4). The MTR also proposed that the Government seek an extension of the Closing Date of the Credit. A Bank-led multi-donor supervision mission, proposed to coincide with the Government's MTR, was cancelled due to criticism by several nongovernmental organizations (NGOs) of the terms of reference (TOR) and proposed mission staff composition. A small Bank supervision mission was later fielded to discuss the MTR findings in May 2003.

18. ***Quality Enhancement Review (QER) Review.*** At the request of the East Asia and the Pacific (EAP) Region, a voluntary QER was organized by the Quality Assurance Group (QAG) in October 2003. The findings/results of the QER were (pp. 1-2):

- “Good forest governance is far from being achieved... and much work remains to be done at both the institutional level and in the forest. While Donors and NGOs are impatient with the perceived slow rate of progress, the panel’s judgment is that reform in this difficult area is probably occurring as rapidly as can be expected, and would not be moving at all without the Bank’s involvement...”
- The Bank’s image, and indeed [its] effectiveness, have suffered from the following: (i) the inability of the country team to coalesce around a shared strategy on substance and on process; (ii) the early termination of the FAO/UNDP Forest Crime Monitoring and Reporting Project due to the breakdown of relations between the Forest Crime Monitor, Global Witness and the Government; (iii) not having in place a clear and well-articulated vision of how the recently liberated 4 million hectares [from the cancelled concessions] are to be occupied; and (iv) an insufficiently well articulated Bank commitment to non-concessionaire forest users, especially the rural poor in and near the forest.
- The panel concluded that the LIL and Structural Adjustment Credit (SAC, Credit No. 3323-KH) have had limitations as instruments in addressing the long-term structural nature of Cambodia’s forest governance problem. Nevertheless, carefully selected forest-related SAC conditionalit[ies], that are squarely on the larger governance agenda and are completely under Government control, should continue to be considered in forthcoming SACs...
- The forestry sector is of strategic importance to achieve gains on the top two agenda items in Cambodia, governance and poverty reduction. Bank efforts in these areas will require a commitment by the regional and country management working in cooperation with the Task Team and the Bank’s external relations staff in order to develop and continuously refine a single coherent view on the substance and the process of [the Bank’s] forestry sector strategy, and to develop and implement a proactive communications and partnership-building strategy.”

19. The QER also recommended extending the Closing Date of the Credit and using the remaining funds to carry out aerial and field surveys to verify the current status of

forest lands and establish a clear baseline for additional work; analyze options for non-concession land use, with a focus on poverty, equity, traditional rights, and biodiversity protection; carry out a participatory ICR to work with stakeholders to develop a consensus around next steps; and maintain pressure on concession reform (p. 1). These results of the QER were discussed at a workshop with donors, NGOs and the Government in Phnom Penh in November 2003, when the Bank consulted stakeholders prior to releasing the final tranche of the SAC and extending the project.

## CHALLENGES DURING PROJECT IMPLEMENTATION

20. The Project Appraisal Document (PAD) identified key risks facing the project, including several noted in the Request. Many of these challenges are closely related to the claims raised in the Request and the Global Witness report attached thereto. This section explores some of these challenges. Key events are indicated in Table 2 below and in more detail in Annex 5.

<b>Table 2. Chronology of Key Events</b>		
<b>Date</b>	<b>Event</b>	<b>Comment</b>
1994-1998	TA Project	
1995/1996	Bank/UNDP/FAO Forest Policy Assessment	Concession Area stands at 6.4 million ha
1997-1999	Technical Studies under TA Project	Forest policy, legal aspects, log tracking, and forest concession management
May 1999	Project Identification and Concept Review	
June-December 1999	Project Appraisal	
August-October 1999	CAS Consultations	
November 1999	Workshop with WWF/TFT on Forest Certification	
February 2000	Cambodia CAS SAC approved Forest Concession Management Sub-Decree	
January-May 2000	Project Technical Discussions and Negotiations	
June 2000	IDA Approval of FCMCPP	Concession Area stands at 4.6 million ha
July 2000	Development Credit Agreement signed	
August 2000	Draft Forest Concession Management Planning Manual prepared by Fraser Thomas under ADB project	
September 2000 to September 2004	PHRD Grant implemented	
October 2000	Credit Effectiveness	
March 2001	Revised Forest Concession Management Planning Manual issued by FA	
January 2002	Logging and Log Transport suspended by December 2001 <i>Prakas</i> (regulation or Ministerial order)	
June 2002	Government advised that project risked Unsatisfactory rating	
August 2002	Forestry Law	
November 2002	Draft SFMPs and ESIA's disclosed	
December 2002	Project rated Unsatisfactory	

**Table 2. Chronology of Key Events**

Date	Event	Comment
March 2003 – June 2004	Independent Forest Sector Review, preparation through distribution	
April 2003	Government MTR publicly available	
August 2003	<i>Prakas</i> on Forestry Revenue Systems Management	
October 2003	Sub-Decree on Community Forestry	
December 2003	Closing Date Extended	
June 2004	FCMCPP TRT completes reviews of SFMP and ESIA submissions	Approval recommendation withheld on 1.4 million ha of concessions
July 2004 – ongoing	Independent Review (GFA Terra Systems) of SFMPs and ESIAAs	2 of 6 plans reviewed as of February 2005
March 2005		Concessions of around one million ha remain under review
June 30, 2005	Closing Date of the Credit	

21. **Concession Logging and Suspension.** The Requesters cite harm from previous and possible future improper logging as the basis for their claim. The evolution of logging policy in Cambodia prior to and during the life of the project is central to the claim and to understanding the Bank's performance. Concession logging preceded the project and Bank involvement in Cambodian forestry. Early logging was based on Government approval of plans prepared by concessionaires, usually without adequate investigation and analysis. Logging was authorized on an annual basis according to plans based almost entirely on processing capacity and not on the basis of forest potential. Logging practice by concessionaires was generally poor, as were road construction, worker safety and other aspects.

22. As part of its reform program, the Government enacted the February 2000 Sub-Decree on Forest Concession Management, which defines roles and responsibilities for concession management and supervision and sets out the key principles to guide concession operations. These aimed to provide protection to local communities and the environment, restrict harvests to sustainable levels, facilitate revenue collection and generally increase transparency and accountability. Provisions of the Sub-Decree were initially introduced gradually in line with the Government's limited implementation capacity. After IDA approval of the project, the Asian Development Bank (ADB) and the United Kingdom's Department for International Development (DfID) continued to support technical assistance and advanced proposals for the planning process, in particular developing further a three-level planning process (see Annex 6).<sup>2</sup> This process included brokering agreement between the Government and industry on an interim 50 percent reduction in harvesting for the 2000-2001 logging season from the levels approved for 1999/2000, and a September 2001 target for preparation of management plans. A November 2001 supervision mission provided suggestions on a draft *Prakas* (a regulation or Ministerial order)

<sup>2</sup> That work, which was originally intended to prepare a community forestry project, was redesigned mid-way in implementation when Government informed the ADB that it would not borrow for community forestry, and requested ADB to direct the balance of the project to the development of proposals for concession management and for completion of a review of concession performance.

on the enforcement of the planning and other requirements of the Sub-Decree on Forest Concession Management and the Bank followed immediately with confirmation in a Management Letter. On December 16, 2001, the MAFF issued the *Prakas* suspending logging and log transportation for concessions that were not fully in compliance with the requirements of the Sub-Decree as of January 1, 2002.

23. Since the introduction of the *Prakas*, no forestry concession logging has been authorized by the Government and no reports of illegal logging by concessionaires have been substantiated by the Government or the Independent Monitor, except for the GAT concession, which was terminated by the Government for illegal logging in May 2002. Concessionaire compliance has been assessed by Bank supervision missions that have visited idle concession wood processing factories and concession areas. Forest crime is independently monitored by SGS.

24. **Log Transport Restrictions.** The Requesters assert harm deriving from the Government's policy towards transport of logs, including logs felled prior to the imposition of the *Prakas*. Log transport policy has also evolved during the life of the project. In January 2002, when the *Prakas* went into effect, the Government estimated that 94,265 cubic meters of felled logs remained in thirteen different concession areas. In March 2002, log movements were sanctioned by the Government in contravention of the *Prakas*. In response to concerns expressed by the Bank and others, log transport permits were rescinded and the ban on log transport was reinstated within days, with large volumes remaining in the forest. Bank missions, the Independent Monitor, and others visited concession areas to inspect the stockpiles, some of which are deteriorating, subject to arson, and could possibly be used to conceal additions of new illegal fellings. In April 2004, estimates of log volumes proposed for transportation provided by the Independent Monitor were significantly less than in January 2002 but the basis for the reporting was different. The discrepancy was discovered in the course of preparing this Response and the Bank is seeking clarification from the Independent Monitor.

25. The Government repeatedly expressed concern over uncollected royalties, and concessionaires approached the Bank regarding interruptions in the supply of raw material supplies, idle factories and unemployed mill workers. Discussions in September 2002 in the field with Global Witness and NGO Forum staff led to agreement on the possibility of safe and legitimate transport of logs. Shortly thereafter, the Bank wrote to the FA outlining a set of principles that could be applied to managing the controlled transport of logs. These included transparency, preservation of evidentiary value, collection of royalties and worker and road safety. In 2003, the FCMCPP forest concession control adviser, whose TOR covered issues related to log transport, undertook preparation of guidelines for log transport management. This followed interest expressed by the Colexim Concession, regarding transport of salvage logs remaining from site preparation for the Tumring Rubber Plantation. However, concern was raised by several NGOs over the origins of these logs and harm alleged in the course of this operation. Despite the fact that the Bank did not finance this land development, in order to be responsive, the Bank sent a staff social specialist to Cambodia. As a result, the social specialist proposed TOR for a retroactive plan to mitigate damage done by the Tumring operation, but the Government subse-



quently disputed any deficiencies in the management of social impacts from Tumring and the log movement issue was shelved.

26. The issue of log transport was raised again in April 2004 when the TWG was approached by the FA with a proposal to move confiscated and legally harvested logs from nine concessions including Colexim. The letter was issued in the last week of April and proposed that log movements begin in early May. The Bank responded to the Government through the TWG and reiterated the principles first set out in September 2002. Log movements were resumed in January 2005 following a Government-donor discussion of limited log movements at the December 2004 CG meeting.

27. **Timber Royalty Offsets.** The Request also cites weaknesses in the Cambodian forest revenue management system and suggests shortfalls in the Bank's response to problems. For most of the project's life, logging has been suspended and there have been no new royalty revenues due from logging in concessions during that period. In May 2002, during consultations with the International Monetary Fund (IMF), questions were raised over apparently off-budget transactions involving forest concession royalties collected in 2001. A Government audit later found these to have involved improper "offsetting" transactions. As this issue was associated with the Government's request for an extension of the closing date of the SAC and development of an Action Plan to satisfy the remaining conditions, the Bank asked for and received clarifications. The Bank also provided assistance under the FCMCPP for the development of strengthened financial procedures. The Bank supervised the work of an interministerial team that developed a *Prakas* on forest revenue systems adopted by the Ministers of the Ministry of Economy and Finance (MEF) and MAFF in August 2003. Work continues with the Government on forest revenue systems, including participation of MEF and MAFF officials in the World Bank Institute/PROFOR (World Bank, February 2004) policy seminars and training.

28. **Tensions among Stakeholders.** Because forestry reform was painfully slow, the Bank, other donors working on the sector, and NGOs were frequently frustrated with the lack of progress on the part of the forestry administration. Members of the NRMWG and the NGOs often disagreed among themselves and with each other over the differing approaches to forestry reform. Tensions among project stakeholders, in particular the Bank, NGOs and concessionaires, emerged over a variety of issues. For example, Global Witness, the Independent Monitor supported by the parallel FAO/UNDP project on forest crime monitoring and reporting, disclosed its report on the Government's law enforcement work without the agreed prior consultation with the Government in January 2001 (for which Global Witness subsequently issued an apology). The FAO project lacked the funds needed to support FA work and there were numerous disputes about contracts, reporting, access to information and Government endorsements. The Bank expressed its concerns on these issues to the Government as well as to UNDP, FAO and other partners. In December 2001, a Bank supervision mission noted that the problems FAO encountered in delivering assistance were a major obstacle to moving forward with the FAO project, the FCMCPP and reform. An FAO review mission in early 2002 reinforced these observations and provisions were made for additional technical assistance up to the decision to close the FAO project in December 2003. NGOs also expressed concerns about the substance and process of the Government's development of what was ultimately the

2002 Forestry Law and the Community Forestry Sub-Decree. The Bank intervened with the Government on numerous occasions to expand opportunities for NGO comment and input. Throughout this time, the Bank maintained an ongoing dialogue with Global Witness about both forest crime monitoring and views on forestry in Cambodia.

29. The tensions disrupted and delayed the expected development of sector reforms and law enforcement systems, contributed to the breakdown of collaboration between FA and Global Witness, and deepened the mistrust and lack of confidence of many NGOs and others in the Government's commitment to reform. In April 2002, the local director of the Global Witness program was physically attacked and beaten. The Bank and other donors expressed concern about the attack and the Council of Ministers issued a statement on May 10, 2002 condemning the assault. In December 2002, an incident occurred in front of the FA when forest-affected communities petitioned FA officials for a meeting on the recently disclosed management plans. The group was dispersed by police with reports of use of physical force. Bank management conveyed its serious disapproval and received a detailed report from the Minister of MAFF, which in addition addressed allegations against the FCMCPP Director (see Annex 1, Item 10). In the aftermath of the December incident and related allegations of human rights abuses leveled by Global Witness, the Government announced that it would no longer recognize Global Witness as an Independent Monitor and requested donor assistance in making alternative arrangements. In March 2003, consultant selection began under the project and a commercial enterprise (SGS) was awarded a contract as Independent Monitor in November 2003. Despite these tensions, several NGOs have continued to work and collaborate closely with the FA (for example, WCS, CI, WildAid and Concern International).

30. **Forest Cover Survey.** To respond to concerns that had been raised by NGOs and others about the possibility that changes in forest area and condition might have significantly undermined the management potential of large areas of forest, the Bank in 2002 urged the Government to undertake an update of forest cover data as a contribution to the MTR. The FA proposed assigning this work to its Remote Sensing Unit with international technical assistance provided by the PHRD Grant. The Bank arranged for external reviews of the TOR and proposed methodology and provided its non-objection. During the course of this work, the consultant presented the study methodology to a meeting attended by NGOs and researchers at the Bank Cambodia Office and was available to NGOs for individual consultations. The study provided detailed maps of forest cover, forest cover changes and tabular estimates of changes by major forest type for each concession and each park and protected area in Cambodia. These were based on satellite imagery backed by ground truthing and the study (DFW, 2003e) has now become a standard reference for forest cover in Cambodia (see Annex 1, Item 30). Reference to the Forest Cover Survey was made in the course of political events and speeches during the 2003 national parliamentary election campaign, and complaints were registered with the Bank that candidates for office had inappropriately utilized the study findings.

31. **IFSR.** The TWG initiated a multi-donor sponsored Independent Forest Sector Review (IFSR) in March 2003. The purpose of the IFSR was to provide a fresh look at the entire forestry sector, and was to have evaluated the FCMCPP and reviewed the draft SFMPs and ESAs (the work on the SFMPs and ESAs was not completed by the IFSR

team and was subsequently contracted with GFA Terra Systems in June-July 2004). The Bank's contribution to the IFSR included participation in planning and discussions with the Government, and fees for the team leader from the Bank budget, but the IFSR was managed independently of the Bank by the TWG. The IFSR team delivered its report in April 2004 and it has since been published on the Internet (<http://www.cambodia-forest-sector.net/>). This 800-page report made a large number of recommendations, including some with a direct bearing on the FCMCPP. One of the IFSR recommendations was to close the forest concession system and to move toward a system of local government control over forest resources decision making, referred to as "Partnership Forestry" by the IFSR authors.

32. A compendium of public comments on the IFSR was distributed to stakeholders by FAO in August 2004. The Bank issued its public comments on the IFSR report in October 2004 and these were also distributed by FAO. The Bank's comments on the IFSR noted that it provided a potential basis for a constructive dialogue on forestry in Cambodia. Unresolved aspects of the IFSR recommendations, including inconsistencies in proposals for the concession system and the lack of consideration for legal and contractual risks, were outlined in the Bank's comments. The Bank provided observations on the "Partnership Forestry" concept of the IFSR and noted issues in need of further policy analysis and development, including allocation of land to protected areas and other uses, community forestry policy, other mechanisms for public timber sales, forest law enforcement and administrative arrangements for the sector.

33. ***SFMP/ESIA Submission and Disclosure.*** At the core of the project has been Government's establishment of a system to review and manage concessionaire proposals, the first in a sequence of which would be the SFMPs/ESIAs. Various parts of the Request deal with qualitative aspects of those plans and the process by which they are reviewed and disclosed. Under Cambodian regulations, concessionaires are required to prepare and submit SFMPs and ESIAs for review, consideration and approval by FA, MAFF and MOE. A target date of September 2001 for submission by the concessionaires was not met; the Government extended the deadline to September 2002, and allowed logging to continue in the fall of 2001. The Bank considered the extension of the date for plan submission reasonable, in view of delays in the selection of technical assistance under the project, but conveyed its written concerns to the Government regarding the continued logging (see also Annex 1, footnote 2). A Bank mission in November–December 2001 reached agreement with the Government on the *Prakas* suspending logging that was subsequently issued in December 2001.

34. Following some resistance by the Government (see Annex 1, Item 22), the draft SFMPs and ESIAs of the concession management plans prepared by the concessionaires were made public in November 2002 with provision for a limited 19-day period of public comment. The Bank made its Public Information Center in Phnom Penh available as a supplementary site for the disclosure of the SFMPs and the ESIAs both for convenience and because it was considered less intimidating than the FA building. The Bank monitored distribution of copies to Provincial and Commune Offices in the concerned concessions and found that the FA had distributed Khmer versions of the plans and a letter of explanation specifically allowing unlimited disclosure in each affected commune. The

manner of the FA presentation of its disclosure plans, the short period set for public comment and brief delays in the availability of copies at the Public Information Center (PIC, see Annex 1, Item 22), aggravated tensions between NGOs and the FA (see paras. 28-29 above). Together with the announcement regarding the public comment period, the FA also announced that it was dropping requirements for preparation of medium-term, compartment-level plans that were to be the next level in the planning sequence. Following several exchanges between the Bank and the Government as well as interventions by NGOs, the period of comment was eventually extended to January 31, 2003, and the compartment-level plan requirement reinstated.

35. In 2003, the FCMCPP concluded its first technical reviews of the concessionaires' SFMPs and ESIA and solicited comments from the TWG. The first two reviews recommended rejection of the two respective concessionaire proposals, and the methodology and conclusions were endorsed by the TWG. Although the TWG originally undertook to review all SFMP and ESIA submissions, this did not materialize. The TWG then included reviews of SFMPs and ESIA in the TOR of the IFSR in 2003-2004 but these reviews also did not occur. By mid-year 2004, the FA TRT had completed its reviews of all SFMP and ESIA submissions.

36. The Bank, in association with TWG, contracted GFA Terra as an independent consultant to consider the TRT reviews of the six concession plans that were recommended to advance to the compartment planning level. GFA provided detailed reviews on two concessions and suggested significant additional work in both cases. Further independent reviews are proposed for the other four concessions; negotiations with consultants and the TWG are pending. The Bank has not commented independently on the six concession plans or the TRT reviews and the Government has withheld action pending TWG and Bank comments. No concession operations have been approved, and concessionaires have expressed uncertainty about proceeding with further planning or consultations.

#### **IV. SPECIAL ISSUES AND LESSONS LEARNED**

##### **OVERVIEW**

37. In response to the Request, the Bank has meticulously analyzed the claims and reviewed its work on the project. The basic premise of the Request is that the project concept was flawed because of the emphasis on concessions. Management maintains that the choice of working for gradual reform of the system was the most appropriate at the time. Its strategy was widely shared by knowledgeable observers and forest policy specialists, and was publicly discussed at the time of approval. It grew logically from the work of other agencies and was built on dialogue with the Government.

38. The Requesters call into question the Bank's compliance with eight of its policies and procedures—OP 4.01, OP 4.04, OD 4.20, OP 4.36, BP 8.40, OPN 11.03, OD/OP 13.05 and BP 17.50. Management believes that the detailed analysis undertaken in Annex 1 demonstrates that the Bank is in compliance with all of the policies and procedures

noted above, with the exception of some processing and documentation provisions of OP 4.01 and OD 4.20.

39. Under OP 4.01, the project was rated “B” and emphasis was placed on improved planning processes and assessments because: (i) the concession system was already fully defined and would only be reduced in area by the proposed project and ongoing policy work (under the SAC); (ii) social and environmental risks and mitigation needs were anticipated within the background studies (which were publicly available); and (iii) the project would not involve physical works. However, no Environmental Assessment (EA) was undertaken prior to appraisal (see Annex 1, Items 5-6). Neither was an Indigenous Peoples Development Plan (IPDP) prepared (see Annex 1, Items 12-13), in accordance with OD 4.20. To have complied fully with the policies, the Bank should have requested more explicit documentation from the Government and provided more extensive explanation in the PAD. Local-level consultations on the proposed project concept should have been held at selected concession locations.

40. Management considers that the lack of full compliance with certain of its policies has not had a material effect on the project nor has it led to harm or potential future harm to people living in project affected areas.

41. The Requesters further suggest that the Bank:

- *Acknowledge the damage that FCMCPP stands to cause to forest communities in Cambodia.* In response, Management notes that the Bank has helped to establish within Government the capacity to put in place regulations and procedures to prevent damage to the interests of forest-dependent communities;
- *Publicly refute the project’s “endorsement” of six logging companies.* The Bank is well aware of the deficiencies in the plans of the six logging concessions and has refrained from “endorsing” them or “recommending [their] approval.” Endorsement and recommendation are the sole purview of the FA and not of the Bank;
- *Write off the debt that Cambodian citizens have incurred through the LIL.* The Government is obliged to repay the IDA concessional Credit under the Development Credit Agreement. In addition, debt write off is not undertaken for individual projects or project specific reasons but because of country economic circumstances; and
- *Undertake a wide-ranging review of World Bank interventions concerning forestry and other extractive industries, as well as include timber in the Extractive Industries Transparency Initiative.* Because an Inspection Panel case is project-specific, such policy-level issues are not addressed in a Management Response.

## **SPECIAL ISSUES**

42. The following paragraphs discuss some of the special issues encountered in dealing with the challenging and difficult governance setting of a post-conflict country such as Cambodia. The Bank recognized from the outset that there would be no easy solutions to the problems in the forest sector. It would be inaccurate and unfair to attribute to the Bank the problems that persisted or ensued in the sector. Management believes that the Bank adopted a responsible approach, consistent with its evolving forest policies and strategies. Admittedly, the Bank faced a very complex environment and may have fallen short in recognizing or gauging some of these multiple challenges, especially in the context of a small LIL. This situation cannot, however, be interpreted as indifference to the goal of promoting the sustainable development of forests. In fact, Management believes that the Bank's intervention likely led to significantly better overall outcomes in the Cambodian forest sector than if the Bank had been absent.

### **Bank Approach to Forestry Issues**

43. Management wishes to highlight the responsible approach that the Bank adopted, consistent with the 1993 Forestry Policy, which was applicable to the project; the 1991 Forest Sector Policy Paper; and the insights that the project derived from the evolving new Forest Strategy during 1999-2000. The Forest Sector Policy Paper (1991) recognized the role of forestry in poverty reduction. This paper, which constituted what today's Bank terminology calls a forest strategy (OED, 2000), emphasized preservation of intact forest areas and included a Bank commitment not to finance commercial logging in primary moist tropical forests. The broad goals of the 1991 strategy were to prevent or significantly reduce deforestation and to stimulate plantations and creation of additional forest resources. OP 4.36 on Forestry reflected the policy content of the 1991 paper.

44. During 1999-2000, while the FCMCCP was being prepared, OED undertook a review of the 1991 strategy and the 1993 policy. OED found that implementation had fallen short of its objectives and resulted in a "chilling effect" on Bank support for forestry sector activities and that lending for self-standing forestry sector operations that traditionally dealt with key forest policy and management sector issues had stagnated. Among many recommendations, OED advised that the Bank should "address the risky and controversial issues of the forest sector." In particular, OED stated that "Illegal logging needs to be reduced by actively promoting improved governance and enforcement of laws and regulations... helping Bank borrowers improve, implement, and enforce existing laws and regulations." To do so "will also require that national stakeholders (especially civil society and the private sector) demand, implement, and monitor improved governance practices." It was in this context that the Bank appraised and approved the FCMCCP.

45. Subsequent to the OED review, the Bank conducted a two-year process of analysis and consultation resulting in a revised Forest Strategy. This Strategy mandates active Bank engagement in the sector to promote three equally important and interdependent objectives—harnessing the potential of forests to reduce poverty; integrating forests in sustainable economic development; and protecting the vital local and global environ-

mental services and values provided by forests. The Strategy identified, as a priority, the need to address illegal logging and corruption and reform forest concession policies. Concerning concessions, the Strategy committed the Bank to promote use of regulatory frameworks for timber concessions to enhance the contribution of forests to economic and social development as well as environmental protection. The strategy also committed the Bank to encourage governments to engage independent third-party certification bodies in performance-based monitoring of forest harvesting and management operations.

46. Although the FCMCPP was prepared under the 1993 OP on Forestry, it benefited from the insights of the OED review and the paradigm shift that emerged in the new Forest Strategy. The project reflects the emphasis on governance and forestry reform in the new Strategy.

### **Weaknesses in Cambodian Governance Institutions**

47. In Cambodia, similar to other poor, post-conflict countries, natural resources have been distributed to appease warring factions, “purchase” political support, and finance a patronage-based political party system. As a result, the cessation of civil war, while undoubtedly the most important priority of Cambodian citizens, has not provided the livelihood security needed by the rural poor. Rather, corruption and the non-transparent allocation of natural resource exploitation rights have exacerbated their problems and their access to the natural resources upon which they depend for a significant proportion of their consumption and income—land, forests and fish in particular—has been diminishing. Competition for access to resources has continued to grow, intensified by a current population growth rate of 2.5 percent per year, and a dearth of alternative employment opportunities for the rural poor, or investment options for the wealthy, due to an adverse business environment affected both by bribery payments and excessive regulation.

48. Cambodia’s tragic, recent history and the complexity of governance issues have required special vigilance, responsibility and continuous learning on the part of the Bank and other donors regarding issues of corruption and reform. Given the combination of tremendous need to provide basic services to Cambodia’s poor and the acknowledgement that rebuilding Cambodia’s institutions would take time, donors have historically recognized Cambodia’s governance shortcomings while tolerating limited progress in addressing these issues. Hence, strongly critical assessments of Cambodia’s governance performance have, until recently, generally not been accompanied by sanctions in the form of reduced aid flows, leading to general questioning of donor commitment to governance reforms by civil society groups. More recently, multilateral donors, including IDA, have reduced their funding based largely on governance assessments, although this has been compensated for by increased funding from bilateral agencies.

49. The 2000 to 2003 CAS stated that “Cambodia’s institutions of governance are still weak. This issue overshadows almost all of Cambodia’s development problems.” The CAS set out to build “the foundations for sustainable development and poverty reduction” as the Bank’s main objective in Cambodia (p. v). The Bank’s program focused on institutional strengthening through support for anti-corruption studies, public sector reform, legal and judicial reform, and improved land management and administration, to be

supported through analytical work, capacity building assistance, investment and adjustment lending. The CAS program included three LILs, including the FCMCPP. While the foundations of the last CAS—governance, service delivery and investment climate—were appropriate and remain so today, good delivery of the program did not lead to the broader change in outcomes that was anticipated at the outset. During the CAS period, a number of output targets were achieved through this approach, but the failure to address cross-cutting issues such as expenditure management and public administration reform in a more comprehensive manner resulted in “islands” of improvement with very limited impact on the Government’s general approach to service delivery.

50. Not surprisingly, IDA’s projects faced particular problems in sectors such as forestry, in which the incentives for resisting reform were pronounced. Based in part on the experience gained with forestry reform, the forthcoming 2005 to 2008 CAS will focus on a limited number of critical governance reforms<sup>3</sup> stemming from consensus amongst all stakeholders on required reform actions that are both critical and feasible in a limited time period. As a result, Bank support will include relatively more analytical work in the context of technical working groups to develop and maintain agreed sectoral reform programs, supported by sectoral programs and proposed Poverty Reduction Support Credits (PRSC).

### **Forestry Management Instruments**

51. Over the last ten years, the Bank has put considerable effort into its work on forestry, which has brought into better focus the diverse values of forests, the need for robust systems of governance, and the participation of communities and the private sector as critical ingredients for environmentally sustainable and equitable resource development. Cambodia has been a particularly challenging environment in which to advance such reforms. The perception in the Request that the Bank is indifferent, or even hostile, to development of forests for uses other than commercial timber is contradicted by the Bank’s actions and statements. The Bank has made efforts to work with the Government to ensure a suspension of logging, promote disclosure and transparency, and formalize a regulatory process to anticipate and mitigate risks of future harm.

52. The Bank has employed a three-pronged strategy in Cambodian forestry issues to: (i) assist the Government in reducing the concession system; (ii) assist in strengthening the regulatory system for the remaining concession system; and (iii) contribute directly to the development of alternative forest management arrangements.

53. ***Reducing the Concession System.*** At its peak, the concession system covered 6.4 million hectares and consisted of large, primarily internationally owned and operated holdings linked with capital intensive wood processing investments. The international donor community urged the Government to address serious deficiencies in the system and pursue reforms. The Bank, together with ADB, encouraged the Government to pursue a

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<sup>3</sup> The CAS will focus on the private investment climate, public financial management, decentralization and management of land and forest resources.



case-by-case restructuring of concessions to achieve a higher level of sustainability (see Annex 1, Item 3). As shown on Map 1, a dramatic reshaping of the claims on forest resources in Cambodia has resulted, with the area covered by concessions recommended by the TRT to go forward now totaling just over one million hectares. No other country has ever, in percentage terms, so radically reduced the claims of the commercial private sector over forest lands in so short a time as has Cambodia over the last ten years. While many concession areas that were cancelled, abandoned or not allowed to go forward were of limited commercial value, others had both commercial and other forest values, making the reductions important achievements and genuine contributions to public welfare. Much of this reduction in concession area is clearly attributable to the FCMCPP.

54. ***Strengthening the Concession Regulatory System.*** While concession systems alleviate some forest management burdens on the public sector, because resource ownership is unchanged, the ultimate concern and responsibility for sustainable management remains with the public sector. The FCMCPP was designed to help Cambodia move towards establishing a credible regulatory framework. A three level planning framework (strategic, compartment, annual) helped to provide the tactical focus for the FCMCPP. While the full range of skills needed by the FA could not be developed under a single project, strategic level planning requirements, for which the requisite skills were largely in place in the FA, allowed for an assessment of the physical feasibility of long-term operations, and led to a large number of concessions being recommended for closure.

55. While much remains to be done, the project has raised the quality of the concession regulatory process to a new level. The inventory claims of concessionaires have for the first time been subjected to field verification by the FA. The FA has had a cadre of staff trained and oriented to the role and function of an independent regulatory agency. The FA has the basic physical infrastructure, mobility and communications needed to implement its mandated responsibilities. There are, and have been genuine doubts—which the Bank has shared with the Government and expressed openly—about the potential for conflicts of interest, and the breadth and depth of commitment to the use of the FA’s regulatory potential.

56. The Bank’s supervision of the FCMCPP was informed and balanced in the face of these uncertainties. The Bank responded promptly and effectively to the improper resumption of logging in late 2001 and to log transport in 2002. The Bank made its office available to help ensure the distribution of draft SFMPs and ESIA’s and has repeatedly taken responsibility for shortcomings in that process. The Bank joined with other donors in securing from the Government a reinstatement of the compartment planning requirement. These efforts, however, do not remove uncertainty about the intentions of some authorities in the Government, or the risks that special interests will seek to, and possibly succeed, in evading the rules, regulations and safeguards that have been put in place.

57. Given the complexity of many issues in the project, prioritizations were required. Therefore, efforts to assess the social aspects of concessions were deferred until the potential concession area was reduced. At the time, other critical actions such as forest inventory, mapping, and yield calculations were considered to be more immediate priori-

ties. The suspension of logging on January 1, 2002 provided a level of confidence that harm resulting from uncontrolled logging would not occur.

58. Another critical development was the disclosure of draft SFMPs and ESIA's prepared by the concessionaires in November 2002. It is unfortunate that the opportunity for public comment and debate, a genuine landmark and potentially a watershed in Cambodian forestry, has not been fully realized. Nevertheless, the public scrutiny that disclosure and transparency generated has contributed to the continued Government adherence to the suspension of logging and pursuit of the planning process.

59. ***Alternative Forest Management Systems.*** Prior to the project, the most significant alternative utilization of forest resources was deforestation and conversion. Conversion occurs through land development schemes and through spontaneous settlement by individuals, often landless and poor. Land development projects, unlike concession logging, are designed to completely remove the natural forest and leave no residual sources of non-timber forest products. At the time of project preparation and approval, as indicated above, very limited work had been done on alternative systems for potential development, such as community forestry and protected areas systems. FAO's Community-Based Management of Natural Resources Project has been the largest effort related to community forestry, and as of 2004 covered around 100,000 hectares. Others, such as the German GTZ, and NGOs, such as Concern International, have pursued pilot work on community forestry. The 2004 International Tropical Timber Organization (ITTO) diagnostic mission (see Annex 1, Item 37) found that "community forest management will not be possible at the scale required to deal with extensive forest rich landscapes - although it should be developed in appropriate locations within these landscapes." In addition, the Bank has financed, through a Credit and GEF Grant totaling about USD 4.7 million, the Biodiversity and Protected Areas Management Project (Credit No. 3320-KH/TF023524-KH). This is the largest biodiversity project in Cambodia both in scale and funding.

60. In the areas released from concessions, the Government has taken preliminary steps to institute new management arrangements. The Government has requested additional technical assistance to prepare management plans for post-concession forest areas and has designated approximately one million hectares of post-concession areas as protected forest—the Central Cardamom (401,313 hectares), Mondulkiri (429,438 hectares), and Preah Vihear (190,027 hectares) Protected Forests. The Government is being assisted in the management, protection and development of these areas by international donors and NGOs, most prominently by WCS in Mondulkiri and CI in the Central Cardamom. The FCMCPP itself was modified in 2003 to address post-concession management issues and has financed the FA's collaboration with WCS in Mondulkiri. The Task Team is also seeking grant resources to develop a participatory forest monitoring system and to pilot community forestry approaches following project closure.

61. The forest system research and modeling work funded by FCMCPP (FA, 2004d) provides the Government with new data on permanent sample plots, forest growth and log volume tables and other information that is essential to sustainable forest management through any institutional arrangement. The Forest Cover Survey (DFW, 2003e) is a similarly valuable contribution that is applicable to a range of management arrangements.

The inventory information that is now available for cancelled as well as potentially ongoing concessions, and particularly the data from the FA validation studies by the TRT, are new contributions to the knowledge about Cambodia's forests that transcend their concession system application per se.

62. The introduction of the concept of “social responsibility” into public policy toward commercial development of natural resources, the demonstration of a formal process for the review of concession plans, and the solicitation of public comment on commercial activity on public lands, are models that could be extended to other state lands based on lessons learned from the implementation of the FCMCPP.

63. The project's approach to forest management systems has contributed to a number of important improvements—formal adoption of guidelines and codes of practice for forest management; regular public reporting on forest crime; effective control of anarchic logging in concession areas; and a sharp reduction in the area under forest concessions. Unfortunately, the process of reform in the forestry sector has moved much more slowly than originally anticipated, raising doubts about the Government's commitment to the reform process and the sustainability of sectoral impacts. Delays in the preparation, processing and review of forest management plans have left unanswered questions about concessionaires' potential performance under the new legal and regulatory regime even as the project nears its revised Closing Date (June 30, 2005).

#### LESSONS LEARNED

64. The Bank recognized from the outset that there would be no easy solutions and that many of the problems (corruption, lack of transparency) were systemic and could not be addressed through a sectoral operation alone. To tackle the broader context, the Bank adopted and applied a range of tools and approaches—SAC conditionality, joint preparation with other donors of a “Governance” CAS, analytic work, partnership with NGOs, public disclosure of information, and targeted work on land administration and tenure security. Within the forestry sector, and again in consultation with other donors, the Bank chose to address a focused and prioritized set of issues—concession management, forest crime, legal systems development, biodiversity conservation, and community forestry. A number of lessons emerge from this:

- Because it does not intervene or take sides on existing investment contracts between its member countries and the private sector, the Bank was limited to promoting gradual reform and to working largely within the existing system. *In retrospect, this constrained the Bank's options in the sector.*
- This project marked a first attempt to introduce the concept of social responsibility into the management of public resources in Cambodia. Project contributions to the legal framework, management guidelines, regulatory capacity, and disclosure of information were all essential elements in moving toward “socially responsible” forest management. Unfortunately, these elements in combination were not sufficient to address the underlying distrust associated with the concession system. One important lesson must be that in the absence of clear resolve on the part

of Government regulators, *the Bank might have played a more proactive role in encouraging greater involvement of local communities at an earlier stage in the process to clarify both opportunities and challenges inherent in the implementation of the Government's proposed system. In retrospect, many crucial issues might have been more effectively addressed at an earlier stage—overlapping claims on timber/resin trees, lack of effective concessionaire controls over sub-contractors, restriction of access to livelihood resources—lowering tensions and apprehensions on all side and speeding the process of reform.*

- Project implementation was slow and suggested a weak Government commitment to concession system reform. The Government's response to issues, including illegal activity by some concessionaires, was at times weak and at other times more positive and encouraging. The Bank repeatedly raised concerns with the Government about its performance and level of effort. Indifferent and, at times, technically poor work by concessionaires was commonly viewed as part of doing business in Cambodia. *In retrospect, the Bank could have more aggressively questioned the Government's commitment. It also could have been more outspoken regarding its concerns about the quality of submissions and a flawed disclosure process.*
- The quality and impact of consultations undertaken by concessionaires in the course of their plan preparation was to have been one of the dimensions by which plans were assessed. The responsibility of the Government and the concessionaires for consultation related to concession developments needed to be more rigorously examined and developed. The Government's understanding of consultation and informed consent needed strengthening; thus the PHRD Grant program was put in place to provide technical assistance in social aspects of plan evaluation. Government pursuit of this work was slow, but is now proceeding using Bank internal budget and under Bank supervision. *In retrospect, conditionalities in the legal agreement concerning social issues might have been appropriate.*

## V. NEXT STEPS

65. Management has reviewed the progress of the project, its accomplishments and lessons learned. In light of the limited time remaining prior to project completion, Management proposes a dual track approach, one for actions to be taken before project closure, and the second, suggested options over the longer term, once the project has closed.

66. ***Proposed Actions during the Remaining Project Period.*** The Bank will focus on:

- Supervising ongoing work to refine and field-test community consultation procedures, in order to better address, inter alia, Indigenous Peoples issues;
- Monitoring Borrower-implemented mitigation actions identified through consultation;

- Working in partnership with the TWG to initiate the process of facilitated consensus building called for by the IFSR;
- Making resources available and seeking donor support to complete the review of the remaining SFMPs and ESIA's;
- Urging the Government to formalize forest management planning procedures for post-concession and non-concession areas; and
- Seeking the Government's final determination on concessions recommended for closure by the TRT.

67. **Options beyond the Project Period.** Management is considering options available to the Bank to continue work in the forestry sector within the broader context of natural resources management. Options include:

- Mobilization of grant support to pilot alternative forest management regimes (led by communities and/or local government) and to facilitate a transition from an international monitor to a participatory system of forest crime monitoring;
- Application of lessons learned in the forestry sector to the broader dialogue on land/economic concession reforms;
- Continued dialogue on forestry sector reform and natural resources management in operations that follow from the governance CAS now under preparation; and
- Exploration of partnerships with other stakeholders including the TWG.

68. **Options beyond Cambodia.** In the ongoing development of a forestry strategy for the Bank in East Asia, the Bank is examining opportunities outside its usual lending and country analytic instruments on issues of forest law enforcement and governance. It is developing initiatives to address illegal logging and forest-based corruption through Anti-Money-Laundering efforts, developing technical guidance on timber theft prevention, planning consultations on anti-corruption work focusing on forestry, and supporting follow-up to the Bali Declaration on Forest Law Enforcement and Governance.

69. **Risks and Mitigation.** The Bank recognizes the risks posed by the Cambodian forest concession management system and has consistently tried to mitigate the risks concessions pose to local communities and the environment throughout its work. This is why the Bank has promoted development of a formal system for concession planning that includes predictable opportunities for transparency and public input. The project has not been completely successful in achieving these objectives. There is still a long way to go in developing greater predictability, confidence and technical quality in the forest concession system. Nevertheless, the Bank ensured that draft SFMPs were made available through its Cambodia office, has endeavored to bring social forestry expertise into the management of the concession system, and commissioned independent consultants to review the assessments of concession plans prepared under the project. The Bank also has

contributed to bringing about a reduction in the area exposed to concession operations from 6.4 million hectares to just over one million currently recommended by the TRT to go forward. In summary, the Bank sought to help the Government in instituting meaningful and effective controls on the planning and operations of the remaining concessions.

70. If improperly planned and uncontrolled concession operations are allowed to resume, communities will indeed be at risk of future harm. The Bank expects the Government to abide by its commitments to continue to require concessionaires to complete all the planning and consultation requirements of Cambodian law. Any operations that are allowed to proceed should be supervised by the Government working with local communities and other stakeholders to provide increased transparency to hold concessionaires accountable for implementing their commitments to sustainable and socially responsible forestry practices.

71. Going forward, and based upon the lessons learned from the project, the Bank will continue its dialogue with the Government and explore options regarding natural resources management issues, including forestry.

## **VI. MANAGEMENT'S RESPONSE**

72. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1.

73. Management believes that the Bank has made every effort to apply its policies and procedures and to pursue concretely its mission statement in the context of the project. Management recognizes that the Bank was not in full compliance with processing and documentation provisions of OP 4.01 and OD 4.20 during project preparation. The Bank did anticipate the social and environmental issues associated with the project, incorporated processes to address these issues into the project and supervised the project appropriately. Any harm that may have come to the Requesters was, in the opinion of Management, not in anyway attributable to the Bank project. Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

**ANNEX 1  
CLAIMS AND RESPONSES**

No.	Claim/Issue	Page No. <sup>1</sup>	Response
<b>Project Concept</b>			
1.	<p><b>Project Basis.</b> The Forest Concession Management and Control Pilot Project's endorsement of the concession system stems from the point of departure set out in its project objective. World Bank staff took the view that the existing concession system was the most appropriate management regime for Cambodia's forests and the project was designed to demonstrate that it could be reformed.</p> <ul style="list-style-type: none"> <li>From the outset the FCMCPP's success or failure has thus hinged closely on the fate of forest concession system; giving the Bank an unhealthily strong stake in its preservation.</li> <li>A more serious flaw is the way that the Bank effectively linked successful project outcomes to the continued tenure of the incumbent concessionaires.... If the Bank wanted to demonstrate a functioning concession system and thereby realise its vision and project objectives, it needed to ensure the continued tenure of the incumbent concessionaires.</li> <li>Following the logic of its pro-concession agenda, the Bank perceived the development of alternative management regimes as a threat. This sentiment is expressed in an internal memo from the FCMCPP task manager to the Cambodia country director about proposals to turn some of the concessions into protected areas for conservation: "This area is currently under concession and the financial package offered to the Government (by conservation organisations) could result in difficulties coordinating activities and projects, <i>not to mention maintaining the coherence of the concession system reform program.</i>" (emphasis added)....Indeed, the prevailing bias towards the concession system was highlighted in a World Bank internal 'Quality Enhancement Review' of the FCMCPP in 2003, which acknowledged that "The Bank has not been fully prepared to discuss alternatives</li> </ul>	7-10	<p>The Bank's objective in Cambodia, as reflected in the February 2000 CAS, was to help build the foundations for sustainable development and poverty reduction, in particular strengthening good governance through a more efficient and accountable public administration. The LIL for the FCMCPP was conceived in this context, along with two other LILs, the Northeast Village Development Project; and the Biodiversity and Protected Areas Management Project. The LIL did not seek to promote the existing concession system. Rather, it sought to assist the Government to make the regulation of the forestry sector more effective and equitable.</p> <p>The Government established the forest concession system with arrangements dating as early as 1994 and some before. This system, adopted without consultation with the Bank, carried with it a regulatory burden that the Government was ill-equipped to carry. As the international community's engagement in the forestry sector grew, and as debate developed within Cambodia, the need for a transparent and accountable system to control and manage the concession system became apparent. Recognition of the responsibilities to regulate the system was developing through studies supported under the Bank's TA Project and ADB-financed work (see Item 2). The Bank, after considering that other donors were not taking on the challenge posed by the concession system, decided to assist the Government in reforming the system. As discussed in the FCMCPP PAD (E. Summary Project Analysis, 4.a.; Sustainability and Risks), conflicts of interest, capacity constraints, and the public sector's lack of familiarity with a fair and well-governed system were among the obstacles that the Bank expected. Nevertheless, at the time of project preparation and approval, the Bank, other donors and NGOs (such as, WWF, TFT, WCS, FAO, UNDP and ADB) were optimistic about working constructively with concessionaires, as indicated in various correspondence and reports.</p> <p>The FCMCPP had learning and innovation goals (PAD, p. 4) that aimed to generate better understanding of the following issues, which go beyond the concession system per se: (i) how increased revenue flows, professionalism in the FA and local benefits from socially responsible operations would help overcome resistance to reforms; (ii) how industry commitments to sustainable forestry could be made durable and meaningful in the face of higher costs and an increased regulatory burden; and (iii) how an effective regulatory mission could be adopted by the FA in the face of corruption, low public sector wages and difficult working conditions. The project also addressed illegal logging and capacity building concerns.</p> <p>Under the project, no funds are provided to forest concessionaires. Funds from the IDA credit are directed to the FA with the aim of reforming the regulatory system. Project funding seeks to build capacities within the Government. By the time of the</p>

<sup>1</sup> Page numbers are from the Global Witness 2005 report, "World Bank Forest Concession Management and Control Project in Cambodia," prepared for the NGO Forum on Cambodia and submitted as a supporting document to the Request for Inspection.

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	<p>outside the concession model.” The World Bank decided to base its forestry project on the existing concession system and concessionaires in the face of abundant evidence that they were damaging the interests of Cambodia’s citizens, particularly forest-dependent communities.</p>		<p>Credit Closing Date in June 2005, roughly one-quarter of total project costs will have been directed to forest crime monitoring and reporting, including the costs of independent monitoring and physical equipment (computers, boats, etc.) that will be used by the FA in the control of illegal logging. A substantial share (about 20 percent) of the project’s technical assistance addresses operational forestry research matters and other work directly relevant to forest management and forestry institutions. The physical infrastructure, communications and other equipment procured by the project is adaptable to any forest management arrangements adopted in Cambodia.</p> <p>The quote about a preoccupation with concessions is taken out of context. The statement was made in the context of the forestry dialogue as a whole, including community forestry and protected areas, and was not intended to convey limitations of the Bank’s work or the exclusion of alternatives. In correspondence with the NGO Forum, the Bank wrote: “Some areas may simply need to be off limits to concessionaires as special management areas within concessions.”</p> <p>Concerning the QER, this Bank review was project-specific and, thus, did not consider the full range of other project work in Cambodia. Nevertheless, since the QER, the Bank has made additional efforts, within the project and in other aspects of the policy dialogue, to broaden its scope in the forestry sector, including community forestry. Prior to the QER and after, alternatives to concessions were not ignored, as reflected in the conduct of supervision and the Bank’s ongoing policy dialogue in the forestry sector.</p>
2.	<p><b>Status of the Forest.</b> [The World Bank] conducted no thorough assessment of the values and possible alternative uses of Cambodia’s forests (despite being one of the few institutions with the capacity to do so). Neither did it require any reworking of the existing concession boundaries as a pre-condition for, or even a component of, its efforts to reform the concession system.</p> <p>[J]ust months before the FCMCPP got underway, an ADB-commissioned review of the concession system concluded that it constituted a “total system failure.” Notwithstanding the conclusions of the ADB review, the World Bank proceeded with the development of a project premised on the validity of the same failed system and operators. It made no attempt to challenge such fundamental flaws as the location and boundaries of the concessions, nor did it question the legitimacy of the companies.... Concerning concessions’ problematic location and boundaries, Bank staff have argued that with the concessions already allocated, the Bank was not in a position to demand any revisions.</p>	10-11, 16-17	<p>The project was based on extensive prior studies (by Fortech, ARD, DAI, White and Case and the ADB-commissioned review – hereinafter the Fraser Thomas study), as well as Bank supervision of the TA Project and the Bank/FAO/UNDP <i>Forest Policy Assessment</i>. These all recognized misallocation of forest and other land to concessions and contributed to the logic of Bank funding of gradual reform. As indicated elsewhere in the Response (see Items 1 and 5), the project’s process orientation was intended to provide a practical context for reassessment of land and forest use, based on site-specific data. The Bank made clear its view that credible land-use evaluation, planning and allocation process for Cambodia would have been desirable prior to major land allocations. No legal basis for such an undertaking existed until recently, nor is there adequate resource information. With concessions already in place in 1997, there was an immediate need to improve resource use and protection on those areas. Integral to any sub-regional natural forest management planning (i.e., SFMPs) is a forest zoning process, in order to eliminate from harvesting those lands needed for watershed protection, biodiversity conservation and community resource conservation.</p> <p>The quote from the Fraser Thomas study, “Cambodian Forest Concession Review Report” (2000a), is taken out of context and does not reflect the study’s overall recommendation to pursue further planning and restructuring efforts. A fuller quote is: “It cannot be overstressed that no one entity is to blame for the current crisis. It is the result of a total system failure; resulting from greed, corruption, incompetence and illegal acts that were so widespread and pervasive as to defy the assignment of primary blame. Responsibility for the debacle must be shared by national and pro-</p>



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			<p>vincial politicians, government staff, the police and military, concessionaires, private businesses and individuals, and by individuals and organizations in the neighboring countries of Thailand, Laos and Vietnam” (p. 25). In fact, the report concluded “that DFW [now FA] should accelerate the effectiveness of the World Bank supported LIL project, so that the process of restructuring can be monitored and guided” (p. 39).</p> <p>Problems posed by concession boundaries, as well as other constraints raised by the terms of concession contracts, were recognized early in the process. Setting aside areas for community use and conservation from within concessions is one of the objectives of the SFMP/ESIA strategic level planning process (see Annex 6). Government, through the support of the FCMCPP, is responsible for regulation and oversight of this process. The Bank has not been satisfied with the outcomes of this process to date. See also Items 33 and 36.</p>
3.	<p><b>Grounds for Cancellation of Concessionaire Contracts.</b> Bank staff claim that the Government could not unilaterally cancel any of the concessionaires’ contracts without being subject to lawsuits by the companies. In making these assertions, the Bank invariably refers to a legal analysis that it commissioned in the late 1990s. The Bank has consistently declined to publish the lawyers’ assessment, making its professed rationale for opposing cancellation hard to verify. In either event, the Bank’s position is unconvincing for two main reasons. One is the substantial body of evidence already assembled concerning the companies’ contractual breaches and illegal activities. This in itself provided strong grounds for terminating most if not all the concession contracts. The other is the Cambodian government’s willingness, since before the start of the FCMCPP and subsequently, to cancel the investment agreements of a large number of concessionaires. Not one of these cancellations has encountered a legal challenge from the companies concerned.</p> <p>Somewhat paradoxically, the Bank has consistently tried to take the credit for the government’s termination of concession contracts...The claim that there are now only six concessions left is almost certainly inaccurate – the government has announced the cancellation of only two of the 18 that remained at the start of 2003. On</p>	17-18	<p>The Bank has raised with the Government on numerous occasions its expectations that the Government should protect the public interest by canceling concession contracts that were not operating according to contractual provisions.<sup>2</sup> While cancellations are the Government’s responsibility, much of the information and standard-setting arising from Bank projects has influenced the cancellations. The SFMP review indicated that one concessionaire never submitted a plan and thus will probably be stopped after a reasonable grace period and two had their management plans rejected and are now dormant. As of now, only six remain in the review process. There is, therefore, an indication that increased standards and performance expectations are having the effect of eliminating those operators who are either incapable of or uninterested in improving their forest management performance.</p> <p>The Bank does not intervene nor take sides on existing investment contracts between its member countries and the private sector. When the Bank has reason to believe that contracts may have negative impacts on the development of its member country, the Bank in general advises such member to undertake a full review of its contractual relationships and the performance of its contractual partners and to seek legal and technical advices from reputable experts and firms.</p> <p>Through the <i>Forest Policy Assessment</i> (Bank/UNDP/FAO, 1996), the Bank encouraged the Government to seek legal advice on its options for an estimated 30 concessions (6.4 million hectares) already in place. The report also stated that: “the Government should also require concessionaires to satisfy [their] commitments or should declare concessions in default” (p. ii).</p> <p>Under the TA Project, a legal study was undertaken in 1997 on behalf of the Government by an international law firm. The study was commissioned by the Government and it was not the</p>

<sup>2</sup> For example, “Continuation of agreements with concessionaires that have seriously abused the forest resource, and especially those that have blatantly violated the Prakas suspending operations, is especially troubling” (Rural Development Sector Director to Director FA, June 10, 2002, N.B. the GAT concession was cancelled June 16, 2002); “[W]e do also believe that the Government needs to act definitively with respect to concessionaires that are in clear and persistent noncompliance and which are unlikely to be viable long-term partners.” (Country Director to Minister, MAFF, December, 12, 2001, N.B. *Prakas* suspending operations issued December 16, 2001).

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	<p>the question of how the number was reduced [from forty in August 2000], the implied role of the Bank and the deliberative quality of the process are not substantiated...There is in fact no evidence that the Bank has had a role in concession cancellations...The real grounds for termination have been, in most cases, because the company had no more timber in its concession, was bankrupt or was associated with opponents of the government. The Bank continues to advance conflicting arguments on the issue, however. On the one hand, Bank staff advise the government against termination of concessions because of the supposed legal risk. On the other...the Bank expects to be congratulated when the Government ignores its advice and terminates concessions anyway.</p>		<p>Bank's role to disclose it. Requests to the Bank for the document were referred to the Government. However, sections of the study have since been widely disseminated. The study resulted in a detailed critique and guidance for a reform process. It described the legal context for concessions as riddled with ambiguities and inconsistencies, identified shortcomings in the concession contracts,<sup>3</sup> and examined possible justifications for contesting their validity. It noted that the success of challenges was highly uncertain and would pose a variety of risks. The study concluded that the Government could exercise its rights to terminate contracts on the basis of well established defaults, but could also seek to amicably resolve disputes with concessionaires on the basis of voluntary restructuring.</p> <p>The Government did cancel concessions on the basis of its own assessments beginning in 1997 and further in 1999 when twelve concessions covering two million hectares were terminated (Fraser Thomas, 2000a, p. 14). This study noted that the FA did not effectively respond to the management responsibilities implied by the cancellation of these areas. At the 1999 CG meeting in Tokyo, the Bank reflected on the partial progress of the Government, referring to the fact that cancellations were concentrated in low potential areas and concessions with higher commercial value merited further review and action.</p> <p>Concerning the Bank's position on cancellation of concessions, the Chief Counsel for East Asia concluded:</p> <p>"the review of the concessions should carefully avoid encouraging or facilitating breach of existing contracts, as this has been alleged in some situations to amount to 'tortious interference' by the Bank in ongoing contracts. For this reason, any actions arising from such reviews should be taken consistent with existing contractual arrangements." (Chief Counsel for East Asia to TTL, SAC, 1/24/2000.)</p> <p>This approach was reflected in the formulation of the SAC program regarding concession management (see Letter of Development Policy).</p> <p>The Fraser Thomas study identified performance deficiencies by nearly all active concessionaires and this specifically led to cancellation of three. It proposed that with concerted effort concessionaires and the Government could come to closure on acceptable programs before the beginning of the 2001-2002 logging season, and encouraged the FA to "accelerate the effectiveness of the World Bank supported LIL project ... so that the process of restructuring can be monitored and guided" (p. 39).</p> <p>In response to criticisms raised at that time by Global Witness, the ADB explained that unilateral cancellations would likely result in legal action by concessionaires and that the Government's liabilities could be substantial (see Letter from Senior Sector Specialist, ADB to Global Witness, March 9, 2000).</p> <p>Fraser Thomas undertook a legal review of the issue of non-compliance and potential concession cancellation. The advice</p>

<sup>3</sup> Strictly, concessions are created by two interlinked contracts between the Government and the concessionaire: an Investment Agreement addressing establishment of wood processing capacity; and a Timber License Agreement providing terms of access to forest areas for harvesting and management.

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			<p>provided was that the only valid grounds for canceling concessions are: first, significant non-compliance with the terms and conditions of the concession Investment Agreements and Forest Timber Licenses; and second, serious and deliberate illegal acts. It found that in respect of compliance with contractual conditions:</p> <ul style="list-style-type: none"> <li>• The two contractual documents were poorly drafted and, because they were not founded in regulatory law, were not directly enforceable by the Government. As civil contracts, the only avenue for an aggrieved party would be civil action, which was not judged a useful vehicle for enforcement or cancellation.</li> <li>• The Government administration of these contracts split responsibilities between six government departments with no clear roles and responsibilities; record keeping and filing was poor, and instructions were either non-existent or contradictory. The administration of these contracts was, therefore, so subject to challenge that, even if non-compliance were demonstrated, the Government would share culpability.</li> </ul> <p>Fraser Thomas concluded that cancellation of concessions because of contractual non-compliance would be very difficult, would have to be pursued in civil court, and would almost certainly involve counter-suits.</p>
4.	<p><b>Lack of pre-conditions for Bank engagement.</b> As one of Cambodia’s most important donors, the World Bank has substantial political leverage over the Cambodian government, which it could have used to demand pre-conditions for its assistance in reforming the forest sector. More importantly, the Bank was in no way compelled to put its name to Cambodia’s forest concession system. If it genuinely had no scope to demand pre-conditions for its engagement, then it should have declined to lend its endorsement to an un-reformable system and un-reformable operators. Instead, it chose to endorse the failed system and rogue concessionaires as the basis for future forest management in Cambodia. That this would increase the risks of further material harm to forest-dependent communities was clear.</p>	18	<p>LILs are loans of USD 5 million or less financing small, experimental, risky and/or time-sensitive projects in order to pilot promising initiatives and build consensus around them, or experiment with an approach in order to develop locally based models prior to a larger-scale intervention. LILs are predominantly used in sectors or situations in which behavioral change and stakeholder attitudes are critical to progress, and where ‘prescriptive’ approaches might not work well.</p> <p>Bank policy dialogue was conducted through the 2000 SAC, which contained conditions regarding a broad range of forestry issues raised by earlier Bank-supported analysis and others – see response to Item 2. The FCMCPP was not considered as effective leverage in view of its small size.</p> <p>Instead, leverage on the forestry sector relied upon the separate SAC conditionality, which was aimed at authorities in central economic agencies. This proved to be a useful strategy throughout project implementation and throughout the SAC period, because it enabled the Bank to carry out a more intensive and higher level dialogue than would otherwise have been possible.</p>
<b>OP 4.01 - Environmental Assessment</b>			
5.	<p><b>Categorization.</b> The World Bank erroneously categorized the FCMCPP project as Category B, despite the fact that the concession system and companies that the project supports have already comprehensively demonstrated how they have “significant adverse environmental impacts that are sensitive, diverse, or unprecedented”....Moreover, the logging concessions undoubtedly do have “impacts (that) may affect an area broader than the sites or facilities subject to physical works.” In addi-</p>	58-60	<p>Management believes that the decision to classify this project as a “B” was correct and appropriate. The Bank’s environmental classification of projects depends on the type, location, sensitivity and scale of the project as well as the nature and magnitude of its potential environmental impacts. The assignment of category is typically based on the expected impacts on-the-ground, the guidance given in OP 4.01 and precedents and current practice within the region and Bankwide.</p> <p>Categorization of projects varies according to the characteristics of each project. In recent years, forestry projects in the region have been categorized as “A,” typically when they involved direct</p>

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	<p>tion, evidence from studies of the impacts of industrial logging in other tropical countries would suggest that the impacts of concessionaires' logging on Cambodia's forests are likely to be irreversible. ... If the goals of the PAD are realised, the FCMCPP stands to have an environmental impact not only across all existing forest concessions but any future concessions that the government may allocate.</p>		<p>investment in production forestry or in plantation activities (e.g., certain projects in China and Laos). Other recent forestry projects have been categorized as "B" when their primary goal is improved forest regulation, planning or conservation (e.g., projects in Vietnam and Cambodia).</p> <p>The "B" rating assigned to this project was based on its interventions—technical assistance to develop improved planning and inventory management systems, strengthening Borrower capacity for concession regulation and control, and for forest crime monitoring and prevention. The decision to make this a "B" rather than a "C" reflected concerns over the social and environmental implications of the concession system.</p> <p>The files, unfortunately, do not show that the draft Environmental Data Sheet reflecting the B categorization was finalized. The PID, processed by the Infoshop in October 1999, and for which records of disclosure are contained in ImageBank, describes (in para. 9), the rationale for the "B" categorization. It also discusses the proposed regulatory regime to be piloted, which sought to anticipate and manage impacts by requiring attention throughout the planning and operational cycle. The PID stated that "the system is intended to ensure that at the large scale planning level, particularly fragile areas are excluded from concession operations. The proposed system is to [be] synchronized with the national environmental impact assessment requirements."</p>
6.	<p><b>Prior EA.</b> Bank staff did not produce the kind of EIA report called for in the case of Category A projects. In fact the level of assessment was so low that it did not even conform to Category B standards.... Given that OP 4.01 is primarily concerned with prior assessment of potential risks, a lack of prior EA itself constitutes a breach of this operating policy.</p>	60-61	<p>The project design explicitly recognized that environmental and social problems existed in the management of forest concessions and incorporated measures to address them. Specific planning decisions to be made at each location could not be known in advance. The value added of additional up-front impact analysis was, therefore, questionable, and a process-oriented approach was considered preferable. Furthermore, prior to project appraisal, Fortech and ARD studies under the TA Project did examine social and environmental issues.</p> <p>The preparation and provision of an EA is the responsibility of the Borrower. The role of the Bank is to advise the Borrower (Cambodia) as to the kind of EA to be prepared. In this case, the Bank advised the Borrower to adopt an approach that incorporated environmental and social planning criteria, backed by a consultative process, into the planning procedures to be applied in every concession.</p> <p>Since this was not a Category "A" project, no "A"-level EA process was required. OP 4.01 recognizes that, when the screening process determines or national legislation requires, the findings of a Category "B" EA may be set out in a separate report, or, depending on the type of project and nature and magnitude of impacts, other options may be considered, such as environmental mitigation or management plans (OP 4.01, footnote 11). In this case, since no form of prior EA report was undertaken, no findings or results could be described in either the PAD or the PID, as stated in OP 4.01. In addition, the PID did not record the type of environmental impacts, make note of the type of EA or EA instruments needed or of a proposed consultation schedule. While noting that the processing requirements for a LIL were not well developed at the time, Management acknowledges, nevertheless, that the Bank was not in full compliance with OP 4.01.</p>

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7.	<p><b>EA During Implementation.</b> Furthermore, the Bank representatives were unable [to] show any such [environmental] assessment having been undertaken during the project's first four years, aside from the ESIA work done in conjunction with the concessionaires themselves, the standards of which fall well short of the requirements of OP 4.01.</p>	61	<p>Management agrees that the EA work carried out during the project's initial years was the environmental and social assessment (ESIA) required of each concession under Cambodian law. Management acknowledges that the Government has not yet established satisfactory standards for ESIA; to address this, the Bank sought supplemental grant resources under the project to finance the Government's work on environmental, social and legal issues.</p> <p>Bank staff and ADB consultants had encouraged FA and MOE to develop joint TOR for a combined SFMP/ESIA in order to link plans and the assessment of impacts (Identification Mission Aide Memoire 12/1998; Fraser Thomas, 2000c). Given the lack of direction from MOE, the CTIA took it upon itself in 2001 to develop TOR for an ESIA. A Bank environmental consultant undertook a detailed critical review of the TOR in July 2001, with comments circulated to the CTIA and the MOE (Environmental consultant, July 2001, and Country Director to Ministers of MAFF, MOE, and MOF, in October 2001).</p> <p>The sixteen ESIA's prepared by the concessionaires to date have been poor. Of these concessions, ten have either been cancelled by the Government, withdrawn voluntarily or identified for rejection by the FA. The six concessions that remain under consideration are still subject either to rejection or to further requirements to address issues at the strategic and compartment planning levels. The Bank will continue to work with the Government to improve the quality of the ESIA's through the ongoing Independent Review of SFMPs and ESIA's, recommendations of which have been provided to MAFF.</p>
8.	<p><b>Prior EA Consultation.</b> The Bank has a responsibility for ensuring that this requirement [for EA consultation] is met, however, as with the environmental assessment, it is not clear what consultation, if any, took place before the project began. What is certain is that the project-affected groups who are requesting an Inspection Panel investigation, were not amongst those invited to participate in any pre-project consultation process.</p>	62-63	<p>As no EA was undertaken prior to project appraisal, there were no consultations specific to the EA process. Nevertheless, the project builds on the previous TA Project, ADB supported consultations and Bank work during the identification mission (Identification Mission Aide Memoire 12/1999). During the Fraser Thomas study, consultations were conducted on community forestry, including a specific workshop organized by Concern International on concession-related community issues (Fraser Thomas, 2000b). The project also relied upon several studies done during the prior TA Project that addressed logging impacts on communities and for which consultations were conducted. See Annex 2.</p> <p>The Bank consulted during 1998 with conservation and social NGOs in assisting the Government to draft regulations, design the forest planning system and prepare the various components of the guidelines and codes. The project identification mission included a social scientist, who, based on available documents and interviews, produced "Social Forestry Guidelines for Forest Concessions" (Annex 4 to the Aide Memoire, November 1998), which was the foundation for addressing social aspects and consultation processes during the project.</p> <p>Also, prior to IDA approval, the project was discussed at a workshop for government, industry and NGOs on forest certification, held in Phnom Penh in November-December, 1999 (WWF/Bank National Forest Certification Workshop Cambodia Report, Phnom Penh, November 30-December 1, 1999).</p> <p>The quality of some consultations may have been affected by the presence of higher level government officials, especially forest officials. Nevertheless, by the time of project appraisal, it was determined that there was sufficient information about the social</p>

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			and environmental aspects of the concession management system to design a process to address these aspects. The above-mentioned consultation process led to a set of criteria and guidelines for sustainable production/concession forest management, specifically including ongoing consultations, working relations between concessionaires and communities/people, and protecting the rights of communities/people. See also Item 9.
9.	<p><b>Consultation on SFMPs and ESIA.</b> Bank staff working on the project have contended that compliance with this [OP] has been achieved through Bank-supported activities of the concessionaires themselves...The companies failed to consult with communities during their preparation of the plans that they submitted in 2002. Subsequently, when they were compelled to do so in late 2002 and early 2003, these were of a poor standard, with instances in which participants were subject to intimidation by guards and officials accompanying company representatives. These flawed consultations have effectively reduced the scope of forest dependent communities to hold the logging concessionaires accountable. As a result, communities' views have not been acknowledged in plans that companies will use to justify their operations in Cambodia over the next quarter of a century. At the same time, concessionaires will claim that they have fulfilled consultation requirements already, and are therefore under no obligation to listen to concerns that affected communities might raise in the future. [See also pages 24-25, 31-33, 37, 45, 53 and 67 of the Global Witness report.]</p>	62-63	<p>The Bank did not finance any activities of concessionaires and has not accepted or endorsed the claims of concessionaires to have consulted villagers adequately. Consultations have taken place because of the Bank's efforts to improve the Government's management and control over the concession system. In November 2000, CTIA's consultant recommended that detailed community consultation and participation could be focused on the compartment level of planning. Neither the Bank nor FCMCPP staff agreed with that recommendation, since, at the strategic level, forest use mapping, including set-asides to protect community resources, cannot be credible without community consultation.</p> <p>The Forest Concession Management Planning Manual (DFW, 2001b) contains several directives on community consultation:</p> <ul style="list-style-type: none"> <li>• "Consultative processes and forest management practices will be adopted to minimize negative environmental impacts in operable production forest zones and special management areas will be designated to protect unique environmental values and local community livelihoods in the concession area."</li> <li>• "The team is to consult with a wide range of stakeholders... including local communities in a transparent process of public meetings, workshops and informal discussions to introduce different views, important issues... and find compromises and new solutions."</li> <li>• In determining special management areas for supporting community livelihoods, concessionaires must "participate in consultative processes with communities" in order to "protect livelihoods based on traditional wood and non-wood forest products."</li> </ul> <p>ESIA guidelines (Annex 1 of DFW, 2001b) also give guidance on the role of communities in forest management, community survey techniques, community consultation and conflict resolution.</p> <p>CTIA, at its own initiative, distributed TOR for fulfilling the ESIA guidelines to NGOs and donors and requested input and advice (email from CTIA President to TTL, April 2, 2001). In response to the various difficulties that arose in relation to disclosure and consultation, the Bank also sought and reached agreement with the Government to incorporate a Public Affairs Unit into the FA in July 2003.</p> <p>The Bank made efforts throughout project implementation to develop linkages between NGOs, including the NGO Forum and</p>

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			<p>the FA, and also to engage the NGO Forum in a collaborative program to work with communities.<sup>4</sup> Since 2002, when it became evident that consultations by the FA and the concessionaires were inadequate, the Bank has consistently recommended to the Government that an international consultant be hired to develop a detailed and comprehensive step-by-step manual for community consultations, do field testings and build initial capacity for community consultations, benefit sharing and protection of cultural/spiritual and livelihood resources. In April 2004, a social forestry consultant was selected to begin these tasks, which are still ongoing.</p> <p>The Bank has monitored the consultation process and called the Government's attention to weaknesses and limitations in repeated Management letters and meetings (Country Director to the Minister of MAFF in December 2002, Country Director meeting with Minister of MAFF in January 2003, Rural Development Sector Director to FA Director in June 2002, December 2002 and May 2003, Rural Development Sector Director to the Minister of MAFF in June 2004 and February 2005). Under the SAC, the Bank caused the Government to ensure that SFMP and ESIA disclosure took place, including monitoring the availability of documents in remote commune offices. The Bank put in place measures to expand and improve the quality and impact of consultations related to forestry, for example, by facilitating input from NGOs to discussions on forestry law and the community forestry sub-decree.</p> <p>With regard to any particular concession area, the responsibility to carry out meaningful consultations with local communities rests with the concessionaires when preparing their strategic, compartment, and annual plans. To date no concessionaire has completed these steps and the Government has issued no cutting permits.</p> <p>Management recognizes that there is very little time remaining during project implementation (the Closing Date is June 30, 2005) and given the pace of reform and restructuring of concession management, it will be difficult to complete the process within the remaining project period (see Section IV of the Response and Item 26 below).</p>
10.	<p><b>Intimidation.</b> Perhaps the most serious violation of this provision of OP 4.01 concerns the intimidation and violence used against community representatives in December 2002. In this instance the FCMCPP Project Director is alleged to have made threats against villagers seeking a consultation session.</p> <p>While the World Bank did protest the use of violence by the police, it nevertheless undermined this commendable stance by failing to take action against the FCMCPP Project Director.</p>	62-63, 31	<p>The Bank cannot take action against non-Bank staff; any action can only be taken by the Government. Following the incident of intimidation on December 5, 2002, the Bank immediately sent a letter to the MAFF to express the Bank's "most serious concerns about... [the] violence outside of the [FA] against people wishing to express views on the recently disclosed forest concession plans—input that, from [our] point of view, has been legitimate and constructive." (December 6, 2002 letter to the Minister of MAFF from Country Director). The Country Director also sent the Bank's regional communications advisor and country manager to look further into the issue in Phnom Penh the next week and followed up with a visit of his own on January 14-15, 2003. The Country Director met directly with the Minister of MAFF as well as</p>

<sup>4</sup> For example, in the fall of 2002, NGO Forum submitted a proposal to the Bank for Community Consultations on Forest Concession Management Plans, which was in turn submitted to the Norwegian Trust Fund for Environmentally and Socially Sustainable Development for funding, although it was subsequently rejected.

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			<p>donors and NGOs (January 21, 2003 email from Country Director to East Asia Vice-President).</p> <p>The Government's response to the Bank included statements by the Ministry of Interior, and reports to the MAFF from the FA. The report from the FA described the FCMCPP Project Director's actions in discussions with villagers on December 2, 2002 and November 12, 2002. The Government's account did not support the allegation of threats having been made.</p>
11.	<p><b>Monitoring of EA compliance.</b> Given that little or no environment assessment was undertaken, this aspect of the operational policy also appears to have been breached by the World Bank.</p>	64	<p>Because there was no EA, there were no EA conditions, actions or undertakings to the Bank with which the Government was specifically obliged to comply. Concessionaires and the Government were, and are, obligated to comply with national regulations and law, including preparation of ESIA's. The Bank provided advice and comments on the ESIA TOR and has subsequently reviewed ESIA's. When logging was allowed to proceed in the fall of 2001, the Bank engaged with the Government on the need for actions to ensure compliance with the terms of the Sub-Decree on Forest Concession Management, leading to the <i>Prakas</i> and suspension of logging and log transport. The Bank also provided advice on the quality of environmental and social consultations and compliance with the logging and log transport suspension.</p> <p>A Bank environmental consultant participated in nearly all supervision missions (see also footnote 3 in the Response, Item 6 above, and Annex 3 on Supervision). The environmental consultant produced several substantial reports, including ones cited in the Global Witness report attached to the Request.</p>
<b>OD 4.20 - Indigenous Peoples</b>			
12.	<p><b>Consideration of Indigenous Peoples.</b> Cambodia's indigenous people, notably the Kouy minority (who are represented among those who have drafted letters to the Inspection Panel), are directly affected by the logging concessionaires.... It is difficult to find any evidence that the World Bank has observed either the spirit or the letter of these requirements [Indigenous Peoples not to suffer adverse effects, informed participation; and benefit from development investments of OD 4.20]... [.]</p>	64-66	<p>The Indigenous Peoples policy is not mentioned in the PAD. Applicability of OD 4.20 was recognized during preparation (May 4, 1999 email of Bank consultant regarding social issues for the PCD review) but no efforts were made to develop policies and plans in accordance with OD 4.20. Rather, the project approach was to develop, together with and as part of the general consultation process, criteria and guidelines for community engagement in concession areas with local people, including issues such as customary use of resources, traditional property rights and symbolic value and religious practices associated with forests (see Annex 4 of the Project Identification Mission Aide-Memoire, December 1998).</p> <p>Management acknowledges that the Bank was not in full compliance with OD 4.20 and that, in hindsight, screening studies and a framework IPDP, along with more discussion of the issue, would have been more appropriate during project design. The consultation guidelines discussed below outline the process that will require that Indigenous Peoples concerns be addressed, in keeping with OD 4.20.</p> <p>In hindsight, screening studies and a framework IPDP, along with more discussion of the issue, would have been appropriate. The project approach was to develop, together with and as part of the general consultation process, criteria and guidelines for community engagement in concession areas with local people, including issues such as customary use of resources, traditional property rights and symbolic value and religious practices associated with forests (see Annex 4 of the Project Identification Mission</p>



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			<p>Aide-Memoire, December 1998). The consultation guidelines discussed below will outline the process that will require that Indigenous Peoples concerns be addressed, in keeping with OD 4.20.</p> <p>A June 2003 Back to Office (BTO) report of the Bank social scientist states that “social issues and impacts of concessions on local communities have been dealt with inadequately in the past, and relations between these and the concessionaires, and to some extent [FA], are characterized by mistrust and non-cooperation.” The BTO “recommended that this aspect [social issues] is given increased attention for the remaining period of the project.” The BTO was accompanied by the TOR for the social forestry consultant to revise comprehensive guidelines for community consultations, including specific provisions for Indigenous Peoples, benefit sharing and protection of cultural/spiritual and livelihood resources. The consultant was selected in April 2004 to begin this work. See also Item 9.</p> <p>The Bank has recognized the importance of this issue. The October 2004 Aide Memoire states that “it [is] essential that unrestricted access of villagers to resin trees, collection of rattan and other NTFPs is ensured by the concessionaire.” The Aide Memoire further states that “the mission recommends that the Social Forester’s TOR be revised to apply to all forms of production forest, and to be able to address the strategic (concession-wide) as well as the compartment level planning. Furthermore the mission suggests that provisions of the World Bank Operational Directive (OD 4.20) on Indigenous Peoples would be incorporated into the guidelines.”</p> <p>See also response to Item 21.</p>
13.	<p><b>IPDP.</b> World Bank staff working on the FCMCPP informed Global Witness in April 2004, that the Bank deemed that no indigenous people’s plan was required... the argument that the Bank has fulfilled its obligations under this and other operational policies courtesy of social impact work contained within the concessionaires’ SFMPs and ESAs is very difficult to sustain. Here it is worth referring to the findings of the August 2004 GFA Terra Systems assessment of the six sets of plans approved by the FCMCPP.... The World Bank’s failure to abide by this operational policy has meant that the FCMCPP has taken no account of the potential impacts of concession activity on indigenous peoples, or their rights (to land in particular) under Cambodian law. This in turn has allowed concessionaires to ignore these issues completely.</p>	65-67	<p>No separate IPDPs were prepared prior to project appraisal. Indigenous Peoples issues were to have been embedded in the SFMPs and ESAs prepared by the concessionaires (see also Item 12). Subjects to have been addressed were identification of forest dependent communities, consultations about their rights and forest use and exclusion of areas and species (e.g., resin trees and rattan) from the operating area, all of which were to form the basis of any additional interventions regarding indigenous communities.</p> <p>The Bank acknowledges and agrees with the findings of the GFA Terra Systems assessment of August 2004, which, inter alia, find that guidelines for community consultations are dispersed in various documents and manuals. The Bank had already acknowledged this, because the SFMPs and ESAs were inadequate and the process of consultation flawed. As a consequence, the Bank took further steps to assist the Government in preparing revised community consultations guidelines, with a detailed step by step manual, including provisions for Indigenous Peoples (see also Item 12). These guidelines are under preparation.</p>
<b>OP 4.36 – Forestry (1993)</b>			
14.	<p><b>Criteria for Financing.</b> The World Bank has breached this Operational Policy in its provision of loan-backed technical assistance to concessionaires that is designed to facilitate their future logging operations. OP 4.36 does state that “When the government</p>	68-70	<p>Management believes that the project is in compliance with the 1993 OP 4.36. The project is consistent with the OP’s prohibition on financing of logging in primary tropical moist forest. No such logging has been financed by the project. Concessionaires have received no IDA financial support, including none for preparation of the SFMP/ESAs. The project has financed systems develop-</p>

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	<p>has (made a commitment to move towards sustainable management of primary tropical moist forest), the Bank may finance improvements in the planning, monitoring, and field control of forestry operations to maximize the capability of responsible agencies to carry out the sustainable management of the resource.” The critical point here, however is that the Bank has allowed the FCMCPP to go beyond this in its active support of the logging concessionaires. As noted above, the companies with which the project has engaged are in any case particularly undeserving beneficiaries of loan money. In addition, this operational policy includes five criteria for what constitutes a “government’s commitment to move toward sustainable management of (primary moist tropical) forests”. It is doubtful that the Cambodian government can be considered in compliance with all or even many of these.</p>		<p>ment, capacity building, inventories and field controls as permitted by the policy. During implementation, an internal examination (Vulnerability Assessment, 2003) of compliance with OP 4.36 was conducted.</p> <p>The Bank’s engagement in Cambodian forestry and its support for the FCMCPP have been measured and deliberate. Both the design of activities to be financed, and the assessment, per the guidance of OP 4.36, of the Government commitment have been based on frank dialogue with the Government and consultation with other donors and NGOS.</p> <p>The 1993 OP 4.36 explicitly allowed the Bank to provide financing in forest regulation and management where there was clear Government commitment to sustainable and conservation-oriented forest management. Paragraph 1a states that: ‘Where the government has made this commitment, the Bank may finance improvements in the planning, monitoring, and field control of forestry operations to maximize the capability of responsible agencies to carry out the sustainable management of the resource’.]</p> <p>Furthermore, the document upon which the OP was based (The Forest Sector: A World Bank Policy Paper, World Bank, 1991) provided the following additional guidance with regard to such support (see p. 66):</p> <p>“If such conditions are present [e.g., the Government commitment to sustainable and conservation-oriented forestry], projects will be judged on their individual merits. If they are not present, Bank support will be restricted to operations that directly help countries achieve them. Such operations will be appropriately limited in scope, sequenced, and specifically targeted at helping countries meet the stated conditions”.</p> <p>This is the approach the Bank adopted for the FCMCPP. The Bank consulted with the Government and received repeated assurances of commitment to a sustainable forest policy. The Bank approached the project as a vehicle to test and, to the extent possible, convert that commitment to an ongoing program. For example:</p> <ul style="list-style-type: none"> <li>• In response to the Forest Policy Assessment in 1996, a proposal for technical assistance was made to the MAFF, which it accepted. The program was funded under the TA Project.</li> <li>• In 1996, the Senior Minister in charge of Rehabilitation and Development and of MEF presented measures “to strengthen the control undertaken by competent authorities to enforce obligations made by concession holders... and to pursue appropriate approaches covering among others the utilization of forestry resources by households, farmers and the small enterprises.”</li> <li>• Following the Forest Policy Assessment, in July 1996, the Government established a National Committee on the Organization and Implementation of Forest Policy. The Committee has not been as vibrant a forum for policymaking and debate as hoped, but its Secretariat, in the FA, has functioned as the counterpart for the contemporary donor-government policy dialogue.</li> <li>• In the Letter of Development Policy (February, 1999) pre-</li> </ul>

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			<p>pared in association with the SAC, the Minister of MEF wrote:</p> <p>“Present logging concessions operate under a legal and regulatory framework which does not give adequate consideration to such critical factors as area to be harvested, forest inventories, and biodiversity protection. (para. 14)”</p> <p>“Under community forestry, the Government needs to develop means for awarding long-term forest tenure rights to local communities, indigenous peoples, and other target groups (para. 15).”</p> <ul style="list-style-type: none"> <li>• In 1999, the Prime Minister issued a “Declaration on Management of Forests and Elimination of Forest Illegal Activity,” mandating a “crackdown” on illegal logging and other measures to introduce controls over the forestry sector.</li> </ul> <p>Experience with technical studies (see Item 2) and complementary actions, such as suspension of log exports in 1996, cancellation of twelve logging concessions in 1999, termination of the “log collection quota system,” and increases in timber royalties, was satisfactory.</p> <p>The progress of the Government on the reform agenda was, and continues to be, uneven but has repeatedly provided encouragement shared by the Bank and NGOs, including Global Witness (press release, January 22, 1999): “Hun Sen has shown that with his political will illegal logging can be brought under control - this gives real optimism for the future of Cambodia’s forests and should impress the international community, said Global Witness’ Patrick Alley.”</p> <p>An important component of the Bank’s willingness to deepen engagement in forestry was the readiness of the Government to engage an “Independent Monitor of Forest Crime Reporting.” This arrangement was formulated as an integral part of the SAC program and the FCMCPP and involved partnerships with UNDP, FAO, UK DfID, and the Australian Agency for International Development (AusAID).</p>
15.	<p><b>Consultation.</b> The requirement that “Borrowers identify and consult the interest groups involved in a particular forest area” has not been met. This deficiency relates closely to the breaches of Operational Policy 4.01 on Environment Assessment and Operational Directive 4.20 on Indigenous Peoples concerning consultation.</p>	70	See response to Items 8, 9 and 12.
16.	<p><b>High Ecological Value.</b> OP 4.36 states that “In forests of high ecological value, the Bank finances only preservation and light, nonextractive use of forest resources.” As described above, the World Bank undertook no environment assessment ahead of the FCMCPP that might have identified such forests of high ecological value. Instead, the project has advised the Cambodian government to allow another 25 years of logging by three concessionaires... in the highly ecologically valuable Prey Long forest. This area was identified by an IUCN (World Conservation Union) study three</p>	70, 43	<p>The Bank has not financed logging or infrastructure in high ecological value areas (or any others). As noted in the Global Witness report (p. 69), Cambodia has an extensive national protected areas system that provides protection for critical natural habitats at the macro landscape level. Furthermore, the Bank has supported studies under the Biodiversity Management and Protected Areas Project to address Prey Long. Standards and guidelines developed for and under the FCMCPP address micro-level considerations by requiring the mapping of forest use, including environmentally and socially sensitive Special Management Areas.</p> <p>SFMPs are 25-year plans and, under the project planning process, subsequent compartment (5-year) and annual plans are</p>

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	<p>years before the FCMCPP commenced as a “Remote, and possibly very old, lowland forest area with major wildlife populations... <i>feasibility of a World Heritage Nomination should be established</i> (emphasis in original).”</p> <p>The FCMCPP [...] took no account of the obvious environmental and social impacts of the plans of two companies with adjacent concessions to drive parallel roads into Cambodia’s last intact lowland evergreen forest, Prey Long. Again the Bank took no corrective action.</p> <p>[See also page 45 of the Global Witness report.]</p>		<p>to be developed and reviewed. All are expected to address areas of ecological and other values. One reason for the initial “U” (unsatisfactory) rating of the project in December 2002 (see Item 29) was the Government’s removal of the compartment plan requirement, which was reinstated as of May 29, 2003 (Letter from the FA Director to the President of the Cambodia Timber Industry Association).</p>
<b>OP 4.04 – Natural Habitats</b>			
17.	<p><b>Degradation of Critical Natural Habitats.</b> The concession companies have already significantly degraded the natural habitats within their concessions. Their past behaviour and, indeed the contents of the six sets of plans that the FCMCPP has approved (in terms of proposed over-cutting) indicate that they will continue to do so.</p>	71	<p>Bank management believes that the project is in compliance with OP 4.04. As noted for claim 16 above, the studies supported by the Bank will help to identify gaps in Cambodia’s protected area system. No degradation of critical habitats has occurred due to the project. No concessions have been issued over new areas as a result of the project and planning guidelines for existing concessions developed under the project preclude issuance of cutting permits until a three tiered (strategic concession-wide – 25 years; compartment – 5 years; and annual coupe) forest management planning process is completed (see Annex 6). The planning guidelines include numerous provisions to ensure identification, assessment and proper planning for critical habitats. These issues have been carefully reviewed and supervised by the Bank. No formal approvals by the Government to allow cutting have been issued to date (see also Items 19 and 36).</p>
18.	<p><b>Consultation.</b> As described in relation to breaches of operational policies on environment assessment and indigenous peoples, consultation has been absent or of a very poor standard, both during preparation and implementation of the FCMCPP. Moreover, the Bank did not ensure that the Borrower (Forest Administration) invited the stakeholder participation in planning, design, implementation, monitoring and evaluation that this operational policy calls for.</p>	71	<p>See response to Item 9.</p>
19.	<p><b>Biodiversity Conservation in Forest Plans.</b> It appears that the project’s architects and executors have declined to consider the forests slated for logging as natural habitats. While the six concessionaires endorsed by the FCMCPP have, as required, made reference to biodiversity conservation within their plans, the quality of this work has been abysmal, as a recent study of these components of...[two] plans makes clear.</p>	71	<p>“Biodiversity Conservation Guidelines for the Managed Forest,” prepared in collaboration with WCS, have been adopted (and revised) by the Government under the project. Biodiversity as a concern in relation to concessions was identified early in the Bank’s work on forestry in Cambodia. A Biodiversity Code of Practice was developed as part of the Identification Mission and was integral to the Sub-Decree on Forest Concession Management as developed under the SAC. On the basis of consultation with NGOs (WCS, Flora Fauna International, WWF), revisions were proposed and the Bank mobilized Bank-Netherlands Partnership Program grant resources to assist in a “Field Testing of Biodiversity Conservation Guidelines for the Managed Forest Pro-</p>

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			ject.” Under the project, WCS was contracted and worked collaboratively with FA and one concessionaire (SL International) on a series of studies and field inventories. Field testing of this work was constrained by the suspension of logging, which prevented exploration of some issues at the felling block level. Nevertheless, the study successfully led to revised Guidelines that were adopted by the FA.
<b>BP 8.40 - Technical Assistance</b>			
20.	<p>A related World Bank standard that the project has not met is its Bank Procedure BP 8.40 on technical assistance, which accompanies the Operational Policy OP 8.40 concerning the same issue. BP 8.40: “Because supervision offers an opportunity for informal TA, Bank staff must remain aware of importance of effective supervision to the implementation and ultimate success of the TA.”</p> <p>Several breaches of the Operational Policy on supervision outlined above, also contravene this section of BP 8.40. Deficiencies in the work of the TA consultants to the FCMCPP that suggest inadequate supervision by the World Bank include:</p> <ul style="list-style-type: none"> <li>• Provision of assistance and advice to all logging companies, including those that should have been excluded under the terms of reference issued to the technical assistance consultants.</li> <li>• The refusal of consultants to the FCMCPP to take account of the legal prohibition on cutting resin-producing trees.</li> <li>• The distorted score-card system of assessing concessionaires’ management plans.</li> <li>• The poor standard of the TA-supported forest cover survey.</li> </ul> <p>This has contributed to the same negative outcomes as breaches of the operational policy on supervision.</p>	73-74	Responses to these claims are addressed specifically under OP 13.05, Items 23-41.
<b>OPN 11.03 - Cultural Property</b>			
21.	<p><b>Spirit Forests and Archaeological Sites.</b> The six logging concessions whose plans the FCMCPP has recommended for approval contain both spirit forests and sites of archaeological importance that undoubtedly constitute cultural property. Despite this, it appears that the World Bank carried out no survey of these sites prior to the project’s commencement. This omission falls in line with the Bank’s erroneous acceptance of the existing concession boundaries as an appropriate basis for management of the country’s production</p>	74-75	Bank management believes that the project complies with OPN 11.03. SFMPs and ESIA’s have not been “approved” (the Government review process is ongoing) and the Bank has not conveyed any endorsement. On the contrary, the Bank has expressed its serious reservations, specifically concerning spirit forest/sacred sites and other sites of social and cultural significance to local communities. As stated in the October 2004 Aide Memoire: “The mission... finds it essential that as part of the improvements of the SFMP, and latest when the first compartment level plan is being prepared, participatory mapping of community use forest (Resin trees, Sacred sites/spiritual forest, burial forest, watershed protection, village forest, and bamboo forest) are undertaken. These should be excised from any form of logging.”

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	<p>forest.</p> <ul style="list-style-type: none"> <li>There is strong circumstantial evidence that many communities, particularly those comprising indigenous peoples, have spirit forest areas. Despite this, only one of the companies endorsed by the FCMCPP, ...has identified a spirit forest in its plan...In mid 2004, a group of provincial, national and international NGOs facilitated public consultations concerning the six sets of SFMPs and ESAs approved by the FCMCPP. ..One of the common concerns that participants' voiced was companies' inclusion of spirit forests in their management plans; a factor apparently not considered by the Bank or the FCMCPP.</li> <li>The six concessions also contain important archaeological sites. As with the spirit forests, it appears that a significant number of these have not been identified and excised from production areas in the SFMPs produced by the six companies.</li> </ul>		<p>Guidelines developed under the project call for identification and designation of Special Management Areas and specifically refer to sacred groves, spirit forests and archaeological sites.</p> <p>Since community consultations so far have been inadequate, archaeological sites may not yet have been identified. During future community consultations carried out according to the detailed manual under preparation, cultural resources, to the extent these are known to local communities, will be considered in line with the March 2001 Manual criteria, according to which cultural resource areas will be excluded from commercial logging and reported to the archaeological authorities.</p> <p>"Chance finds" of archaeological sites are not currently addressed under forest concession contracts in Cambodia. The Bank will, prior to closure of the project, seek the Government's agreement to include provisions for appropriate treatment of chance finds in revised concession contracts and to introduce chance find provisions into annual operating plans to ensure that such sites are preserved.</p>
<b>BP 17.50 Disclosure of Information (1993) / Policy on Disclosure (2001)</b>			
22.	<p>The World Bank contravened this policy in its failure to ensure that the Borrower (Forest Administration) provided the concessionaires' SFMPs and ESAs to community representatives in November 2002. In fact, direct responsibility for this breach lay with the Bank's own office in Phnom Penh. Having agreed to assist with the disclosure process, Bank representatives then informed communities that they would be unable to provide them with copies of the plans.</p> <p>The negative impacts of this breach were two-fold. In the first instance those groups most directly affected by the concessionaires' activities were denied important information about the companies planned future operations. Secondly, a precedent-setting opportunity to ensure that the Forest Administration observed its legal obligations to disclose such information was lost through the Bank's decision to intercede and take on the government's legal responsibility.</p> <p>(More detail is provided on pages 29-31 of the Global Witness report.)</p>	63-64	<p>Although not required under Bank policies, proper disclosure and improvements in the quality of the consultations in the SFMP and ESIA process were a pressing concern of the Bank. Transparency was viewed by the Bank as a critical element of the reform process and of overall governance and accountability issues.</p> <p>Immediately after the CG in June 2002, at which disclosure of the SFMPs and ESAs was agreed, the Bank encouraged the Government to move rapidly. Over the course of the following four months, the FA resisted disclosure, leading the Bank to establish disclosure as the remaining trigger for the second and final SAC tranche release. During the negotiation process, the Bank consulted with members of the TWG, industry, NGOs and others, to convey the importance attached to this issue.</p> <p>The Government agreed, after much pressure from the Bank, donors and other stakeholders, on October 17, 2002 to disclose the draft SFMPs and the FA committed to placing Khmer versions of the plans in each affected commune, accompanied by a letter of explanation specifically allowing unlimited disclosure, later confirmed by Bank staff during field visits. The public comment period, announced on October 29 for a period of 19 days, was later officially extended, from November 11 to January 31. The Bank agreed that its PIC would provide a supplemental venue for disclosure (not the sole site) to ensure that people had ample, unfettered access to the plans and maps.</p> <p>Two black and white copies of each SFMP were received from the FA project advisor, based on the request from the Bank the previous day, and placed in the PIC on November 11, 2002. The NGO Forum noted that color coding of the maps was essential. Because of the size of the maps, 24 hours would be needed to make two color copies of each SFMP. A group that had gath-</p>

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			<p>ered outside the Bank's Phnom Penh office requested via a member of parliament, with whom Bank representatives had met earlier in the day to resolve the issue of color copies, that color copies of the SFMPs be provided immediately to representatives of each of the communities present—up to 10 copies of each SFMP (for a total of more than 300 copies). Bank staff stated that at least one color copy of each SFMP could be provided to representatives the next day, and that meanwhile community representatives could consult the information available in the PIC, as the next best alternative.</p> <p>On November 12, a limited number of representatives of the communities and international NGOs agreed to come to the Bank office to discuss the situation. The available color copies were provided to those representatives and a system by which further copies could be requested was put in place. Several copies were provided to NGOs and other interested groups.</p> <p>Beyond the end of the formal consultation period on January 31, 2003, the Bank stated that consultations were to be continued with affected communities until there was agreement on a satisfactory plan; and only then would plans be approved (January 21, 2003 email from Country Director to East Asia VP).</p> <p>The Bank acknowledges that public disclosure of documents could have been planned better. The Government—and the Bank—did not manage appropriately expectations for the disclosure process.</p>
<b>OD/OP 13.05 - Project Supervision</b>			
23.	<p><b>Compliance with OD/OP 13.05.</b> See items 24-41 on claims related to supervision.</p>		<p>Bank management believes that the project is in compliance with the OD (through July 19, 2001) and subsequently, with the current OP. This statement applies to responses to Items 23 through 38.</p> <p>Since approval of the project in June 2000, Bank staff conducted nine formal supervision missions, including an MTR. The TTL was based in a neighboring country during preparation and early implementation of the project, and in Cambodia from August 2002 until January 2004. This arrangement allowed regular on-time communication with the Government, donors, and other partners. The Bank has utilized a substantial supervision budget, augmented by several trust funds. Actual resources devoted to supervision are greater than accounting records indicate, since forestry policy and governance issues were also supervised under the SAC and the project has benefited from these efforts. See also para. 16 in the narrative and Annex 3 on supervision frequency and composition.</p>
24.	<p><b>Technical Assistance Criteria.</b> [The Bank is in breach of OP 13.05 by] allowing project technical assistance to be offered to companies that should have been excluded under the terms of reference given to the TA consultants. This has had the impact of increasing the chances of these companies passing through the planning process, despite their track records and obvious unsuitability as concession managers.</p> <p>The Bank's decision to assist the companies had the effect of lowering the bar in</p>	72, 19-20	<p>The project did not target concessionaires as recipients of technical assistance and none has been provided through the FCMCPP. Concessionaires have borne the costs of field studies, analyses, assessments and plan preparation of SFMPs. Nevertheless, as part of the implementation of its regulatory process, the Government has provided direction to ensure consistency and quality in data gathering, analysis and presentation. The Government establishes and explains the objectives and standards; private industry must meet the standards, either from its own resources or by hiring competent technical expertise, in seeking approval. Technical direction by the regulatory authority is necessary and was not considered as technical assistance as such.</p>

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	<p>their favour. It robbed Cambodia of a crucial opportunity to measure the concessionaires' commitment and capacity and to show the door to operators that had already damaged its forests and abused the rights of its inhabitants.</p> <ul style="list-style-type: none"> <li>• None of the concessionaires had forest sufficient for a 25 year cutting cycle as required by their contracts.</li> <li>• The World Bank allowed or perhaps even instructed the FCMCPP to provide advice and other forms of assistance to all 13 of the companies that embarked on the production of management plans. This highlights one of the main flaws in the World Bank's supervision of its project – the willingness to allow loan money to be used to support concessionaires that have a well-documented history of illegal activities.</li> </ul>		
25.	<p><b>Sub-contracting of Technical Work and Conflicts of Interest.</b> The FCMCPP has persistently refused to recognize the problem of concessionaires sub-contracting all technical forestry work to Forest Administration staff. This practice is symptomatic of two serious problems associated with the concession system in Cambodia. Firstly, concessionaires' reliance on government officials to undertake even the most mundane technical tasks on their behalf is evidence enough of their unsuitability as managers of the country's forests. Secondly, the companies' employment of the same officials responsible for regulating their activities sets up a fundamental conflict of interests; one that gives Forest Administration staff a stake in the continued tenure of the concessionaires. The Bank should have prevented its project from assisting companies that had 'captured' the officials responsible for regulating their activities. Conversely, it has permitted an employee of one [enterprise's] main shareholders to work as Director of the FCMCPP Project Management Unit.</p> <p>The Bank and the project team declined to address the serious conflict of interests that that the documents' authorship posed. Five of the concessionaires had commissioned plans from staff of the Forest Administration and Ministry of Agriculture, Forestry and Fisheries – the same institutions responsible for deciding whether or not the companies should be allowed to resume operations. Three more companies had hired the Forest Research Institute; an organisation established within the Forest</p>	22-23, 41-43	<p>Conflicts of interest in Cambodian forestry have been recognized by the Bank from its first involvement (World Bank/UNDP/FAO Forest Policy Assessment, 1996, pp 25-27). The PAD made note of both petty and large scale corruption (p. 4) and stated: "Unlike current practice, salaries and allowance of DFW <i>supervisory</i> (emphasis added) staff will be paid by the DFW and not by concessionaires." However, the pool of foresters in Cambodia is limited, and Government employees in Cambodia are poorly compensated and outside employment is common. The Bank discussed with the Government the issue of Government staff working privately as consultants to concessionaires and cautioned against the Government's appearing to condone conflict of interests (Management Letter, December 14, 2000, from the Country Director to MAFF, and from the Country Director to three Ministers, October 4, 2001). The Government assured the Bank that Government staff who had worked as consultants would not be involved in evaluation of concessions with which they had worked.</p> <p>This issue was monitored during supervision. For example, the TRT recommendations do not reflect a bias in favor of concessionaires. Involvement of the Forestry Research Institute (the Government agency affiliated with FA) is documented in the SFMP and ESIA documents that were made publicly available.</p> <p>The Bank has investigated the involvement of the Project Management Unit Director with a concession company and found no conflict of interest. He assisted the company in commercial correspondence in a follow up to the 1999 Certification Workshop. The particular concession company is partly State-owned and it is common for Government staff to be assigned to such duties. As Project Management Unit Director, the individual had no regulatory authority or duties related to the concerned company.</p>



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	Administration. The World Bank's staff consultant drew the Bank's attention to this issue in July 2001; however his advice was not heeded by either the FCMCPP task manager or the project team.		
26.	<p><b>Consultation on Management Plans.</b> [The Bank is in breach of OP 13.05 by] not ensuring that the planning processes for SFMPs and ESAs carried out under the auspices of the project included adequate and appropriate public consultation. Note that consultation is required under Cambodian law (Sub-Decree on Forest Concession Management). This has weakened the bargaining position of communities in their dealings with the companies. It has enabled concessionaires to ignore the interests of communities and remain unaccountable to those who live in and around their concessions.</p> <ul style="list-style-type: none"> <li>• The [Bank] staff consultant's comments [on mechanisms for community consultation] were ignored by the Cambodian government and not followed up by the World Bank.</li> <li>• The response of the World Bank to the lack of community consultation in companies' ESIA preparation has been to adopt the position taken by the Cambodian Timber Industry Association. In total contradiction with the position advocated by the staff consultant in 2001, the Bank now argues that consultation on social impacts can be deferred to the five year planning level.</li> </ul>	72, 24-25	<p>The Bank acknowledges that consultations carried out thus far are inadequate to provide input to strategic level zonation and to ensure meaningful dialogue between concessionaires and communities. The social forestry consultant preparing the revised consultation guidelines under the project is addressing these issues. In this context, there has been debate about whether in-depth, high quality community consultations and negotiations on benefit sharing should take place at the strategic 25-year planning level, or at the 5-year compartment level. While the Bank and FA agree that some consultations have to take place up front as input to the SFMPs, some villages/communities would not experience logging operations in the next 20 years. For such villages/communities, the consultations and negotiations with concessionaires might put pressure on villagers, and they might agree now to arrangements to which they might not agree when future logging operations take place.</p> <p>Comments on the ESIA TOR expressing disagreement with the CTIA position were conveyed in a Management Letter from the EAP Country Director to the FA Director (October 4, 2001).</p> <p>See also responses in Items 9 and 12.</p>
27.	<p><b>Ignoring Evidence of Illegal Activities</b></p> <ul style="list-style-type: none"> <li>• <b>Illegal Logging.</b> The World Bank used the FCMCPP to support aspects of the Forest Crime Monitoring and Reporting Project situated within the Forest Administration. However, the Bank declined to make the connection between the findings of the forest crime project and the FCMCPP's parallel efforts to reform the concessionaires.... The World Bank likewise acknowledged on several occasions that the concessionaires were continuing to break the law...Notwithstanding these expressions of concern, the Bank continued to allow its project to assist these same companies.</li> </ul>	25-28 31	<p><b>Illegal Logging.</b> The Bank had supported initial studies of law enforcement and design of proposals for strengthening controls on illegal logging and log transport under the TA Project. The illegal logging situation was analyzed nationally (with input from Global Witness and other sources). The final report, "Findings and Recommendations of the Log Monitoring and Logging Control Project" (DAI, 1998) noted: "evidence collected through ...surveillance activities indicates that logging is occurring on almost all concessions. <u>Without further monitoring, it is difficult to determine to what extent uncontrolled logging is conducted by concessionaires, their sub-contractors or poachers</u>" (p. 14) (emphasis added).</p> <p>The second component of the FCMCPP, Concession Regulation and Control, was intended specifically to provide the FA with the mobility, communications, training and protocols to monitor plan compliance and to distinguish between criminal and non-criminal problems. To date, the project has provided field equipment and technical assistance for protocol development.</p> <p>Fraser Thomas (2000a) also investigated the issue of legal non-compliance by concessionaires, in parallel with a similar review under the FAO/UNDP-supported Forest Crime Monitoring and Reporting Project. At the time there were only four serious</p>

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			<p>offenses in the effective Cambodian Laws (Decree 35 of 1986, Regulation 049 of 1986 and Decisions 05 of 1995 and 02 of 1996)—unauthorized cutting of trees, transport of timber, export of timber and road construction. A detailed review of reports on forest crime was used to determine whether any of the allegations could and should be entered into the crime monitoring system. Reviewers could find fewer than thirteen instances where reports contained corroborating information (pictures, taped conversations with third party witnesses or witnesses willing to testify). With information from all sources, Fraser Thomas (2000a) found a total of 47 allegations awaiting inquiry and investigation. Four companies had previously been fined and received sanctions for unauthorized cutting and one of these concessions was cancelled. Of the six concessions currently in the planning process, two each have three outstanding allegations and the other four have none. Fraser Thomas (2000a) concluded: “the existing forest crime database and the actions by the Government so far are considered inadequate to recommend [termination]” (pp. 24-25).</p> <p>Concessionaire logging ceased following the December 2001 <i>Prakas</i>. Illegal activities by the GAT concession have been substantiated and the concession cancelled as a result. Since the appointment of the new Independent Monitor in 2003, no new cases of illegal logging by concessionaires have been brought forward (see SGS, Third Quarterly Report as Independent Monitor, Forest Crime Monitoring and Reporting, September 2004). Concession-related mills and factories are closed and have been visited by Bank staff and the Independent Monitor. Reports of illegal logging have concerned parks and protected areas, land development projects (economic land concessions) and “wild cat” illegal logging without demonstrable linkage to concessionaires.</p>
	<ul style="list-style-type: none"> <li>• <b>Offsetting Timber Royalties.</b> At a meeting in September 2002, Global Witness representatives...presented both the task manager and the head of the Bank’s Rural Development and Natural Resource Sector Unit, East Asia and Pacific Region with documentation that exposed high-level corruption involving the concessionaires. The offsetting scheme in question enabled the misappropriation of large sums of money that the companies owed to the government in unpaid timber royalties. The offsetting system emerged soon after the government imposed a moratorium on further cutting and log transportation in January 2002...In the event, however, the Bank did little or nothing with the evidence concerning the offsetting scheme. Indeed, only days after receiving the documentation from Global Witness, the task manager wrote to the Forest Administration proposing that the log transport moratorium be overturned and the same concession companies that had offset their royalty payments be allowed to resume timber shipments.</li> </ul>		<p><b>Royalty Offsets.</b> Royalty offsets were identified in a 2002 IMF audit of the 2001 national budget, which was discussed with the Bank in the context of the SAC. The transactions of concern were off-budget transactions that were approved by the Council of Ministers to compensate enterprises that were owed as a result of the Government cancellation of log exports in 1996 and 1997. Royalties collected by the Government agencies (in this case the FA) were transferred directly to the enterprises holding claims against the Government, rather than, as required by the Budget Law, to the National Treasury. This was explained to the Bank in a letter from the Minister of MEF and the Minister of MAFF on July 18, 2002. According to a May 2002 audit by MEF (MEF to Country Director, June 10, 2002), USD 3.0 million was mishandled. The Government satisfied the Bank and the IMF that the claims against the Government were genuine and that it was also pursuing compensation from two firms that had been overpaid. The Bank pursued work with MAFF, FA and MEF on development of improved systems to prevent reoccurrences.</p> <p>Regarding the log transport ban, see Item 38.</p>

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	<ul style="list-style-type: none"> <li><b>Illegal FA Director Activities.</b>...[I]t is worth noting that evidence of ...illegal activities by the [FCMCPP Project Director] has been brought to the World Bank's attention and elicited no response.</li> </ul>		<p><b>FA Director Activities.</b> A letter sent on July 22, 2004 by Global Witness included accusations of complicity on the part of the Project Director in issuing transit permits to move logs. The allegations against the Project Director were referred to the Bank's Department of Institutional Integrity immediately. Other concerns expressed in the July 22 letter and another letter sent by Global Witness on July 29, 2004 were discussed with them during a meeting held at their offices on July 29. An email outlining the discussions is attached in Annex 4.</p>
28.	<p><b>Deadlines for Management Plans.</b> The concession companies had committed to submitting their SFMPs and ESAs by the end of September 2001 [however] all the concessionaires missed the 30 September deadline. This provided grounds for cancellation of their contracts. Instead, World Bank officials argued that the deadline should be allowed to slip and none of the companies penalised for their failure to meet it. These arguments prevailed and the government decided to grant the companies another year to produce their plans. The short-term consequence of this was that the companies continued logging for the remaining months of 2001, before pressure from international donors other than the Bank persuaded the government to suspend concession operations effective from January 2002.</p> <p>Throughout its review of concessionaires' plans, the FCMCPP team repeatedly insisted that its assessment was based on purely technical criteria...Project staff's decision to give the companies more and more opportunities to improve their plans was anything but technical however. Not for the first time, the project demonstrated its determination to place the interests of the companies above those of Cambodians who stood to suffer the adverse impacts of their continued operations. The Bank, meanwhile, was quite aware of these shortcomings, but did nothing to remedy them.</p>	29, 39	<p>Guidelines for the Government review of SFMPs stipulate that revision and re-submission by concessionaires is allowed (FA, 2004c). The number of resubmissions is not specified, however.</p> <p>This claim misrepresents potential legal ramifications in the event that concessionaires missed the SFMP submission deadline. The September 2001 deadline for SFMP and ESIA submission was an agreed target, but this date was not based on a formal commitment to the Bank (Report of first meeting of the Joint CTIA-DFW Working Group, May 16, 2000). The Bank was not a specific party to this group, which was established under the ADB project and was assisted by a UK DfID-financed consultant). While failure to meet this deadline was discussed by donors and the Government as possible grounds for cancellation, any such cancellation was to be implemented at the discretion of the FA Director.</p> <p>When the deadline was missed, the Bank took action to ensure that inappropriate logging did not occur. It conveyed disapproval of logging that occurred in the fall of 2001 (explained by the Government as based on a 12-month approval cycle that would lapse on December 31, 2001). A Bank mission in November–December 2001 discussed these issues with the Government and reached agreement on a draft <i>Prakas</i> to enforce planning requirements of the Sub-Decree on Forest Concession Management. A revised <i>Prakas</i> was issued by the MAFF on December 16, 2001 (Aide-Memoire and Management Letter of December 12, 2001).</p> <p>The same Bank supervision mission urged the Government to finalize its determination of which concessionaires qualified for immediate termination. A suggested notice of cancellation letter was attached to the Management Letter (December 2001). See also Item 3.</p>
29.	<p><b>Unsatisfactory Rating.</b> Lack of consultation was one of the reasons for the World Bank rating the FCMCPP as 'unsatisfactory' in the second half of 2002. It is reassuring to know that the Bank had some awareness of the project's deficiencies in this regard. Nevertheless, the belated increase in number of consultation exercises since has not been matched by any qualitative improvement. Moreover, as these consultations have taken place after the companies had already submitted their SFMPs and ESAs, their scope to influence the concessionaires' planning process has been very limited.</p>	33	<p>As summarized in Annex 3, the Bank team has supervised the project intensively. "U" ratings on aspects of the project were first registered in December 2001, followed by subsequent downgrading of Development Objective and Implementation Performance ratings to "U" in December 2002. As of end 2004, the rating remains "U".</p> <p>In June 2002, prior to the downgrading, the Bank called the Government's attention to an absence of progress. In its communication to the FA Director (June 10, 2002), the Bank expressed doubts that the Government "would not fully exploit the concession control capabilities being developed under the project." The Bank recommended specific remedial actions regarding utilization of project resources on forestry field control and law enforcement, development of revenue systems, and project evaluation. The</p>

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	ited.		<p>Bank also called attention to Cambodian regulatory requirements for disclosure of management plans to affected communities. In December 2002, the Bank informed the Government that it had downgraded the rating of the project because substantial improvements had not been made. The letter from the Sector Director to the FA Director noted specifically that the Bank had received complaints that local communities had been denied access to concession plans, documents and remedies. The letter urged the Government to resume its commitments to the project and offered the prospect of reallocating Credit proceeds to, for example, community forestry, forest mapping and demarcation.</p> <p>In June 2003 Bank staff reviewed the results of the MTR and noted the FA's reversal on abandoning the compartment plan requirement as well as other initiatives proposed by the MTR. Agreement was also reached on moving ahead with support for a Public Affairs Unit in the FA and recruitment of a social scientist to assist in the consultation process. At the conclusion of this mission, the rating of the Development Objective was upgraded to "Satisfactory."</p>
30.	<p><b>Quality of Forest Cover Survey.</b> [The Bank is in breach of OP 13.05 by] failure to ensure the observance of minimum standards in the 2003 forest cover survey that the FCMCPP produced. This extremely poor piece of work has provided a distorted picture of forest quality and cover in Cambodia. This in turn assists proponents of the concession system to argue the case for continued industrial logging.</p> <p>It is difficult to determine whether the FCMCPP deliberately set out to manipulate the findings of the study, not least as it has declined to publish the survey's findings in full. Either way, the main outcomes can be summarised as follows:</p> <ul style="list-style-type: none"> <li>• LIL money wasted</li> <li>• The opportunity to produce an authoritative assessment of forest cover lost</li> <li>• Production of misleading information at a time when it was liable to be used for political purposes.</li> </ul> <p>[See also page 34.]</p>	72, 34	<p>The forest cover survey (DFW, 2003e, "Trends in Land Cover Changes Detection between 1996/1997 and 2002 by Remote Sensing Analysis") was prepared by the FA with assistance from a qualified international consultant. The study aimed to provide current information about recent land cover trends as a basis for discussion of forest management issues nationwide. It described technical issues and methodology, the extent of ground truthing of the satellite imagery and the results of that ground truthing.<sup>5</sup> The study provided detailed maps of forest cover, forest cover changes and tabular estimates of changes by major forest type for each concession and each park and protected area in Cambodia. To estimate the degree to which logging was occurring, the study used the extent of road development as a surrogate measure. The study cost less than USD 100,000 and was financed by a PHRD Grant for Implementation Technical Assistance.</p> <p>Bank and independent specialists reviewed the TOR for the study and consulted with the FA technical advisers. An open workshop held by the advisers at the Bank Cambodia Office was attended by NGOs and researchers. No specific defects in the methodology have been called to the attention of the Bank, but there have been complaints that the results of the study have been misquoted.</p> <p>Specialists employed by the Multi-Donor IFSR reviewed multiple sources of geographic data on Cambodian forestry, including the FA assessment. The IFSR Annex on forest cover (D. Ashwell, D.F. Miller and A. Dümmer, 2004, "Ecology, Forest Cover and Quality") discusses the assessment in detail and makes note of various limitations and caveats, but does not dispute its workmanship or technical quality. The IFSR, in fact, makes extensive use of the study. The Bank also has utilized the results of the study in its own due diligence work on SFMP and ESIA.</p> <p>The "Trends in Land Cover Changes" survey has been dis-</p>

<sup>5</sup> Of 88 ground truthing points, 67 (76%) matched with the image interpretation results. Misclassifications were all among the deciduous, other forest and non-forest categories. No errors were detected within the evergreen and semi-evergreen types.

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			seminated in Cambodia and the Bank will encourage the MAFF to make the digital data files publicly accessible.
31.	<p><b>Declaration on Forestry Revenues Systems Management.</b> Another component of the FCMCPP has been the development of a <i>Prakas</i> – a ministerial declaration that forms an additional component of an existing law – covering forestry revenue systems management... While presumably now completed and legally applicable, the <i>Prakas</i> has still not been publicly disseminated. In the first instance its disclosure is undoubtedly the responsibility of the Cambodian government rather than the World Bank. However the Bank, having chosen to take a role in the <i>Prakas</i> development, had considerable scope to steer the process. It chose not to exercise this.</p>	34-35	<p>The <i>Prakas</i> on forestry revenue systems management was one follow-up to the royalty offset problem (see Item 27). An inter-agency team was established to review the forest revenue system and to make recommendations leading to a joint August 2003 <i>Prakas</i> of the Ministers of MAFF and MEF.</p> <p>Supervision of the review process proved difficult, and the Government proceeded with the <i>Prakas</i>. A limited consultation was organized and involved the Bank and the IMF, but this was used by the Government to inform rather than to seek input during drafting of the <i>Prakas</i>. The efforts of the interagency team developed somewhat stronger institutional capacity in both Ministries and involved Government staff in World Bank Institute/PROFOR-sponsored international policy seminars.</p> <p>The Bank proposes to bring the issue of disclosure and concerns about remaining weaknesses in the <i>Prakas</i> to the multi-donor TWG and seek support for a resumption of work.</p>
32.	<p><b>Review of Management Plans - Concessionaire Track Records.</b> The FCMCPP team reviewing the plans closed its eyes to all past offences by the concessionaires. This established a skewed system of assessment by which plans written by external consultants were treated as the sole indicator of the company's will and capacity to manage forest responsibly.</p>	36	<p>The Bank has endorsed using company track records in concession evaluation and has encouraged the Government to cancel contracts for concessionaires that are in clear and persistent non-compliance with Cambodian forestry regulations (see Item 3). Company background was reviewed as part of the Independent Review of SFMPs (co-financed by the Bank) and recommendations on suspect practices, such as the irresponsible use of subcontractors, have been brought to the attention of the Government and the CTIA.</p> <p>Ultimately, the FA refused to accept unproven allegations in its assessment methodology, but the TRT addressed a number of issues, including the quality and completeness of environmental and social impact assessments, in qualifying and explaining its final recommendations. If illegal logging had diminished forest volumes, this would have been reflected in the strategic level inventory results and allowable yield calculations. The TRT also highlighted issues and weaknesses in the ESIA's that will need special attention at the next level of planning.</p> <p>Data on legal and contractual breaches by concessionaires (p. 13 of the Global Witness attachment to the Request), based on Fraser Thomas (2000a), show that none of the six companies that were recommended to proceed to the next level of planning is known to have engaged in "extensive" illegal logging.</p>
33.	<p><b>Review of Management Plans - Timber Volume.</b> The World Bank took no action to prevent its project from adopting a wholly flawed scorecard system for assessing concessionaires' SFMPs and ESIA's. Under the FCMCPP methodology, different elements of companies' submissions are assessed and a certain number of points awarded or deducted for each component. These individual scores are then added to produce an overall figure. The system is very heavily weighted towards consideration of the amount of timber the company</p>	36-37	<p>The scorecard is only one part of an internal review system established within MAFF and FA for evaluation of SFMPs and, despite the flaws in the scorecard approach, the results of the first phase, in which rejections were recommended for 9 of 15 concessions, generally support the validity of the system.</p> <p>To ensure an objective and balanced review, the Bank established its prerogative to review and comment on forest management plans prior to their submission for final approval (Development Credit Agreement, para. 5(c) of Schedule 4). In addition, the donor community, with Bank support, established the process of public review and comment on SFMPs; this drew attention to weaknesses in the estimates of timber volume and concerns about the need to eventually adjust volume estimates and com-</p>

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	has left in its concession.		partment boundaries to account for community use, biodiversity conservation and other management objectives.
34.	<p><b>Methodology of SFMP and ESIA Review regarding Resin Trees.</b> [The Bank is in breach of OP 13.05 by] Not taking any action to change the flawed methodology of the FCMCPP's review of the SFMPs and ESIA's, in particular the project's refusal to take account of the legal prohibition on cutting resin trees. This protection of resin trees is specified in Cambodia law (1988 Decree on Forest Practice Rules; 2002 Forest Law). This has led to FCMCPP's endorsement of companies whose concessions may not be economically viable. It will also encourage companies to continue logging resin trees, an activity that is illegal and which will serve to further impoverish already poor Cambodians. This goes directly against overall World Bank development objectives. Note that this issue has been raised with World Bank and FCMCPP staff on a number of occasions. [See also pages 14-15, 37-39 44-45, 47-50 and page 73 of the Global Witness report.]</p>	73	<p>Oleoresins are produced in varying quantities and qualities by trees of many tropical species. Resin tapping is an important source of income for many poor rural Cambodians, as it is in other tropical countries. Industrial forestry can be in direct conflict with resin utilization, and protection of livelihoods requires careful planning to exclude trees used for resin from the harvesting program. If this is not possible, either substantial areas must be removed from the area available for industrial timber harvesting, or alternative compensatory or protective mechanisms developed. The full extent of the resin tree issue in Cambodia emerged during implementation of the project and the Bank has supported studies (BNPP-supported work on biodiversity by WCS), including those cited in the Request.</p> <p>Regulatory provisions regarding resin trees have evolved during the period of project implementation but at present harvesting of resin trees is prohibited. Inclusion of all standing trees in the concession forest inventory is based on the purpose of the inventory (and the associated calculations), which is to support compartment definition and not determination of harvesting strategy. Volume figures were discounted by 50 percent in harvest calculations used by the FA TRT and do anticipate limitations that might occur at later stages in the planning process. Concessionaires plan their operations at their own risk, and nothing in the TRT work implies a commitment to or guarantee of concession continuation.</p> <p>Work on a legal opinion on resin tree tapping and logging has proceeded over the last year under USAID funding, and the Bank has assigned a social forestry consultant to help facilitate related consultations and discussions.</p>
35.	<p><b>Adverse Social Impacts.</b> In April 2004 the outgoing task manager claimed that a World Bank social science specialist had concluded that social impacts were adequately addressed during the strategic level planning process. The social scientist's supposed conclusions (which have also not been published) are at odds with those of the independent review team that examined the companies' plans in July to August 2004.</p> <p>[T]he FCMCPP staff and the World Bank task manager have increasingly sought to gloss over the concessionaires' glaring lack of attention to social impacts by arguing that these can be addressed at the compartment (five year planning) level, after the companies' strategic (25 year) level plans have already been approved...World Bank and FCMCPP staff's motivations for pushing social considerations to the compartment level planning stage are suspect, not least as the project design never anticipated work at the compartment level at all....That the World Bank</p>	32, 40-41	<p>The Bank has been concerned from the outset about social risks. There has been substantial discussion within the project Task Team, with Government counterparts and with concessionaires on how best these can be managed and anticipated and at which junctures in the three tiered planning process. The intention was to give attention to social issues at all levels, but it was anticipated that deficiencies would occur especially at the strategic level, because of the large areas, large number of villagers, and long-term planning horizon (25 years). Measures, such as support (from PHRD and later Bank budget) for a social forestry consultant were introduced to respond as specific concerns materialized.</p> <p>The Bank has never approved any strategic level ESIA and has acknowledged the weaknesses highlighted by the Independent Review of SFMPs. The Bank agrees with its recommendations and has encouraged the Government and concessionaires to meet and discuss how to address the concerns highlighted in the Independent Review report.</p> <p>In response to the assertion that the project design did not envision a compartment level planning process, the December 1998 Identification Mission outlines the three tiered concession management planning system (later published by Fortech, 1999, p. 5).</p>

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	<p>is now so eager to push social issues to a planning level that it did not previously consider of importance raises serious questions about its commitment to ensuring that they are addressed in a meaningful way.</p>		
36.	<p><b>Ignoring Impacts on Forested Landscapes.</b> The FCMCPP assessment [of the plans] excluded consideration of the combined impacts of logging companies' plans on Cambodia's forested landscapes. The team examined the different sets of plans entirely in isolation from one another. This approach proceeded from the flawed assumption that logging would only have environmental and social impacts within the boundaries of the given concession and the combined impacts of groups of contiguous concessions could be discounted.</p>	43	<p>Management believes that the Bank appropriately followed the criteria of the 2004 Guidelines for the Review of Forest Management Plans (FA, 2004c, Annexes 4 and 5). These criteria address adjacent land uses, watershed processes, wildlife, and "effects on the forest resource as a whole."</p> <p>The Bank recognized landscape approaches to forest management in the Biodiversity Conservation Guidelines prepared in English in 1998, subsequently translated into Khmer with AusAID support: "The purpose of forest management units, whether commercial concessions or community forests, is to balance sustainable forest commodity production with the maintenance of ecological services, biodiversity conservation and landscape stability. Forest concessions will not only have an important biodiversity conservation function on their own, but will also provide buffers around and connectivity between the systems of national protected areas. Thus concession planning will have to look both internally and to the provincial scale in its compartment designations and management prescriptions" (Section 2.2).</p> <p>In partnership with the WCS a pilot study and training course was funded by the BNPP with the overall goal of strengthening the mainstreaming of biodiversity concerns into forest concession reform and management. This work led to a Ministerial declaration formally designating the Keo Seimar section of the former Samling Concession as a national area for biodiversity conservation. In addition the aforementioned Biodiversity Conservation Guidelines were revised to incorporate the lessons of the WCS pilot (Final Report August 2002).</p> <p>During the October 2004 supervision mission, the Bank sought and received the commitment of the FA to explore opportunities for landscape level conservation in the Strung Chinit- Prey Long area, subject in particular to cumulative impacts. Specifically, the Bank agreed with Government on use of an ongoing review of the protected areas system funded by the Biodiversity and Protected Areas Management Project to assess appropriate mechanisms for conservation in an area that is overlapped by three concessions. That project is currently completing a nationwide gap-analysis of the protected areas system in Cambodia. As part of that review the study will evaluate areas currently not under formal protected status. Stung Chinit-Prey Long is included within this national review. Recommendations on its biodiversity significance and future protected status will be made as part of the study's final analysis.</p> <p>See also responses to items 16, 17, and 19 above.</p>
37.	<p><b>Deficiencies in Draft SFMPs.</b> As a result of the deficiencies in the FCMCPP's assessment and the Bank's failure to correct them, by June 2004 the project had recommended that the Cambodian government approve the plans of six of the companies....With two exceptions, the FCMCPP has not disseminated its assessments of</p>	43-46	<p>The Bank is aware of deficiencies in the six plans and has refrained from "endorsing" them or "recommending [their] approval." Endorsement and recommendation is the sole purview of the FA and not of the Bank. The TRT of the FA has recommended the six plans to the Director, and provided both justifications and qualifications on its recommendations. The FA and the MAFF have assured the Bank that they will either: (i) have the deficiencies in</p>

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	<p>the companies' plans. A table setting out the review team's conclusions is included, however, in the annex of the 2004 GFA Terra review of the six sets of documents. This summary shows how the FCMCPP has implicitly or explicitly acknowledged deficiencies in all the concession documents to which it has given its endorsement. In each case it has justified this with the argument that these flaws can be rectified during subsequent planning stages... As already noted, the World Bank project and the Government Forest Administration have declined to publish the FCMCPP's evaluations of the SFMPs and ESIA's, thus adding to prevailing lack of transparency within the sector. Communities affected by concessionaires' activities are therefore denied even an explanation as to why the World Bank project is endorsing the six companies' plans.</p> <p>...Following the FCMCPP's recommendation of approval for [six enterprises]..., the international donor Working Group on Natural Resource Management convened an independent evaluation of the six sets of plans. The review team concluded that not one of the six companies should be allowed to resume logging without serious adjustments to the plans that the FCMCPP had recommended for approval.</p> <p>...The World Bank helped to fund this independent review. It also helped to pay for the Independent Forest Sector Review (IFSR) completed in April 2004 that recommended that the entire concession system be scrapped. In October 2004 the Bank published a set of comments in response to the IFSR which admitted that "concessionaire and the Government performance has been largely a continuation of the 'system failure' described in the ADB supported assessment (of concessions in 2000)".</p>		<p>these plans corrected; or (ii) reject the plans.</p> <p>Concerns about dissemination of information and the disclosure policy are addressed under Item 22. The Government has not formally accepted the IFSR recommendation to end the concession system; it has verbally indicated that it will not abandon the case-by-case concession review process (Aide memoire, October 2004 mission). The Bank has recommended that if the Government were to proceed with forest concession management planning (even for the short period of ten years indicated in the IFSR) then it should reflect carefully on the recommendations for additional planning requirements included in the report of the Independent Review of SFMPs. In the Bank's public comments on the IFSR and in consultations with the Government, the Bank highlighted the urgent need to establish a robust system for planning, management, and protection in post-concession areas.</p> <p>The ITTO sponsored an international diagnostic mission in 2004 on obstacles to achieving sustainable forest management in Cambodia. This mission, led by a Senior Fellow with WWF International and the former Director General for the International Centre for International Forestry Research, recommended that, notwithstanding the controversy and problems surrounding the management of concession in Cambodia, a small number of concessions should be allowed to proceed to the next stage of their management planning. Furthermore, the mission found that the "The World Bank sponsored studies of concession management have produced 15 sets of guidelines that, if implemented, would result in Cambodia having some of the most sophisticated, technically difficult and costly concession management in the world." ("Achieving the ITTO Objective 2000 and Sustainable Forest Management in the Kingdom of Cambodia," International Tropical Timber Council Document (XXVII)/15, November 12, 2004).</p>
38.	<p><b>Overtown of Log Transport Ban.</b> [The Bank is in breach of OP 13.05 by] Repeatedly attempting to help a company... overturn the log transport ban and profit from its illegal logging of villagers' resin trees. Admittedly, World Bank staff have themselves been so directly implicated that is debatable as to whether this is simply a breach of the supervision policy.</p> <p>World Bank, FCMCPP and Forest Administration staff continued to discuss means of overturning the transportation moratorium throughout 2004. Written communications from Global Witness in July and December 2004 requesting that the Bank explain its involvement have so far</p>	73, 48-51	<p>The Bank endorsed the December 2001 <i>Prakas</i> banning log transportation and suspending harvesting operations. The Bank has been cautious in its approach and mindful of local community and civil society concerns when considering how to dispose of the large volume of harvested material that remained along road sides and in the forest when the transport suspension came into effect (approximately 6,000 pieces with an estimated volume of 19,000 m<sup>3</sup> – see SGS letter to FA auditing proposed logs and outstanding royalty payments, April 1, 2004).</p> <p>In 2003, the Bank mobilized a resettlement specialist to consider claims by NGOs that the stockpiles associated with the Colexim concession and an adjacent rubber plantation resulted from socially disruptive logging and land development. The Bank noted serious problems with the land development process and the absence of adequate planning and social safeguards in the</p>



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	<p>met with no response. In December 2004 Bank staff were instrumental in weakening the log transport moratorium in the course of negotiations between donors and government over next steps in the forest reform process. In mid January 2005 government officials announced that they were on the point of resuming old log transportation and would be engaging the services of consultants to the FCMCPP to facilitate the process.</p> <p>The outcomes of these activities are harmful in two ways. Firstly, the Bank is weakening one of the few available points of leverage over the companies. It is the suspension of their activities that has forced the concessionaires even to pay lip service to such requirements as community consultation and environmental and social impact assessment. If the Bank succeeds in getting the companies operational once again before the planning process is complete, the concessionaires will make even less effort to address such issues.</p> <p>Perhaps even more disturbing is the Bank's efforts to help logging companies to profit from serious forest crime, the victims of which were poor villagers. The Bank thus stands on the verge of becoming an accessory to criminal activities. The fact that it should embark on such a course of action is one of the most troubling aspects of the entire history of the FCMCPP.</p>		<p>rubber plantation project (which was not Bank financed). The Bank prepared TOR for a retroactive mitigation plan that were presented to the Government and discussed with donors and NGOs. The plan proposed that revenues be set aside to fund compensatory measures. Ultimately this plan was not put into action because of NGO objections.</p> <p>In April 2004 the Bank was approached by the Government through the TWG and asked to comment on a proposal to move logs from nine companies. Bank staff responded that all of the logs should be inventoried and all royalties paid <i>before</i> authorization to move them was given; that SGS should monitor any movement; that the Government should publicly disclose its plan to move the logs so that civil society could participate in the monitoring if it wished to; that Government proceeds should be directed to address development in communities neighboring the harvest areas; and that the value of logs as evidence in any ongoing court cases should be preserved.</p> <p>During preparation for the December 2004 CG meeting the subject of the log transportation ban was again raised by the Government, which sought an easing of the ban to allow log movements to meet domestic demand (wood for the new parliament building was specifically referenced). In donor discussions, various formulations ranging from quite liberal to very restrictive were considered. The Government held that the position that was tabled during the CG meeting was too restrictive and objected, claiming that it had not been adequately consulted. Ultimately the version that was agreed between donors and the Government addresses some but not all of the concerns that the Bank had highlighted in its recommendations to the TWG in April 2004. The new benchmark reads: "Maintain suspension/moratorium on logging, transport of logs (except those which have been already inventoried and for which royalties have been paid in full), and new economic land concessions pending completion of applicable review processes and/or a legal framework."</p> <p>It is correct that no written reply was issued to either of the cited Global Witness letters but it is not correct to assert that there was no response. A Bank representative met with Global Witness in its offices on July 29, 2004 to discuss log transportation and other issues. As reported by Bank staff in an email dated July 29, 2004, Global Witness appeared to agree that if the Government did not provide a reasonable plan for transport of existing logs, the Bank should indicate clearly that it did not support the proposed transport. If the Government chose not to transport, all would accept that decision. Should the Government choose to transport, the Bank should focus, inter alia, on inventory control/log tracking and ensuring the royalty status of the logs.</p>
39.	<p><b>Governance.</b> Recent independent studies of Cambodia's forest sector indicate that the Bank has not wrought any changes in Cambodia's forest sector governance that would compel the concessionaires to behave any differently from the way that they did in the past. There are neither incentives nor controls sufficient to force the companies to obey the law and respect the rights of ordinary Cambodians.</p>	52	<p>Timber harvesting in concession areas has been effectively constrained by a logging ban for more than two years while the capacity of Cambodia's FA to review and regulate concession management is being strengthened. From the initiation of the first Bank TA Project, through ADB Project Preparation Technical Assistance, to FCMCPP, the principal intent has been improved governance; specifically, to improve the capacity of Cambodia's forest management agency to control the industrial concession system that Cambodia had chosen as the main instrument for regulating production forest management. This has led to:</p>

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			<ul style="list-style-type: none"> <li>• A Concession Management Sub-Decree February 2000, establishing Government expectations for the forest industry and a basis for enforcing those expectations;</li> <li>• The first Forestry Law for Cambodia in August 2002, providing a context for both commercial and community forest management and for compliance and enforcement in all forest operations;</li> <li>• A series of standards and guidelines, produced from 1998 to 2004, for concession forest management, including planning, reduced impact harvesting, forest engineering (roads and water crossing), forest crime reduction, biodiversity conservation and social forestry;</li> <li>• A map folio and computed statistics on forest cover, published in 2003, showing the extent of forest cover in 1996/1997 and in 2002, thus allowing calculation of trends in forest cover;</li> <li>• A three tiered forest planning system with approved plans directly enforceable in law;</li> <li>• A series of Handbooks, prepared from 1998 to 2004, to guide the planning system—Forest Planning Handbook, Forest Inventory Handbook, Forest Systems Research and Modeling Handbook and Guidelines for the Review and Management Plans;</li> <li>• A total ban on forest harvesting on concessions, initiated in 2002 and now in its third year, until strategic and compartment level plans are prepared and approved; and</li> <li>• The recommended cancellation of 10 concessions for either non-viability or irretrievably poor performance.</li> </ul>
<b>Other</b>			
40.	<p><b>World Bank Endorsement As a Political Commodity.</b> As the Bank is well aware but keen to deny, its endorsement of, or even association with, particular institutions or policies is a political commodity. Cambodia's forest sector is no exception. Examples include the debates on the draft Forest Law held in the Cambodia's National Assembly in 2002, as well as use of the FCMCPP forest cover survey as a political prop in July 2003...</p>	53-54	<p>Cambodia is a post-conflict country in which the Bank has made good governance a key objective. The Bank's work with Government institutions in this context may appear to legitimize actions taken by those institutions. A delicate balance needs to be maintained when the efforts of the Bank in a project such as the FCMCPP are focused on improving forest management.</p> <p>The Bank has helped generate information, insight and procedures addressing a range of issues facing the forestry sector in Cambodia. For interest groups to engage in political, commercial or other processes in relation to this information, or to misuse or misrepresent data or concepts is beyond the control of the Bank.</p>
41.	<p><b>Outcomes With versus Without the Project.</b> The overall impact of the Bank's intervention was to weaken significantly the momentum of the forest sector reform process. The ADB review's recommendation that the concessionaires undergo a stringent restructuring process provided a means of weeding out those that had already caused serious material harm. However, this approach was comprehensively undermined by the FCMCPP, which set out with the express intention of helping the</p>	56-57	<p>Studies undertaken during the TA Project estimated that illegal logging (occurring in 1997 at a rate of 4 million m<sup>3</sup> per year) would exhaust the forest resource in five years (DAI, p. vii). In contrast to this "without project" scenario, concession logging has been suspended, large scale illegal logging has been brought under control (according to the Government's audited estimates of forest crime), and a more coherent planning and management framework has been defined and begun to be implemented. Significant problems and challenges remain, but illegal logging has been sharply reduced (SGS quarterly reports).</p> <p>Following up on suggestions that logging would be resumed</p>

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	<p>companies to clear this new set of hurdles. Indeed, without the project's assistance, advice and willingness to bend the rules in favor of the concessionaires, it is highly unlikely that any would have stood a chance of passing through the strategic level planning process...The Bank's agenda obstructed the development of alternative management models such as community forestry and proved a source of disunity within the international donor community.</p>		<p>inappropriately, the Bank has consulted with the Government and received assurances that it intended to adhere to the provisions of the concession management Sub-Decree and the December 2001 <i>Prakas</i>. To date, these provisions have been observed.</p> <p>At the core of the Request is the overall assertion that the Bank has or is poised to give its approval to logging in the context of inadequate plans and processes. Over a period of years, this possibility has been raised repeatedly by groups and individuals associated with the Request, despite the fact that no logging approvals have yet been issued. As recently as January 2005, the Director of the FA indicated to donors that he estimates that at least two more years will be required for concessionaires to complete the necessary approvals.</p> <p>The Bank remains aware of the fragility of the ongoing suspension of logging activities. The excesses of the 1997 logging season are a constant reminder of the urgent need to establish effective operations and controls in the sector. Through FCMCPP, the Bank sought to assist the Government in building its capacity for effective forest planning and regulation.</p> <p>Management does not find credible the claim that the Bank has obstructed the development of alternative management models in Cambodia. As noted above (see Item 1), many of the project's contributions to the sector—sponsored inputs including planning guidelines, regulatory capacity enhancement, crime monitoring and reporting procedures—are applicable to any forest management regime that Cambodia currently has or may adopt in the future.</p> <p>While the Request focuses on the FCMCPP, Management believes that its efforts in Cambodia and Cambodian forestry demonstrate the Bank's responsible engagement through multiple operations. The Bank has integrated forestry issues, including sector legislation, community forestry, and forest law enforcement, into its policy-based lending. The Bank supports the management and protection of the country's largest protected area, the Virachey National Park, as well as improvement of livelihoods in communities in surrounding areas through the Biodiversity and Protected Areas Management Project (Credit No. 33200-KH). The Land Management and Administration Project (Credit No. 36050-KH, USD 24.3 million equivalent) addresses security of title and land policy including management of State lands. Through its Agricultural Productivity Improvement Project (Credit No. N0110-KH, USD 27 million equivalent) and Rural Investment and Local Governance Project (Credit No. 37470-KH, USD 22 million equivalent), the Bank is working at the local community level on issues of rural poverty, insecurity and instability.</p>
42.	<p><b>Harm from Logging.</b> Cherndar Plywood has cut thousands of resin trees belonging to villagers in Prame and Mlu Prey 1 Communes that have provided a source of livelihood for many years... Other nontimber forest products that villagers have collected to sell have also been lost... Samraong Wood has cut hundreds of resin trees belonging to villagers in Anlong Veng Commune... Pheapimex has cut thousands of resin trees belonging to villagers in Talat</p>	Letter from Communities	<p>Prior to the Request, the Bank was not informed about the cited logging and claims of harm and has not had an opportunity to investigate. The Bank has not financed any logging and is not responsible for damages that may be the result of third parties, including concessionaires, guards, military forces or others acting in violation of Cambodian law.</p> <p>The Government, with the encouragement of the Bank, suspended logging as of January 2002.</p> <p>Cherndar, Samraong and Everbright have been recommended by the FA TRT to advance to the compartment planning</p>

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	<p>Commune... Everbright has cut thousands of resin trees belonging to villagers... If the logging concessions' management plans which received technical assistance from the World Bank are accepted by the Government and the companies start up their activities again, there will certainly be violations even more severe than before on villagers, especially on indigenous people...</p>		<p>phase, but have not had logging approved by the Government or the Bank. Pheapimex has not been recommended to continue to the compartment planning stage.</p> <p>The Bank has provided no financial assistance to the preparation of concessionaires' management plans (see Items 1 and 24 above).</p>