Global Witness

The Logs of War
The Timber Trade and Armed Conflict

Economies of Conflict: Private Sector Activity in Armed Conflict

> "Our state does not have sufficient capital either to expand its strength or enlarge the army…(our) resources absolutely must be utilised as assets." Pol Pot; 1991

> "Any idiot can use a chainsaw."Global Witness; 2001

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Preface

"Conflict timber" is a new term, coined by a UN expert sanctions panel in 2001. It shouldn't be. Conflict timber helped sustain the Khmer Rouge and other factions during the civil war in Cambodia during the 1980s and into the 1990s. It has helped sustain Liberia's support for the RUF rebels in neighbouring Sierra Leone, dragging out a civil war that has gone on since 1991 (reducing Sierra Leone to the rank of "least developed nation" in the UN index, with a population whose average life expectancy is 25.9 years). More recently, and most appallingly, timber and other resources have helped fuel a civil and regional war in the Democratic Republic of Congo since 1998 that has killed over 300,000 people directly and resulted in the needless deaths of well over 2 million others (due to the destruction of food security and health services).

This report explores the relationship between the trade in tropical timber and armed conflict. It was commissioned by Fafo's Programme for International Co-operation and Conflict Resolution (PICCR) as part of a research project entitled *Economies of Conflict*. The project examines the links between certain private sector activity and armed conflict, focusing on the question, How does certain private sector activity help sustain armed conflict and what can be done about it?

The objective of *Economies of Conflict* is to contribute to policy and practice in the private, public and NGO sectors. As with past PICCR projects, we have chosen an inductive approach, seeking to contribute to these arenas through an analysis of experience and lessons-learned. To this end, we have commissioned studies from practitioners and researchers with a keen sense of what has worked – and what has not worked – in practice. This has been made possible by the financial support provided to *Economies of Conflict* by the Government of Norway, for which we are grateful. Thanks also to officials of Norway's foreign ministry who have shown particular leadership on this issue. Of course, the views and recommendations expressed in this report are those of the authors alone and do not necessarily reflect the views of Norway, its Government or officials, or Fafo.

My thanks also to Global Witness for this report. We asked Global Witness to draw on their excellent investigative and campaign work in the production of a research report useful in policy circles. The result is a disturbing look into a world of government and industry complicity in the financing of armed conflicts in a number of countries, several of which have tested the effectiveness of UN sanctions. The

tropical timber sector portrayed in this report appears mired in conflict and criminality, abetted by a significant lack of domestic and international law able to deal with the problem. In its thoroughness and detailed recommendations the report is likely to prove an important step forward in helping to define the challenges to international peace and security posed by conflict timber and the possible options available to policy makers.

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Executive Summary

Timber is an easily exploitable, valuable and readily marketable commodity, and has been the resource of choice in several recent civil and international armed conflicts.

For the purposes of this study, conflict timber refers to timber that has been traded at some point in the chain of custody by armed groups, be they rebel factions or regular soldiers, or by a civilian administration involved in armed conflict or its representatives, either to perpetuate conflict or take advantage of conflict situations for personal gain. Illegal logging is the felling of trees or the export of timber in contravention of domestic regulations or laws.

Conflict timber is closely linked to the increasingly important issue of illegal logging. Conflict timber is not necessarily illegal, as the legality (or otherwise) of timber is a product of national laws. However, in practice, conflict timber is usually illegal timber. The nature and the practices of the trades are the same, as are many of their stakeholders.

The Political-Economy of the Timber Trade

In a developing country with few resources other than vast tracts of forest, control of this natural capital is control of power. Political circumstances – including the innate instability of non-democratic political regimes – favour the rapid transformation of this natural capital into more tangible assets. Allocation of timber concessions becomes a mechanism for rewarding supporters and mobilising wealth to prop up the existing regime.

The result has often been massive corruption and loss of revenue to the state. It has also contributed to the erosion of democratic principles as elected politicians and state officials put the rights of companies before those of the population they are supposed to represent. Protected by powerful allies, timber companies become the *de facto* resource owners and state forestry institutions become the clients of the logging extractors rather than *vice versa*.

The tropical timber industry traditionally engages leaders of countries with large forest resources and weak institutions. Abiding by "local business practices", it negotiates deals to extract raw materials as cheaply as possible. This mode of doing business suits the warlord economy extremely well. As timber revenues are separated from state control, and the resource is exploited in an unsustainable manner,

poverty is exacerbated. The seeds of dissent, and of conflict, are sown and overall stability is affected. The state of disorder created by conflict suits the perpetuation of these business practices.

Compared to most forms of resource extraction, logging is a relatively easy activity, requiring low investment for quick return. A few soldiers with chainsaws and trucks can generate hundreds of thousand of dollars in a relatively short time; a well-resourced company can generate hundreds of millions. As a result, senior commanders and politicians begin to bypass such national laws as may be in place to control forest exploitation. In more extreme cases military intervention in another country is based around the attempt to control that country's resources. For a warring faction in control of forest land, logging is one of the quickest routes to obtain significant funding with which to continue the conflict.

Illegal timber operations need to protect themselves, even in peacetime. This involves the hiring of armed militias and the acquisition of arms. In turn, this military capability can lead to skirmishes between the company and the local community, or between the militias of different companies. Logging companies side with whoever controls forest territory; in many instances this means insurgent groups. High-risk areas, where there is a significant risk of loss of investment, also tend to attract the proponents of organised crime who, it seems, are prepared to accept higher levels of risk. Revenues generated by natural resources exploited and made possible by armed conflict fuel the power bases of these political, military and criminal groups, and are a disincentive to bringing about an end to conflict.

Policy Recommendations

The timber trade is characterised by endemic corruption, links to organised crime and, in numerous instances, to various warring factions. Despite this, consuming countries and multilateral agencies, such as the World Bank, display an amazing tolerance for the illegal activities of logging companies.

Timber is, of course, a legally tradable commodity. However, it has been estimated by Friends of the Earth UK that, based on 1999 figures, approximately 50% of tropical timber imports into the European Union are illegal. There is no reason to suppose that worldwide imports are much better. Surprisingly, there is no law that prevents a European country from importing the products of illegal, and "conflict" timber operations. Indeed, in the industrialised countries in the West, there is no legislation that can prevent this from happening.

There are three major impediments to producer and exporter countries addressing the issues of conflict timber. First, a sovereign government is likely to exploit its natural resources if it needs to defend itself. Second, in the case of corrupt governments, the allocation of resultant revenues will almost certainly be opaque, with a

large percentage diverted off-budget for non-state purposes. Third, logging operations, by their very nature, take place in peripheral, frontier regions where established infrastructure is minimal to non-existent. In peacetime, forest management bureaucracies often do not act. In times of war, such action is all the more difficult.

Transparency

Transparency is essential to the prevention of illegal logging and the supply of conflict timber, and should be applied to every stage of a logging operation. Allocation of concessions should be by competitive and technical tender, with the results widely publicised. Concession boundaries, the allocation of cutting licenses and forest revenues accrued to the state should all be publicly available.

If local people had a share of the profits deriving from a logging operation, they would be inclined to protect their forest from outsiders, insist that it be managed sustainably and, in short, would be the best monitors of the operation. *Local communities should be included in the decision-making process related to the use of forests.*

Enhanced Enforcement

In some examples the logging industry acts as a law unto itself. Forest management authorities may need external capacity building to fulfil their mandates. External monitoring, for example in Cambodia and Cameroon, can enable national enforcement units to tackle situations which would ordinarily be too sensitive for that country's nationals. *Donor countries need to work with governments to improve and support capacities for detecting and suppressing forest crime.*

Legislative Reform

Legislation governing forestry practices is often inadequate, at times an outdated relict from colonial times unsuited for controlling modern industrial timber extraction. Legislation is only effective in the context of a skilled and independent judiciary that can impose meaningful (i.e. expensive) penalties on illegal loggers. Experience dictates that the producer country must have ownership of the development of the legislation or it is unlikely to take action based on the new law. However, without external pressure experience has shown that producer governments are unlikely to bother to change existing legislation, which more often than not it does not adhere to. *Donor countries need to work with governments to improve and domestic legislation and to ensure judicial capacities for the prosecution of forest crime.*

Certificates of Legality

The current lack of international legislation suitable to tackling illegal logging means that as soon as illegally obtained timber leaves the borders of the producer country, it is *de facto* immediately laundered into the legal timber trade. A certificate of legality could be awarded by the appropriate authority in the producer country, and be subject to independent verification. In turn, the certificate would be recognised in the legislation of signatory consumer countries. All timber imports would need to be accompanied by this certificate, with other imports being impounded. Like all systems this would be vulnerable to forgeries etc, but monitoring and enforcement should minimise this problem. *Producer and consumer countries should begin to develop a certificate of legality for timber shipments, in order to distinguish between legal and illegal timber.*

Chain of Custody

Tagging of timber, bar-coding and transponder technologies need to be used to establish chains of custody and prevent the admixing of legal and illegal material. Accurate systems of accounting and inventory control are imperative and will result in enhanced revenue collection. *Simple computer packages should be developed to permit governments and enforcement agencies to track products from the forest to the marketplace, and overseas.*

Consumer and Importer Countries

There is an overarching need for international legislation governing illegal and conflict timber. Given that an international agreement of this nature could take many years, an interim alternative solution is essential.

A crucial first step would be bilateral cooperation between producer and consumer countries to enforce domestic legislation in both countries. If not already in existence, legislation should be passed in producing countries to outlaw illegal logging. Consumer countries should recognise this legislation and a bilateral agreement between the two countries should ban the trade in illegal timber. These bilateral agreements would form a body of international law that could form the basis of a future multilateral international agreement.

Customs Collaboration – how co-operative enforcement could work

If customs officials were directed to look for illegal logs or timber, or required importers to declare the legality of its source, the question would arise as to upon whom

would fall the onus to vouch for the legality of the timber. Importers may be unaware of the preceding processes and authorisations required to export the timber. Shipping companies may unknowingly be transporting illegal timber or products. The exporting country would also be involved in the process since an export certificate may legitimise the shipment. Consumer country customs controls might follow a "red – amber – green" approach to investigating illegal timber shipments. For example, exports from countries with known illegal logging problems could be flagged for further inspection; information on the shipment could then be exchanged with national authorities in the producer country. *For the purpose of ensuring an efficient customs management process, a standard certificate would be desirable.*

Also, producer countries should be able to request information concerning the volume of imported material being declared to a consumer country's authorities for taxation purposes. Systems can be developed to promote reciprocal recognition of trade restrictions, ensuring consuming countries aid compliance with producer country measures. *More effective networks of cooperation should be developed between producer and consumer countries.*

Regulating Domestic Markets

A legal requirement could be established in consumer countries that all timber, forest products and derivatives that are sold must be produced legally. This would impose a burden on sellers and manufacturers. In addition, there would be internal market implications in relation to the European Union since such regulations could place UK retailers at a competitive disadvantage to retailers in other countries not required to prove that their timber had been produced legally. *Governments should take measures to ensure that they do not procure any illegal/conflict timber, in the same way that some governments have moved to "green" procurement systems.*

International Action

Currently, the international community has no legislative power, other than UN sanctions, to place an embargo on a producer's timber exports. The UN Security Council has taken this action only once. In 1992 it was recognised that the Khmer Rouge guerrillas in Cambodia were obtaining funding essential to their war effort by trading timber with Thailand. The UN passed resolution 792 which banned exports of round logs from Cambodia, effective from 1st January 1993. As described below, the ban was effective in undermining the financial basis of the Khmer Rouge, but had several unintended consequences that need to be considered in future bans.

The G8 has taken a strong stance on illegal logging, particularly the five-point Okinawa statement. The G8 could provide direction to international action. Given

the pace at which the forests are being destroyed, and the fact that armed conflict and criminality are both driving this destruction and resulting from it, member states of the G8 and United Nations should consider more immediate and direct measures.

The architects of illegal logging and the conflict timber trade are comprised of relatively few very large logging companies. These same companies – the Malaysian Samling and Rimbunan Hijau companies to name but two – crop up again and again in different countries. Their record of illegal logging, dealing with combatants, engaging in corrupt practices and human rights abuses is damning. Yet these same companies are engaged by the World Bank at the highest level and are selected as the company to practice the establishment of "model" concession programmes, with World Bank funding. It is high time that these companies are regarded and treated as international pariahs. *The presence of companies engaged in illegal logging anywhere in there areas of operations should not be tolerated in countries undergoing internationally funded forestry reform programmes.*

There is no specific treaty that could take on the issue of illegal logging or conflict in any concrete way. The various fora for discussing forestry issues, such as the UN Forum on Forests (UNFF) do not appear to have any specific mandate to take comprehensive action to combat illegal logging. The UNFF is supposed to consider the prospects for a legal framework on all types of forests within five years. This would provide an obvious forum for global discussion of the issues raised by illegal logging and conflict timber. However, the participants at the UNFF remain divided over whether a forestry convention is needed, let alone any forestry sector specific measures. *Any discussion of a forestry convention should include on its agenda the issues of illegal logging and conflict timber.*

Other instruments discussed in this report include:

- Convention on International Trade in Endangered Species
- The OECD Anti-Bribery Convention
- The World Trade Organisation
- The International Tropical Timber Organisation
- The World Bank and Positive Aid Conditionality

1 Introduction

Timber is an easily exploitable, valuable and readily marketable commodity, and has been the resource of choice in several recent civil and international armed conflicts. In 2001, the United Nations Panel of Experts investigating the illegal exploitation of natural resources in the Democratic Republic of Congo (DRC)[1] coined the phrase "conflict timber" in recognition of the fact that timber had become a strategic resource: proceeds from the sale of timber had been used by various factions and the armies of DRC's neighbours to finance their part of that country's conflict and, above and beyond the costs of the war, the exploitation had generated significant profit for many of the same parties to the conflict.

In its report on the DRC, the UN Panel did not define conflict timber. A general definition explains conflict timber as timber traded for the purpose of financing armed conflict or to take advantage of conflict situations for profit. For the purposes of this study, conflict timber refers to timber that has been traded at some point in the chain of custody by armed groups, be they rebel factions or regular soldiers, or by a civilian administration involved in armed conflict or its representatives.

Conflict timber has financed one or more factions in various armed conflicts, including in Cambodia, Liberia, Burma and Indonesia. Of course, governments have the right to exploit the country's natural resources. The imperative to do so only increases when a state is faced with having to finance a military response to aggression or rebellion. However, governments must also follow their own laws, international law, and preferably should ensure that the resource is exploited in a sustainable manner and for the benefit of its citizens. However, in almost every case where conflict timber has been used to finance a state's war fighting capacity, governments or individuals within them have used war as an excuse and a cover to loot the state's natural resources, using the revenue to further personal political aims or to accrue personal fortunes.

The timber industry – by which we mean the entire production and marketing chain including the companies that log in war zones, the shipping lines that transport the wood and the importers who buy the timber and timber products – all bear

[1] Para 233, Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (S/2001/357); 2001.

some share of the responsibility. The industry cannot claim to be unaware that timber is coming from a country gripped by armed conflict. It is our assertion, that in situations of armed conflict these companies should not be permitted to pursue business as usual. The human costs involved in the conflicts described in this study are simply too high.

Where governments of neighbouring states are not directly complicit in the conflict timber trade, the activities of these companies implicate their home countries in the financing or armed conflict. For example, French companies and French consumers (and therefore probably other European companies and consumers too) play an important role in the Liberian trade as consumers of conflict timber. Neighbouring states or consuming countries involved in the exploitation of conflict timber include Thailand, Zimbabwe, Uganda, Vietnam, Laos, China, France, Indonesia and, last but not least, Malaysia. Citizens and consumers of these states, and their trading partners, have a right to expect that the goods they buy aren't the cause of conflict.

Conflict timber is closely linked to the increasingly important issue of illegal logging. According to the Royal Institute of International Affairs, *Illegal logging takes place when timber is harvested, transported, bought or sold in violation of national laws. The harvesting procedure itself may be illegal, including corrupt means to gain access to forests, extraction without permission or from a protected area, cutting of protected species or extraction of timber in excess of agreed limits. Illegalities may also occur during transport, including illegal processing and export, misdeclaration to customs, and avoidance of taxes and other monies.*[2]

Conflict timber is not necessarily illegal, as its legality or otherwise is simply a product of national laws. However, in practice, conflict timber usually is illegal timber, as it inevitably falls into one of the above categories. As such, much of the current thinking, reflected in our final section, relates to the curbing of illegal logging and as such can also be applied to conflict timber. Furthermore, in addition to the significant adverse implications of illegal logging, such as poor governance, revenue loss, resource destruction, corruption, ecological impacts on agriculture and human rights violations, conflict timber is often the major source of revenue used to fund a war, causing factions to target forest rich territory, and resulting in the uncontrolled exploitation of the resource to fund further conflict. In short, the conflict creates a demand for timber, which fuels the conflict, which creates further demand for timber – a vicious circle. As with other resource based wars, control of forest land might begin as a means to an end, but then becomes a causal factor of war.

[2] Intergovernmental Actions on Illegal Logging, Royal Institute of International Affairs; March 2001.

2 Timber and Conflict

As discussed above, there are strong links between the illegal timber trade and the trade in conflict timber. The nature and the practices of the trades are the same, as are many of their stakeholders. This section incorporates some current thinking on the illegal timber trade in order to suggest possible solutions for the trade in conflict timber.

2.1 The Political-Economy of the Timber Trade

In a developing country with few resources other than vast tracts of forest, control of this natural capital is control of power. Allocation of timber concessions becomes a mechanism for rewarding supporters and mobilising wealth to prop up the existing regime. President Marcos in the Philippines used forest concessions as "a prime instrument for rewarding presidential allies and engendering patronage"; they also played a major role in the electoral financing of political candidates.[3] Political circumstances – including the innate instability of non-democratic political regimes – favour the rapid transformation of this natural capital into more tangible assets. In the Philippines, some 480 concessionaires amassed US$ 42 billion over 20 years whilst presiding over the loss of almost 90% of the country's primary forest. This process is self-perpetuating: even after Marcos was ousted, many of the newly elected Congressmen had either direct or indirect interests in the logging industry. Protected by powerful allies, timber companies become the *de facto* resource owners and state forestry institutions become the clients of the logging extractors rather than *vice versa*.

In a country at peace, such as Cameroon, this situation has resulted in massive corruption and loss of revenue to the state. It has also contributed to the erosion of democratic principles as elected politicians and state officials put the rights of companies before those of the population they are supposed to represent. Thus poverty is exacerbated, the seeds of dissent, and therefore of conflict, are sown and overall stability is affected. To remedy such a situation, a country requires external help, to

[3] Broad, R. 1995. The Political Economy of Natural Resources: Case Studies of the Indonesian and Philippine Forest Sectors. *Journal of Developing Areas* 29:317-340. Quotes from p.323.

wit the money and expertise of the international donor community. Many millions of dollars are being spent in Cameroon in an attempt to stem the tide of illegal logging.

Even in peacetime, illegal timber operations need to protect themselves. This involves the hiring of armed militias and the acquisition of arms. In turn, this military capability can lead to skirmishes between the company and the local community, or between the militias of different companies. In Cambodia these militias are recruited from the Royal Cambodian Armed Forces at a local level. These units usually have political affiliations, and so the loyalty of individual units is torn between the lucrative possibilities offered by their commercial employer, the loyalty they should owe to their country, and the loyalty demanded by their political patrons, which may also be very lucrative and may come in the form of an unofficial right to log.

In a country at war the problems are exacerbated. Logging companies side with whoever controls forest territory; in many instances this will be insurgent groups for whom the forest provides the ideal cover from which to stage guerrilla warfare. Moreover, beleaguered governments are often besieged in the cities whilst the majority of rural territory falls to rebel forces; Angola and Liberia are prime examples.

The logging companies will only carry out operations in a conflict zone if they have protection, and will certainly regard such a business opportunity as a short-term investment. Even then, there is a significant risk of loss of investment, and so the company must have money it can lose. This attracts the proponents of organised crime who, it seems, are prepared to accept higher levels of risk. In Liberia the reputed head of the Ukrainian Mafia, Leonid Minin, built up good relations with President Charles Taylor and secured logging concessions for his company, Exotic and Tropical Timber Enterprise. In addition he obtained tax breaks and tax holidays and, in one instance, an agreement showing that the government was in his debt to as much as US$ 2 million, to be repaid in kind with timber. This latter oddity may be explained by the fact that Minin was also supplying Taylor's government with arms, in contravention of a United Nations embargo.

In a conflict zone, the concepts of sustainable forestry management and forestry reform are meaningless. The (short-term) investors will log as fast as they can to maximise profits and minimise the risk to their investment inherent in staying too long. The faction in control of forest territory will encourage these practices because it maximises revenue for arms and other supplies, not to mention the personal wealth of the warlords.

The clandestine nature of the illegal trade suits the harvesting and marketing of conflict timber very well, and makes its scale and value difficult to estimate. Extensive unlawful operations have been uncovered whenever and wherever authorities have investigated. As the World Bank's recent review of its global forest policy

observed, "countries with tropical moist forest have continued to log on a massive scale, often illegally and unsustainably. In many countries, illegal logging is similar in size to legal production. In others, it exceeds legal logging by a substantial margin … poor governance, corruption, and political alliances between parts of the private sector and ruling elites combined with minimal enforcement capacity at local and regional levels, all played a part."[4]

All in all, the expertise developed to conduct large-scale illegal logging is quickly transferable to conflict and post-conflict zones.

2.2 Timber and Conflict Case Studies

Cambodia

Throughout Cambodian history the rural poor have been ruled by a ruthless and corrupt elites, which have and have remained in power through brutal repression and civil war, most notoriously under the Khmer Rouge who swept to power on the 17th April 1975. It has been conservatively estimated that under the Khmer Rouge over a million people, one in seven of the population, died through overwork, neglect and starvation; and perhaps as many as one hundred thousand people were killed as "enemies of the revolution". The Khmer Rouge, stricken by internal division and purges, were driven from Phnom Penh by the Vietnamese in January 1979. They returned to the jungle and, supported by China, Thailand and the United States, waged war against the Vietnamese-installed People's Republic of Kampuchea, led by former Khmer Rouge regimental commander Hun Sen.

The war was funded by the timber trade. In 1991, Khmer Rouge leader Pol Pot said "Our state does not have sufficient capital either to expand its strength or enlarge the army...The resources [in our liberated and semi-liberated zones] absolutely must be utilised as assets". The timber logged during the civil war helped create more demand and quickly the exploitation of timber became a sustaining factor of the war and a cause of armed conflict in its own right.

After the country's first elections in 1993, the destruction of Cambodia's forests continued unabated. Timber is Cambodia's most valuable and easily exploitable natural resource and could have provided much needed revenue to the state budget. The vast majority of this revenue never reached the treasury. The newly formed Royal Government of Cambodia (RGC), a coalition of the Funcinpec party and the Cambodian Peoples Party's (CPP), led by Prince Ranariddh and Hun Sen respectively,

[4] World Bank, *Forest Sector Review* (New York: World Bank, 1999), p. xii; *Financial Times,* 11 February 2000, "World Bank sees flaws in forest policy".

made no real efforts to curtail the trade. From the start, the two factions of this always uneasy coalition indulged in political rivalry rather than cooperation, and sought to build the strength of the armed forces loyal to each side. The funding for these activities came from timber. In one notable example Pheapimex-Fuchan, a Cambodian-Taiwanese logging company, reached a deal whereby it paid US$ 5 to the personal security forces of each prime minister for every cubic metre of timber felled. This one deal alone netted US$ 1.5 million each for the CPP and Funcinpec military factions.[5]

In January 1995 Global Witness investigators carried out an investigation along the Thai-Cambodia border. Although official Thai policy was of non-cooperation with the Khmer Rouge, Global Witness visited numerous logging companies who dealt directly with the guerrillas. The loggers had brokered deals with the Khmer Rouge leadership paying between US$ 35–90 per cubic metre for the logs they felled. Logging camps on the Thai side were connected to rich tropical forests in Cambodia by roads built by the loggers.[6] These roads provided access to the loggers and gave the Khmer Rouge forces an effective communications network.

The Thai military patrolled the border regions closely and it seemed unlikely that the Thai government was unaware of this trade in timber that was financing the civil war in Cambodia. In May 1995, Global Witness unearthed import documents for Khmer Rouge sourced timber, signed by the Thai Interior Minister Sanan Kajornprasat. This amounted to documentary evidence of Thai complicity in the conflict timber trade in Cambodia.[7] At the time, Global Witness estimated the value of the cross-border timber trade to be worth between US$ 10–20 million per month to the Khmer Rouge.

The Thai Government, in an apparent attempt to legitimise a trade they denied existed, demanded that the loggers obtain a certificate of origin for the logs from the Phnom Penh government. Surprisingly these certificates were forthcoming. The Cambodian government charged the loggers a flat rate of US$ 35 per cubic metre for the provision of these certificates, thus enabling their battlefield enemy to raise the funds with which to pursue their war effort.

Global Witness campaigned for the Thai-Cambodian border to be shut to logs, in order to deprive the Khmer Rouge of much needed funds. This was achieved in May 1995 and a year later over half of the Khmer Rouge defected to the government.

[5] Minutes of Ministry of Agriculture meeting at the headquarters of the RCAF; 3rd February 1997.

[6] A network of roads ran from Pailin, parallel to the border, all the way to Phnom Malai, opposite the Thai town of Aranyaprathet.

[7] Thai-Khmer Rouge Links & the Illegal Trade in Cambodia's Timber. Global Witness, July 1995.

However, the decline of the Khmer Rouge as a military force did not see an end to the misuse of this natural resource. Even as steps were taken in 1995 to shut down the conflict timber trade supporting the Khmer Rouge, the political instability in the country allowed all of Cambodia's remaining forest, excluding protected areas, to be secretly signed over to predatory logging companies with powerful military and political connections.

In early 1996, the powerful Thai logging industry lobbied the then Thai Deputy Prime Minister and Defence Minister, General Chavalit, to press the Cambodian government to reopen the Thai-Cambodia border to log imports. The loggers used the pretext that vast amounts of timber, already felled and stranded by the timber export ban, would rot if they were not utilised. These logs lay inside territory still controlled by the Khmer Rouge.

Soon, log workers were arriving at the Thai border, ready to begin work. Global Witness' investigations showed that loggers were, in fact, cutting new trees to order, claiming them to be "old logs" and paying the Khmer Rouge the usual price of US$ 35–90 per cubic metre. This bonanza would earn the Khmer Rouge between US$ 35–90 million, the result of a deal brokered by the leadership of the government with which they were at war.

In April 1996 Global Witness obtained documents that not only exposed the Thai lobby in this deal, but demonstrated that the lobby had been successful. These documents consisted of three letters marked "confidential", addressed to the Thai Prime Minister and signed by Cambodia's co-Prime Ministers authorising the export of 1.1 million cubic metres of logs from Cambodia to Thailand. The political repercussions of this exposure marked the beginning of serious forestry reform in Cambodia, and the demise of the Khmer Rouge.

Governance, Corruption and Armed Conflict

In addition to massive press coverage, the exposure of this deal also generated consternation within the international community. Concern centred both around the benefits which had accrued to the Khmer Rouge, as well as the fact that the deal had been struck between Prime Ministers – not governments. As a result, none of the revenue from the deal was scheduled to reach the Cambodian government. In response, the IMF froze the next US$ 20 million tranche of its Enhanced Structural Adjustment Facility (ESAF) and threatened to let its support lapse entirely if the Cambodian government failed to implement forestry reforms. In November 1996, the ESAF lapsed and forestry was now at the top of the international agenda for Cambodia.

Between 1996 and 1997 a minimum of 1.3 million cubic metres of logs were illegally felled and either stockpiled or exported. [8] The RGC could have generated US$ 101 million from this timber,[9] but in the end only received US$ 14 million, the rest being pocketed by the timber companies, armed groups and corrupt politicians and civil servants. In addition to the direct cost in lost timber trade revenues, the timber trade fuelled a conflict drove a downward spiral of economic and fiscal decline: the conflict created additional demands on the revenues the treasury was able to raise from other sources and effectively halted the growth of the Cambodian economy, which reduced government revenues even further.

In July 1997, a coup d'etat by the CPP was, again, primarily funded by logging revenue. Money was channelled via the regional military units and elite business support, particularly Cambodia's richest tycoon Teng Bunma. Press reports identified Teng Bunma as having provided US$ 1 million for the July 1997 coup alone. [10] Such a system of patronage would presumably translate into benefits for Teng Bunma at some later point. This support came at a high cost to the forests: for a two year period, the CPP-allied military were given carte blanche to log anywhere they chose and to keep the money[11]. Chung Sopheap, owner of Pheapimex-Fuchan, which has become the largest logging company in the country, enjoys extremely close relations with Prime Minister Hun Sen and, like other loggers, his company enjoys complete impunity in Cambodia.

In order to pay for military backing and to reward military leaders, Hun Sen personally authorised various military regions[12] to export logs, in contravention of Cambodian law. In 1998 this resulted in the export of over 250,000 cubic metres of logs to Vietnam, worth an estimated US$ 125 million.[13] These deals enabled the military regions to "legitimately" develop a degree of economic independence, reducing their dependence on central authority, creating the seeds of a warlord

[8] Global Witness investigations; 1997.

[9] This figure assumes an economic rent of US$ 75 per cubic metre, the rate recommended by the World Bank.

[10] Phnom Penh Post. August 29th-September 11th 1997. *$1 million to stop looting – Boonma.*

[11] For example: Series of letters brokering the export of logs to Vietnam, by MR1. These include RGC documents 155/91…1, 6th November 1997; 1414/97, 27th October 1997; 531/97, 9th October 1997 and Letter of Request signed by the co-Prime Ministers, 7th November 1997.

[12] Cambodia is divided into six military regions. Since the mid 1990's these regions have been politically allied to one or other of the two leading political parties; CPP and Funcinpec.

[13] Many Cambodians have long held a mistrust for the Vietnamese, and the wholesale plunder of their forests by Vietnamese loggers was a potential flashpoint. Global Witness' exposure of this deal affected the outcome of the 1998 elections, resulting in the CPP losing two seats in Kratie province bordering Vietnam.

economy. It is probable that Hun Sen's logging crackdown in 1999, which was carried out ostensibly to please the international donor community who were pressing for forestry reform, was also due to his need to reduce the power of these military commanders.

Forests for the People

The presence of commercial logging companies has done nothing to alleviate the poverty of the rural population and in most instances has been severely detrimental to their livelihoods. Recent research conducted by Cambodia's NGO Forum estimated that families living in forested areas earn at least US$ 38–50 per month from the collection of resin from resin trees.[14] This trade is under threat from primarily foreign-owned industrial scale logging companies such as Grand Atlantic Timber, Colexim, Mieng Ly Heng, Everbright, and Pheapimex, which continue to cut trees that produce the resin despite protests from the local people.

Many people in Cambodia rely on the forests for fruits, resin, bamboo, herbs, traditional medicines, firewood, building wood and fodder for livestock. In the early 1990s, these companies took advantage of the Cambodian conflict and political instability to obtain concessions in areas utilised by the poor for timber and non-timber forest products. Only these *concessionaires* can legally cut timber in these areas and the timber which is cut is priced beyond the means of most Cambodians. In Pursat province, Pheapimex was granted a 138,963 ha concession for a eucalyptus plantation in January 2000. Establishing the plantation will necessitate the clearance of natural forest, a forest from which villagers estimate 50% of their livelihood is derived.[15]

In addition, the environmental and human security effects of deforestation can be easily seen. In recent years Cambodia has been hit by unprecedented flooding. The floods in late 2000 were the worst for 70 years, with rice crops being ruined and hundreds of thousands of people being displaced. The UN placed the blame on deforestation[16] and it was estimated that it cost the country US$ 156 million.[17] This compares to the total of US$ 92 million, which was generated by the forestry sector between 1994 and 2000.

[14] Report No. 66 (COM) on Outcome of Interministerial Meeting of 20th September 2000, from Phnom Penh Post newspaper article: 5th-18th January 2001.

[15] Interview with village representatives at Ansar Chambak: March 2001.

[16] UNESCAP press release "Loss of forest cover, land reclamation, some of the causes of floods in the region". 22 September 2000.

[17] Report No. 66 (COM) on Outcome of Interministerial Meeting of 20th September 2000, from Phnom Penh Post newspaper article: 5th-18th January 2001.

As this chapter goes to press, all logging within Cambodia has been temporarily suspended, at least formally. Although much of the anarchic illegal logging of previous years has now ended, Cambodia's commercial forest resources are still under the control of the same logging companies whose illegal activities have been repeatedly exposed since 1995. In order for this suspension to be meaningful, it is imperative that logging companies that have committed serious contractual breaches, particularly with regard to illegal logging, should not be allowed to resume activities. However, in early 2001, Global Witness' own investigations and reports from across the country suggested that illegal logging was again escalating, with the bulk of the activity being carried out by the legal *concessionaires*. The long history of the use of timber revenues for political purposes – in times of peace as well as in times of war – is perhaps one explanation for the return to logging: in February 2002, Cambodia held its first commune elections.

Liberia

In 2001, Sierra Leone was declared the least developed nation by the UN, ranked at 174 in the UN Human Development Index and with a population whose average life expectancy is 25.9 years. This devastating quality of life is in large part due to the stampede for a slice the country's resources by various elites and factions over the past two decades, more often than not at the expense of the rights and the livelihoods of the population. During the 1990s, extreme violence sponsored by Liberia's President, Charles Taylor intensified the decline of Sierra Leone's economic and social conditions.

Since 2000–2001, the imposition of targeted sanctions on Liberia, and the presence in Sierra Leone of the largest UN intervention since Cambodia, there seems to be a real chance for peace in Sierra Leone. Disarmament of the Liberian-backed Revolutionary United Front (RUF) appears to have been largely successful, but the stability remains uncertain as the authorities try to rehabilitate these hardened fighters. There are already references being made to the establishment of the "Independent RUF", suggesting that some factions will keep fighting. If this is true, it is likely that these units will rely on diamonds and/or timber to provide the necessary funding. In that event, it is likely they will turn to their historical backer, Charles Taylor and the timber companies that finance him. In this sense, these companies pose a real threat to regional security as well as to the future of Liberian forests.

Prior to the Liberian civil conflict, the timber industry served as a vital revenue earner for successive governments. The industry received very little attention from the majority of ordinary Liberians as most people felt they had no direct stake in it. However, with the conclusion of what now appears to be the first phase of a possibly protracted civil war, the resulting economic hardship forced ordinary Liberi-

ans to develop a keen interest in how the government generates and expends revenue based on the countries natural resources, especially the timber industry. This has led to intense scrutiny and the exposure of various irregularities in the management of the timber industry. The desire of local people to become active participants in decisions affecting the industry, especially the appropriation of revenue generated by it, is viewed by most senior members of the government to be in direct conflict with their personal interests, which appear to be understood as absolute control of revenue generated from the exploitation of the forests.

In 1998 and 1999 the timber trade received little attention from the Liberian public. In 2000, a growing number of allegations that the government was receiving and diverting revenue generated from these sectors to fund various extra-budgetary activities increased the level of scrutiny of the trade. A recent Global Witness investigation of the timber trade turned up three examples of irregularities and possible fraud:

1. The Central Bank of Liberia reported that 934,006 cubic metres of logs were produced in 2000, which contributed about US$ 6.7 million to the national budget while the Ministry of Finance reported 802,249 cubic metres and a contribution of US$ 6.6million which leaves a staggering 132,000 cubic metres unaccounted for[18];

2. A reasonable minimum calculation shows that in 2000 the timber trade may have generated a minimum of US$ 106 million in profits of which only US$ 6.6m went to government coffers; and

3. In the first six months of 2000 Liberian log exports to Europe were under-declared by 75,327 cubic metres – an approximately US$ 8.6 million loss to the state.

The Making of a Timber Baron

Charles Taylor has funded his original insurgency and, since he took power, the war with neighbouring Sierra Leone and Guinea, through the exploitation of natural resources. Following his election in 1997, Charles Taylor appointed his brother Demetrius Robert Taylor as head of the government's Forestry Development Authority. In July 2000 the government issued Executive Order No. 4 which restricted the Ministry of Finance to collect only the portions of the various taxes applied to logging and gave the Forestry Development Authority the right to collect the rest. This effectively handed control of one of the most strategic income-

[18] Taylor-Made, Global Witness, p15; September 2001.

generating agencies of government to Taylor's family and has ensured that it is operated according to his wishes.

In addition to family control of the timber trade, Taylor has surrounded himself with a complex group of relationships involving wealthy businessmen, wartime associates and men of generally dodgy character. As presidential favour is crucial to the operations of logging companies in Liberia, they feel only one allegiance and that is to Taylor. Citizens' concerns do not concern them, as long as they do not conflict with Taylor's wishes.

Taylor's increasing dependency on timber revenue has necessitated a desperate drive to maintain a firm grip on the industry. From 35 active concessions in 1999, the Forestry Development Authority granted only 25 companies the right to operate concessions in 2000; ensuring that Taylor's closest associates got larger concessions in the timber rich forest in south-eastern Liberia.[19] Of these 25 companies, 10 are linked to arms trafficking and the formation of armed militias[20]. These 10 companies produced 583,231 cubic metres of logs in the first six months of 2000;[21] more than 85% of the semi-annual production. The bulk of the revenue from this trade did not, by all accounts, go to the state. Instead, it went directly to Taylor and his partners. For instance, duty on the Oriental Timber Corporation log export due the government was declared waived, but was reportedly paid to President Taylor.[20] In 2001 this amounted to over U$2 million, which was again waived while civil servants went without salaries and the country's only university remained closed due to the lack of funds to pay professors and staff.[20]

Although there is limited evidence linking this extra-budgetary income and expenditure directly to arms purchases, it appears that Taylor uses it to maintain his patronage system and to support notorious governmental and non-governmental paramilitary units guilty of various human rights abuses in the sub-region. For example, his presidential guards, the Anti Terrorist Unit, are the only civil servants that are paid in US dollars; while those close to him and his associates live lavishly.[21] Weapons procured with some of these funds also go directly to the RUF fighting in Sierra Leone.

Timber is More Than Money for Guns

In the case of Cambodia, and in other cases described below, revenues from the timber trade have been used to finance warfare. In Liberia, the connections between the timber industry and arms are more direct: timber companies are at the heart

[19] Forestry Development Authority report.

[20] Global Witness investigations, 2001.

[21] Forestry Development Authority 1999 and 2000 (semi-annual) reports.

of the armed conflicts in the sub-region. They have assisted Taylor in arranging military supplies to the RUF as well as importing arms into the country in contravention of the UN arms embargo.[22] According to sources, the OTC imported arms into the country in 1999 to arm their militia and expatriate truck and trailer drivers.[20] Some businessmen in the logging industry, such as Talal El-dine, who is a board member of the Forest Development Authority[23], have also been implicated in the conflict or "blood diamond" syndicate involving Taylor and the RUF.[24] According to sources, to be admitted into the presidential inner circle, logging companies have had to either facilitate arms shipments and/or trans-shipments to Liberia, provide off-the-record funds to finance the procurement of these arms, and the formation of private militias that can be put at the disposal of President Charles Taylor.[20] Former National Patriotic Front of Liberia General Cocoo Dennis of the Salami Molawi International logging company began mobilizing thousands of logging company militiamen and ex-combatants in 2001 to fight alongside government forces in Lofa county.[20] Charles Taylor Jr., an executive of the United Logging Company, was commander of the ATU for most of 1999 and 2000.[20] The result of this *de facto* joint-venture between the private and the public sector is that most logging companies are no longer subjected to the laws of Liberia, especially forest regulation.

Logging companies and their executives have recently begun to organise militias, apparently to be used as reserves for Taylor's military and para-military units.[20] These militias intimidate the population in areas under their control.[25, 26] In July 2001 OTC militiamen tortured 10 persons in Rivercess county.[27] In September 2001, OTC militiamen arrested and tortured a Nigerian businessman in Nizwein township, looted his shop and held him in an OTC prison in Buchanan for several days before turning him over to the local police. No charges were brought against him and the militiamen who tortured him were never prosecuted.[20] Lately, the militias have been called upon to engage in active combat against the Liberian dissident group Liberian United for Reconciliation and Democracy, operating from Guinea, and to actively participate in the armed conflict in the Mano river basin.[20] They have also at times been invited to beef up RUF manpower engaging in active

[22] UN Panel of Experts Report on Sierra Leone, 2000, Para. 272.

[23] Forest Development Authority annual report 1999 and semi-annual report 2000.

[24] Taylor-made. The Pivotal Role of Liberia's Forests and Flag of Convenience in Regional Conflict. Global Witness, September 2001.

[25] Monrovia Guardian, May 9, 2000 Vol. 4 No. 15.

[26] Inquirer Newspaper May 8, 2000 Vol. 9 No. 73.

[27] Talking Drum Report from Rivercess County, July 2001.

combat at crucial times in the Sierra Leone conflict. When wounded RUF fighters and their Liberian colleagues, being treated at the JFK Hospital in Monrovia, caught the attention of the media in 2001, they were made incommunicado and journalists were prevented from interviewing them.[20] They were later relocated to the OTC hospital in Buchanan, a report confirmed by nurses at the hospital.

The "extra-legal" status of the timber trade in Liberia has created opportunities for trans-national organised crime to profit from the conflict in the sub-region. The Ukrainian Mafia, in the form of its reputed head, Leonid Minin, obtained a logging concession from the Liberian government, and imported arms in return. In one deal alone, Minin brokered the supply of 10,500 AK47 assault rifles, RPG-26 rocket launchers, sniper rifles and over 8 million rounds of ammunition from the Moscow-based Aviatrend company, via Cote d'Ivoire.[28] The United Nations Expert Panel on Sierra Leone noted that logging roads built in Liberia directly facilitated the supply of arms to the RUF.[29]

The Law of Rule

In January 2000, a new National Forestry Law declared that all forest resources the property of the government, except for communal and privately owned forests resources that have been developed through artificial regeneration. In the same year, the Strategic Commodities Act handed control of exploitation of timber and other natural resources to the President, Charles Taylor.

In fact, the Strategic Commodities Act of Liberia provides a stunning example of state looting made legal. This act designates "all mineral resources especially gold, diamonds, all natural forest resources including logs and timber, unique and rare species of vegetation and wildlife as strategic commodities and grants the president the sole power to execute, negotiate and conclude all commercial contracts or agreements with any foreign and domestic investors for the exploitation of any of these commodities." The Acts concludes that, "such commercial agreement shall become effectively binding upon the republic as would any treaty to which the republic is a party, upon the sole signature and approval of the president of the Republic of Liberia". [30]

With this Act, Taylor has effectively turned the state into a private business, and a means to fund whatever initiatives he sees fit. As a result of Taylor's misuse of these resources, regional security has suffered to such an extent (to say nothing of the suffering of the people of the sub-region) that Liberia is now subject to stringent UN sanctions.

[28] Cote d'Ivoire end-user certificate No.22/PR, signed by President Robert Guei; 26th May 2000.

[29] UN Panel of Experts Report, 2000, Para. 182.

[30] Strategic Commodity Act – 2000.

It is unclear whether or not the act has actually been passed, but Taylor certainly acts as though it is law and its basic precepts are certainly followed. Many observers think the act has indeed been passed. Furthermore, the Liberian Ambassador to the US, in a television interview, did not deny that it had been passed and indeed attempted to justify the act, bizarrely claiming that the act made the government "more accountable".[31] However, in October 2001 the Liberian government denied that it had been passed[32]. The lack of transparency surrounding the timber industry regulation in Liberia prevents there being any certainty either way.

In fact, logging companies in Liberia are engaged in extremely dangerous timber extraction practices, most of which contravene Forestry Development Authority's regulations. Inventories are not compiled; inexperienced, foreign chainsaw operators harvest trees; species of trees that are harvested but not in demand are left behind to rot in the bush camps. Harvesting of undersized logs is rampant, 'clear-felling' is widely practised and operating in outside of the annual allowable coupe is commonplace. Stockpiles of undersized logs left behind in the bush camps bear testimony to this. All of these acts violate Forestry Development Authority's guidelines but are often not reported primarily because these companies operate without monitoring from the Forestry Development Authority and independent investigations are discouraged.[20]

As for benefits to local communities, there are few. Buchanan, the provincial capital of Grand Bassa County and base for the massive Oriental Timber Company, still lacks electricity. The town's only referral hospital, which serves the entire county, stands in ruins. The unemployment rate is high, poverty widespread, and general living conditions are appalling. OTC is often held up by the government as a model of foreign investment, a major employer and an important revenue generator for the country[33]. The reality is that even their home base sees no real benefit. For example, Buchanan, the provincial capital of Grand Bassa County and OTC's operating base, still lacks electricity, despite promises by OTC that they would provide this service for the city. The only referral hospital in the county stands in ruins: there is no running water and the only sterilizing equipment does not function. In-patients have to bring in their own bedding when admitted and essential drugs are unavailable hence patients are given prescriptions to buy drugs from private

[31] 26 July 2001 broadcast of the Voice of America's "Africa Journal." Joining him were Liberian Ambassador to the United States William Bull and Sierra Leonean Ambassador to the United States John Leigh.

[32] Press statement issued by FOCUS Director James D. Torh on Monday October 25, 1999; New Democrat October 27 – 29, 1999 Vol. 4 No. 119; The News newspaper October 27, 1999 Vol. 10 No. 132; The New Democrat November 3 – 5, 1999 Vol 4 No. 121.

[33] Inquirer Newspaper – October 21 1999 Vol 8 No. 189.

pharmacies. The two public schools in the city are the least populated because the teachers there are frequently absent due to the lack of attractive and regular salaries.

In 1999 and early 2000, OTC began constructing a road cutting through the heart of the south-east forest block in Liberia. As the OTC sought to shorten the travel time for their delivery trailers they bulldozed through villages, bypassed the original roads and tore down houses. In September 2001, they indicated to residents of the "Check Point" community (Rivercess county) that the fallow bushes around their villages fall within the boundary of their proposed reforestation site. Should they go ahead with their plans to surround the villages with exotic forest, this will effectively deprive the villagers of farmlands and could lead to massive internal displacement.

Attempts by private citizens, rights campaigners and environmentalists to further investigate and document previous abuses have been personally discouraged by Taylor. Those that didn't heed his warnings have been harassed, intimidated, brutalised or forced into exile. Public calls for investigation have been consistently ignored.

Logging companies' militias not only participate in sub-regional armed conflicts, they have also been used to brutally crush local protests in areas where they operate. They illegally harass, intimidate, detain and torture Liberian critics with impunity. In 2000, a peaceful protest in Buchanan expressing anger over OTC's conduct, and an attempt by the county authorities to intervene, led to the dismissal of the county's Superintendent. In fact, OTC operates its own prison in Buchanan. In 2001, protests in Sinoe, Nimba and Grand Gedeh counties led to a crackdown on local government officials and private citizens linked to the protests. The then Presidential Media Advisor Milton Teahjay, once a staunch supporter of Taylor, was dismissed when he wrote to Taylor stressing the need for his intervention to address local complaints. He later fled the country and is exiled in the U.S.

Burma

Burma/Myanmar is widely known for its politics and struggle for democracy, symbolized by Aung San Suu Kyi and the National League for Democracy. In 1988 massive nation-wide protests forced General Ne Win to resign from office. This civilian uprising marked the end of the Burma Socialist Programme Party that had ruled Burma since ousting the democratic government 1962. A subsequent crackdown by the army resulted in the deaths of three thousand civilians, before the State Law and Order Restoration Council (SLORC) assumed power.

The country has also experienced a devastating civil war for over 50 years, between the government in Rangoon and ethnic minorities, especially in the border

areas. During the past decade many insurgent groups have signed 'ceasefires' with the government, and several continuing insurgencies appear to be in their final stages.

The state of natural resources, particularly with regard to forests is less well known. Burma relies heavily on the timber trade. Officially the timber trade is the second most valuable export, accounting for US$ 280 million, yet this fails to account for the significant quantities of timber exported clandestinely by sea. Indeed, mismanagement and illegal logging of valuable teak forests is beginning to show in the market place, and the government has warned exporters that they will have to rely on other timber. In 1948, Burma had a forest cover of 70 per cent. This figure is now estimated to be less than 30 per cent, much of which is in the northern hills, and which is coming under pressure, particularly from China's demand for timber.

Historically, there has been a direct relationship between the depletion of the timber resource, the sustainability of the civil war, and the consolidation of SLORC rule.

The first "wave" of forest plunder began shortly after the SLORC took power. The nationwide events of 1988, combined with the continuing insurgencies, a very weak economy, and the suspension of foreign aid, left the SLORC in a very vulnerable position, militarily and financially. In December 1988, Burma and Thailand had begun to negotiate logging and fishing deals, and very soon Burma was able to assure at least US$ 112 million per year in revenue from logging deals.

The strategic aspect of these deals was also clear. Logging on the Thai-Burma border was not just an extractive industry that happened to operate in a war zone, but rather was a part of the larger equation of war: notwithstanding the underlying causes of the four decades of conflict, the military offensives after 1988 and logging were intertwined. For the Burmese Army, logging roads provided access to areas once inaccessible to vehicles, making the supply of frontline positions easier.[34]

In addition, observers claim that Thailand helped to conclude the deals by pointing to the role of logging, in its successful counter-insurgency against the communist party of Thailand. [35] With thousands of students and pro-democracy activists having fled to the borders, and many prepared to fight, Thailand may have provided Burma with one stone with which it could kill several birds.

Companies, Insurgents and Governments

While governments and insurgents have been complicit in the depletion of the timber resource, companies have been complicit in the on-going civil war. Indeed, the logging companies and their quest to take as much timber for as little money

[34] Geary, Kate. The Role of Thailand in Forest Destruction along the Thai-Burmese Border 1988-1993, Bangkok 1994.

[35] Pers. Comms. With Burma Centrum Nederlands 2001,

as possible could determine the fortunes of insurgents. For example, in 1991 Pathumthani Tangkakarn lured three officials from the New Mon State Party, an insurgent army that controlled parts of Mon State and which was involved in logging, into Thailand for talks. Previously the New Mon State Party had destroyed several of the company's logging trucks that had entered Mon forest reserves. The New Mon State Party Secretary-General and two colleagues were immediately arrested and jailed for three months on charges of illegal immigration.

Far more serious was an earlier operation in 1990 in which Burmese troops were trucked from Burma into Thailand in covered logging trucks belonging to Sia Hook, a powerful Sino-Thai businessmen. Once inside Thailand the Burmese troops attacked the rear positions of the New Mon State Party. Sia Hook's logging company, Pathumthani Tangkakarn, and the insurgents had a troublesome and sometimes violent relationship over payment for the timber that the company extracted. One likely motive was by helping to weaken the New Mon State Party, the timber company could then bypass the insurgents when it came to paying taxes. The logging company was also clearly acting on behalf of the local Burmese military command, and the local division of the Thai Army. In the battle that followed the Mon lost control of the Three Pagodas Pass, a major setback to their ambitions.

By 1994, Thai logging companies, working with rebel organisations, had colonised the north west of the country, so much so that the Burmese authorities lodged an official complaint with the Thai Foreign Ministry. Of some 60 Thai companies operating in rebel held areas, only half were estimated to have been granted concessions with the authorities in Rangoon.[36] Some 200 teak logs and several thousand pieces of timber from over 3000 logs from the Karen Nationalist Union were discovered at a Thai sawmill in July 1990, having been illegally imported after Burmese soldiers allegedly sold the haul.[37] It is likely that the logs were cut for the Thai logging company, whilst in the control of the Karen Nationalist Union. The government then took control of the area and sold the logs to the logging company but without any certificates of origin – hence the logs being illegal. Around 250 Thai nationals were arrested when three illegal sawmills operating on a concession area of a Thai company near Mae Sot were raided by the Burmese military.[38] Estimates suggested that up to 200 illegal sawmills could have been operating in the entire region with nearly 100 operating adjacent to the Thai border at Tak,[39] adjacent to the Karen State, which in 1990 was held by the KNU.

[36] Bangkok Post. 29 July 1990. How the West was won … for the loggers. p.2.

[37] Bangkok Post. 17 July 1990. Timber seized. 20 arrests in Mae Sot raid.

[38] Bangkok Post. 28 June 1990. Burmese detain 250 Thais in logging row.

[39] Business Nation. 17 February 1991. No concessions from logging boss.

The on-going armed conflict also makes monitoring of the timber trade in these regions difficult. It has often been alleged that Thai companies operating in Burma import illegally cut Thai logs and then stamp them as produced in Burma and re-export them back to Thailand. Fake border documents and Thai and Burmese forestry seals were found during an investigation of one Chat Tai sawmill, owned by a local MP, which was laundering Thai logs as Burmese.[40] In January 2000, teak from Salween National Park in Thailand was illegally felled then floated down river to Burma with the aid of the military commander of the region, where it was laundered back into Thailand.[41] Some recognition of the problem has been evident: a recent request by four Thai companies to import 120,000 cubic metres of logs from Burma was put on hold due to lack of monitoring capacity.[42] The Thai Forestry Department's chief, Plodprasop Suraswadi, was subsequently assigned an armed escort after Karen gunmen threatened to kill him if he came to Burma to inspect the logs.[43] Imports of fragrant Krissana wood were similarly banned after accusations that Thai trees from Pas Doi Wiang La Wildlife Sanctuary and Pa Mae Ngao-Mae Sam Peng National Park in Kun Yuam were being laundered through Burma.[44]

The timber trade has very clear human consequences, often with frightening levels of company complicity. The use of landmines by the Democratic Karen Buddhist Army in protecting logging concessions is a disturbing example of how logging in a contested area leads to violence and human suffering and has been reported by landmine victims as well as former Democratic Karen Buddhist Army soldiers who set the mines. Logging provides the Democratic Karen Buddhist Army with its main source of income, yet the logging concessions that it administers are in areas it that cannot effectively control. A crude method to demarcate and protect logging concessions has been to place landmines around them. This dissuades opponent forces, such as the Karen National Union, from entering the area to tax the logging operations, and stops the logging companies from encroaching into forest that they have not paid to log in. Together, these protect the Democratic Karen Buddhist Army tax base. According to the soldiers who set them, the landmines are home-made from explosives and other components supplied by Thai businessmen.

Pathumthani Tangkakarn has transported people fleeing conflict back towards the very areas they were running from on the Thai-Burma border. This took place

[40] Bangkok Post. 18 March 1990. Border logger seeks military protection after extortion bid.

[41] The Age. 6 January 2000. Thai army accused in teak log scandal.

[42] Bangkok Post. 31 October 1998, Request to import logs from Burma put on hold.

[43] Bangkok Post. 3 February 2000. Logging: plot to kill Plodprasop.

[44] Bangkok Post. 1 November 1998. Agency slaps ban on rare tree imports.

during the dry season offensive in 1997 against the Karen National Union's 4th Brigade. Karen refugees fleeing from fighting in this area sought shelter in Thailand, yet when they arrived at the border many were either denied entry, or forcibly relocated. On several occasions, throughout the offensive, where refugees crossed into Thailand, family members were separated, and the men, including boys over the age of 15, were pushed back into Burma and told to fight. In February 1997 for example, a Thai television crew showed footage of women and children being loaded onto logging trucks. In this incident alone, 908 women and children and 230 men were forcibly relocated.

Logging in Kachin State

There is no longer active conflict in Kachin State. The cease-fire, or return-to-the-legal-fold, as it is known to the Burmese, has led to an uneasy political limbo for the groups that previously fought for independence, or fought alongside the Communist Party of Burma. The current limbo has been underwritten, or at least overshadowed, by serious natural resource loss, primarily from forests, but increasingly from gold mining.

> "This cease-fire [is] meant to exploit Kachin's natural resources. On the other hand [the] uncertainty of the political situation [is] also giving a chance [for] people to do "illicit" activities such as drug trafficking, gambling, prostitution, logging and black market trading." Kachin Independence Organisation officer, 2002.

Since 1989, when the first cease-fires were signed, Chinese logging companies have turned towards Kachin State, taking advantage of the cessation in conflict to reap massive profits in areas that were inaccessible since the 1960s. During the insurgency era Kachin's forests were largely protected because the Kachin Independence Army's funding was realised largely through its control of Jade mines. Similarly the Communist Party of Burma's 101 area was supplied with weapons and food from China. In this situation the propensity for logging as was relatively small. Several factors have increased the amount of logging in Kachin State since the cease-fires, including changes in economic policy and climate within China, Rangoon's appropriation of the Kachin jade mines, and deals struck between Rangoon and the Kachin cease-fire groups. The natural resource loss is also rooted in the uncertainties of doing business in the current political climate. Businesses log unsustainably because there is no certainty that they will be able to log in the following year. In fact, the natural resource management plan for Kachin is founded on the logic that "if we don't do it, someone else will".

Until forest cover change is monitored by remote sensing, the true extent of logging in Kachin state will remain unknown. Information received by Global

Witness is that many areas controlled by the Kachin Independence Organisation and the New Democratic Army (Kachin) have already been seriously degraded. This is based on observations of the volumes crossing into China, anecdotal information from Kachin and China, and by the pressure to open up new areas to logging, suggesting exhaustion of existing concessions.

Of particular interest to Global Witness is a joint logging/mining project known as N'Mae Hku. This scheme, financed by Chinese and Malaysian investors, involves driving roads from China across the Salween River and onto the thickly forested western slopes of the Gaoligonshan Mountains in Kachin State. This area is inaccessible by vehicle from inside Burma, and is considered to be one of the world's richest areas of biodiversity[45]. If this scheme goes ahead as planned, then all commercially viable forest will be exploited, and gold, lead, zinc and silver mines will be opened. The chance that this project will be subject to monitoring to control the pollution from the mines, or to control the logging, is currently zero.

What is happening in Kachin appears similar to what has happened in Yunnan, the Chinese province that borders Kachin State. Yunnan now accepts that its own logging policies have led to severe ecological damage, natural disasters and poverty, all contributing factors to conflict over the long-term. Today Yunnan claims to be waging a "war against forestry crimes" in its own forests, in some cases just a few kilometres from Kachin, yet across the border, the actions of Chinese logging companies are sentencing the Kachin to share their own fate. In other words, the combination of new forest legislation in China, combined with the freedom given to local governments on the borders to allow them to prosper through developing border trade has resulted in logging companies being attracted to the region.

Zimbabwe and the Democratic Republic of Congo

Zimbabwe's logging ambitions in the Democratic Republic of Congo (DRC) are just one of many business interests being developed by the Zimbabwean ruling party (Zanu-PF) and the Zimbabwe Defence Forces in the DRC. The logging operations come under the same complex corporate umbrella as many of the other Zimbabwean economic interests in the DRC. In fact, it is impossible to separate the timber deal from this complex of corporate relationships.

The Party…

At the centre of it all is the Speaker of the Zimbabwean Parliament, Emmerson Mnangagwa. A former Chief of Intelligence in Zanu-PF's military wing, Mnangagwa has extensive military experience and eastern-block training, which resulted in his

[45] Norman Myers and Conservation International.

receiving the post of Minister of State Security, in charge of the Central Intelligence Organisation (CIO), in the 1980s. At the same time he was Zanu-PF treasurer and began to develop the party's now extensive business interests.[46]

In 1998, because of his party loyalty and military experience, he was sent by President Mugabe to DRC to investigate the heavy human and material losses suffered by the Zimbabwe Defence Forces (ZDF). Apparently, at around this time the leadership in the Defence Ministry began to report directly to him, rather than to Moven Mahache, the Minister of Defence. In early 1999 Mugabe ordered Mnangagwa to take over responsibility for the ZDF in DRC, effectively usurping Mahache.[47] Mnangagwa used this opportunity to forge close commercial links with Laurent Kabila, in conjunction with ZDF allies and friends, in particular General Vitalis Zvinavashe, the head of the Zimbabwean army.

During this period Mnangagwa developed a regional strategy to gain control over the region's rich natural resources, and to take over and expand the infrastructure necessary to transport and market the end product. This has resulted, so far, in several major areas of interest: Oryx Diamonds, a joint venture between the ZDF, Laurent Kabila and various business interests; the New Limpopo Bridge Project, the Beitbridge Railway and the National Oil Company of Zimbabwe[48]. It is likely that the timber deal, if it goes ahead, will be another major element of this portfolio.

…is an army…

Towards the beginning of Zimbabwe's involvement in the war in DRC the ZDF had provided advisors to Laurent Kabila to help him overthrow Mobutu, as part of Mugabe's general support, which included the provision of US$ 5 million to Kabila. This investment resulted in some quick returns: The Zimbabwe Defence Industries' General Manager, Col. Dube, secured a $53 million deal to supply food, uniforms, boots and ammunition to Kabila[49]. The contract to transport these goods went to Zvinavashe Transport, a trucking company owned by Vitalis Zvinavashe the head of the army.

Two more deals followed a special request, in 1998, by Mugabe to Kabila:

- **Congo-Duka:** The formation of Congo-Duka, a joint venture between Zimbabwe Defence Industries (ZDI) and its Congolese equivalent, General Strategic

[46] *Mnangagwa in charge of DRC operations*, Brian Hungwe, Zimbabwe Independent; 26th November 1999.

[47] *The New Scramble for Africa*, anon; September 2000.

[48] All reported widely.

[49] It is unclear whether this is US or Zimbabwean dollars.

Reserves. It was intended that this company would supply consumer goods in DRC. ZDI received government loan guarantees totalling Z$1.65 billion (US$ 33.6 million). The company failed to generate interest with Zimbabwean businesses due to government manipulation of payment procedures which converted US dollars at a lower managed exchange rate against the Zimbabwean dollar. Consequently Congo-Duka became bankrupt.

- **Gecamines:** The appointment of long-time Zanu PF supporter Billy Rautenbach in 1998 as head of Gecamines, the DRC state owned cobalt mining company. This deal was forged at a meeting in Kabila's office at which Rautenbach, Mnangagwa and another man purported to be representing Mugabe represented the Zimbabwean side. Although this operation produced around US$ 6 million worth of Cobalt monthly which was shipped from Durban, South Africa, it is believed that little money was received by the Zimbabwean government, leading to speculation that the money was siphoned off by senior figures. In 1999 Rautenbach was dismissed by the Congolese, who accused him of siphoning off profits. At the same time the South African authorities were closing in on Rautenbach for tax reasons, which made his exports from Durban difficult, therefore compromising the viability of Gecamines' organisation[47].

In mid-1999 Mugabe ordered over 11,000 troops, a third of the ZDF's strength, to deploy in DRC. Kabila pledged to pay for this support in US dollars, but was unable to honour this pledge. Instead he offered mining, agricultural and forestry concessions. Following the failure of their previous investments, the Zimbabweans saw an opportunity to recoup their losses. The ZDF were already deployed in the resource-rich Kasai Oriental and Katanga Provinces, and were ideally placed to guard these resources for their own benefit.[47]

…is a business

In late 1999 Congo-Duka was replaced by Osleg (Pvt.) Ltd. This company is regarded as the commercial arm of the ZDF, and is the key to their business interests in DRC, including timber. Its directors are listed as Lt. Gen. Vitalis Zvinavashe, Job Whabara, the Permanent Secretary of the Ministry of Defence, Onesimo Moyo, the Director of the Minerals Marketing Corporation of Zimbabwe and Isiah Ruzengwe, the General Manager of the Zimbabwe Mining Development Corporation. Osleg is represented in DRC by Zvinavashe' brother, Col. Francis Zvinavashe, retired Major-Gen. Dauramanzi and Brigadier John Moyo.[47]

Zimbabwe initially publicised its commercial intentions in DRC to appease growing public concern about its expensive military involvement. But as time went on two main factors led Zimbabwe to cover up the depth of its involvement: several of its major investments went embarrassingly and expensively wrong, and there

was mounting international criticism of the role of DRC's neighbours profiting from the war.

In late November 2000 the UN Expert Panel visited Zimbabwe but failed to obtain meetings with Mugabe or most of his senior ministers, who all claimed prior commitments. They did meet with Foreign Affairs Permanent Secretary Willard Chiwewe who, according to the Zimbabwe Independent, told the panel "not to concentrate on Zimbabwe and its allies in the Congo because they were not exploiters but liberators". "*I urged them to limit their investigations to the aggressors and their internal rebel allies and not to include the SADC allies in their probe… The context of [the SADC allies] relationship with the DRC government exclude them from being the focal point of the investigation*".[50] Accordingly, the UN Expert Panel report contained very little information about Zimbabwe's role.

Zimbabwe had two overriding reasons to loot DRC's natural resources, one exacerbated by the other. Firstly, the government sought to reap vast profits from the opportunities afforded by its presence in the DRC. In 1999 it exhorted Zimbabwe's business community to capitalise on these same opportunities. As discussed above, most of these attempts met with costly failure. The need to make up for these failures was exacerbated by the need to dampen public opposition to the military occupation, which cost the lives of hundreds of soldiers, and has been largely responsible for Zimbabwe's current parlous state. At stake is President Mugabe's reputation and, very possibly, his grip on power: he needs to make DRC pay.

To match their military strength with business expertise, Osleg, the company regarded as the ZDF's commercial arm, entered into a joint venture with Comiex-Congo, a Kinshasa based company whose main shareholder was Laurent Kabila. The joint venture is known as Cosleg (Pvt.) Ltd. According to the company's partnership agreement Osleg has *"the resources to protect and defend, support logistically, and assist generally in the development of commercial ventures to explore, research, exploit and market the mineral, timber, and other resources held by the state of the Democratic Republic of Congo".* [47]

In turn, in addition to its other interests, Cosleg formed a subsidiary company, SOCEBO (Société Congolaise d'exploitation du bois)[51], specifically to exploit DRC's forests, to which it obtained the rights to 33 million hectares or approximately one and a half times the size of the UK. This makes this the largest logging deal in history, with projected (but highly unlikely) profits of US$ 300 million within the first three years.

[50] *UN DRC probe team to return to Zim*, Dumisani Muleye, Zimbabwe Independent; 24th November 2000.

[51] Addendum to the report of the Panel of experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo; S/2001/1072.

SOCEBO is the product of two companies whose directors/owners are also the rulers – or are linked to the rulers – of their respective states. It is, therefore, yet another example of the needs of the state being subordinated to the requirements of business and the retention of political power through the abuse of state power. In this case there are some significant implications:

- Although SOCEBO is technically a joint venture, the DRC's dependence on Zimbabwe's military protection against the numerous factions occupying the country, together with its indebtedness to Zimbabwe, makes it pretty certain that the DRC was not in a position of strength during the negotiations. To sign away such a vast quantity of its assets would suggest that the country was coerced by the occupier.
- Crucially, the ZDF themselves intend to carry out SOCEBO's logging operations. This means that the Zimbabwean army, despite public protestations to the contrary, has no intention of quitting the DRC in the foreseeable future. This is a major if not crippling threat to the ongoing peace negotiations.

With an extended mandate, the UN Expert Panel revisited Zimbabwe in late 2001, armed with information regarding this deal provided by Global Witness. Their subsequent report confirmed the importance of the deal, albeit with an obvious diplomatic gloss: it categorically states that SOCEBO was set up with the aim to *"contribute in the war effort in the framework of South-South cooperation"*.[51] President Mugabe himself confirmed that logging should have commenced in May 2001 but was delayed because of non payment of customs duties to the Zimbabwe Revenue Service on imported machinery. However, the SOCEBO directors blamed a lack of capital, whilst it was reported that the initial start-up capital had been embezzled by another Cosleg subsidiary.[51] Unfortunately, there are reports that the Zimbabwean army have commenced logging in Katanga province.

This is a clear example of an economically beleaguered country, Zimbabwe, using its military muscle to exploit another country to prop up its own unpopular regime and crippled economy, despite the risk of perpetuating one of the world's bloodiest conflicts. Logging has not yet begun as Zimbabwe is trying to find investors for the project.

Cameroon

Cameroon does not suffer armed conflict, but endemic corruption and ruthless exploitation of the country's natural resources threaten the ecological future of the country and the well-being of the population who, in general, do not benefit from the timber industry's revenue. Intensive logging contributes to tensions between and

within villages, due to clashing interests including village employment, local forest use prospects, yield for the villagers, and the elites or companies involved.

The revitalisation of the Cameroonian economy since a crisis in the 1980s has not been enough to counteract poverty. Problems of governance, and particularly major problems of corruption, have brought fear of a return to economic instability. Aware of these threats, the Government of Cameroon has drawn up strategies which aim to have an effect on all sectors in Cameroon, particularly the forestry sector, which has potential for contributing to poverty alleviation, but which is also recognised as being one of those most affected by corruption.

Cameroon's forest cover is estimated at 22 million hectares of dense forest. With the economic crisis in the 1980s, the importance to the national economy of the forestry sector in general, and of the industrial use of timber in particular, increased. The forestry sector now contributes approximately 7 per cent of the gross domestic product, and 20 per cent of export earnings.

Regulation

Several concrete measures have been taken by the Government of Cameroon, including the drafting and adoption of a modern legal and regulatory framework for the management of forest resources. The most important elements of this framework are the 1994 Forest Law and its various decrees of implementation. The institutional framework has also improved with the creation of the Ministry of Environment and Forests (MINEF) and a Programme for Securing Forestry Taxation Income linking MINEF to the Ministry of Economics and Finance. These efforts have however had little impact in the field and industrial logging is still anarchic due, to a great extent, to the lack of enforcement by the administration.

Tensions frequently arise amongst villagers or between adjacent villages as a result of disputes over land use and yield. Community forestry initiatives and efforts at long-term management of resources clash as a result of pressure from companies and lack of significant sanctions taken against fraudsters. Poor law enforcement and a lack of compensation generate anger amongst victims of illegal logging, who in some cases attempt to resolve disputes with companies by seizing their assets or confronting the company's employees, who often come from the same or neighbouring villages.

Governance

In principle, the Cameroonian government plans the allocation of areas of forests with the aim of maximising profits for the country, whilst allowing sufficient regeneration of the forest to provide for the long term. Cameroon's 1994 Forest Law was drafted with this aim. But widespread disregard for the law result it anarchy and corruption in the timber sector, undermining the overall forest strategy of the

country. In addition, control of illegal logging is implemented by a central unit within the Ministry as well as external services, but heavy bureaucratic systems within MINEF create numerous opportunities for corruption at various levels. One consequence has been that the population does not receive its share of revenue from the exploitation of timber; another is that areas reserved for community forestry, agro-forestry zones and the overall forest domain disappear at a much higher rate than planned.

The lack of monitoring and enforcement results in huge fiscal losses and raises the problem of equity in the distribution of the profits of logging. Revenues from logging, for the most part, remain in the private sector and many in Cameroun suspect these revenues may benefit corrupt individuals to the detriment of the population. There is widespread corruption within the Government, allowing officials to embezzle timber revenue for personal gain. There are instances of military figures or relatives of high ranking politicians owning or having shares in logging companies involved in illegal logging. Using their political weight, these individuals can easily pressure forest officials not to monitor or take action in cases where forestry laws are breached.

Lack of clarity in the implementation of the 1994 Forest Law during the transition from the previous system created a lot of confusion in the procedure for allocating logging titles. This was used to a great extent by companies and government officials to issue overlapping titles or to misuse the titles. For example, a "recuperation", one type of legal logging title, allows a company to collect felled trees in cases when a project of construction or plantation necessitated the cutting of trees. However this has been widely used as a logging permit. "Recuperations" are now illegal, but there are numerous other means to embezzle revenue. For example, bureaucratic procedures, different interpretations of the law and the lack of clear systems can be used to prolong legal actions and recovery of fines and even to deadlock entire processes. Intentional lack of transparency prevents civil society or outside observers from being aware of cases of illegal infractions and of following simple processes, such as payment of damages and interest.

Global Witness was appointed Independent Observer of the forest sector in Cameroon to tackle the lack of effectiveness in the control of illegal logging, for a transition phase ending 20 November 2001, which will perhaps result in a longer-term project. Global Witness has carried out numerous field investigations documenting illegal logging both with Government forest officials and independently. Reports recommending fines and damages to be paid were handed to the Government and to representatives of the World Bank, the UK's Department for International Development and the European Union. "The level of fines has increased since the beginning of the Project, with one official report recommending a fine of 8.9 billion CFA (US$ 12 million) for illegally logging more than 20,000 ha of forest.

Payments of these fines, and real progress in the rigorous application of the law are less tangible however and the effective prosecution of companies based on the information discovered during the Project remains largely unrealised."

A Potential for Conflict?

Tensions have mounted between villages as well as within villages as a direct result of illegal logging. In the region of Kribi, for example, a current dispute involves five villages. Certain individuals registered a community forest whilst others rejected the validity of the registration following current exploitation by an industrial company in the same zone. Immediate and hard cash often constitute a powerful incentive for villagers to accept illegal logging. This results in short term disparities of income between villages, which disappear when the company leaves and the source of revenue has gone.

When a company comes to an area and logs out of its legal limits, it has to make arrangements with villagers to be able to operate without tensions for the duration of its activities in this area. This arrangement, in the field, can consist of an exchange of money with officials, villagers or chiefs, and/or the promise of social projects such as the construction of a school, hospital, road or football field. During the logging operations, all villagers might agree to the deal. In other cases, such as that in the region of Yoko, villagers become divided as some realise the potential loss of revenue and resources and the illegal nature of the exploitation. Tensions occur and are heightened by the fact that companies often use villagers as employees. After the logging operations, most villagers note that the promises of social projects were not kept, or the money given by the company was disproportionate to the market value of the timber. Their possibilities for compensation are then limited by the fact that they colluded with the illegality.

In certain cases noted by Global Witness, villagers were shown official paperwork authorising a company to log, that had been obtained through corrupt means at departmental level. This paperwork may either be invalid at a national level or may conflict with other titles. As a result, the villagers did not realise the extent of illegal activities before the company left, or were unable to stop the operations due to intimidation and failures in the system of forest control. Faced with no option to suspend operations, villagers can easily be pressured into accepting whatever cash or social projects the company offers, no matter how disproportionate it might be to potential revenue loss.

Pygmies are a particularly vulnerable group to the increased intensity of logging resulting from illegal activities. Most have been forced to move out of the forest. Having no land rights and little access to education, their last alternative is often to turn to the illegal bush meat trade, itself increased by illegal logging and the opening of logging roads. Pygmies have disappeared from neighbouring Ivory Coast, which is commercially logged out.

3 Policy Responses

There are a variety of policy responses that can be adopted by various institutions in order to address the problems outlined above. These will be divided between those that could be adopted by producer or consumer countries, and then international policy responses.

As discussed previously, many of the criteria applied to illegal logging can be applied to conflict timber. The working definition of conflict timber in this document is … *timber that has been traded at some point in the chain of custody by armed groups, be they rebel factions or regular soldiers, or by a civilian administration involved in armed conflict or its representatives, either to perpetuate conflict or take advantage of conflict situations for personal gain.*

If such a definition were to be adopted by the international community, the timber trade from Liberia, for example, would be regarded as illegal because virtually no stage of the timber production process accords with Liberia's own laws. However, what would the situation be if this trade was legalised, because President Taylor had simply changed the law as he has done in the past?

Currently, the international community has no legislative power, other than UN sanctions, to place an embargo on a producer's timber exports. In other words, there is a lack of legal instruments for the international community to use. As a result, despite significant international efforts to secure peace in the region, Charles Taylor has the wherewithal to continue the funding of the RUF rebels, to engage in timber related arms trafficking, the misappropriation of state revenue and human rights abuses.

The Liberian timber trade largely takes place outside of the country's laws and forest management guidelines. However, it remains quite legal for China, France, Germany, Greece, the UK, Italy etc. to import the products of this trade. Global Witness recommended that the UN Security Council should impose a total embargo on the exportation and transportation of Liberian timber, and its importation into other countries and that such an embargo should remain in place until it can be demonstrated that the trade does not contribute to the RUF in Sierra Leone and armed militias in Liberia. However, such sanctions, have not, as yet, been imposed.

3.1 Government policy responses

Producer and exporter countries

There are two major impediments to producer and exporter countries addressing the issue of conflict timber. First, a sovereign government is likely to exploit its natural resources if it needs to defend itself, and in the case of corrupt governments the allocation of resultant revenues will almost certainly be opaque, with a large percentage diverted off-budget for non-state purposes. Such a regime will resist international efforts to curb the trade, citing reasons of sovereign control over natural resources, national security etc.

Second, logging operations, by their very nature, take place in very peripheral, frontier regions where established infrastructure is minimal to non-existent. In peacetime, forest management bureaucracies do not act unless evidence is brought to them, which it rarely is. Even when illegal activities are reported, they are inevitably partial and difficult to evaluate post hoc. Pro-active intelligence gathering and market surveillance are essential.

In conflict zones it is highly unlikely that authorities have the opportunity to carry out and enforce forest management, not least because they have no access to territories under insurgent control. In Cambodia, Global Witness, in its capacity as independent monitor of the forest sector, has been prevented from accessing forest concessions by the authorities, using the pretext that there are bandits in the area, or some similar security risk. Attempts to further penetrate these areas have been prevented by armed concession guards.[52]

Transparency

Transparency is essential to the prevention of illegal logging and the supply of conflict timber, and should be applied to every stage of a logging operation. Allocation of concessions should be by competitive and technical tender, with the results widely publicised. Concession boundaries, the allocation of cutting licenses and forest revenues accrued to the state should all be publicly available. If a country's population is aware of what should happen, they can call their government to account when they know illegal or irregular activities are taking place. In Liberia the government claims that it needs revenue to fight the insurgency in Lofa county. Timber revenue is currently the largest money supply that it has, yet in 2000 it declared revenues of US$ 6.6 million against a trade with profits worth approximately US$ 100 million. It would appear that the government has plenty of money to both fight a war and to invest in badly needed state infrastructure. The population has no way of knowing this, and therefore no basis of fact with which to hold its government accountable.

[52] Global Witness investigation in Kompong Thom province, Cambodia; January 2001.

A major criticism of the logging industry is that concessions, cutting licenses and the like are awarded by governments, to companies, with little or no consultation with the communities who live in and depend upon the forest for their livelihoods. Often the first a village knows about the awarding of a concession is when they hear the first chainsaw fire up. Only when they are prevented from entering the forest to hunt or to collect timber for building and fuel, do they find that their sacred sites are being logged over and that roads are being built through their farmland.

There are now efforts by civil society organisations in many countries to include local communities in the decision-making process related to the use of forests. This makes sense at various levels. If an industrial logging concession is destroying the forest, villagers may take jobs with the company to reap what profit they can before the resource is gone forever. There is then no incentive for them to report illegal logging by the company as their own jobs would be at stake. However, if they had a share of the profits deriving from a sustainable logging operation, it would be in their interests to ensure that it was sustainable and well managed. They would protect their forest from outsiders and, in short, would be the best monitors of the operation.

Enhanced Enforcement

Forest management authorities need to be capable of preventing, detecting and suppressing forest crime, and may need external capacity building to achieve these aims. In some examples the logging industry acts as a law unto itself. Liberia's OTC operates its own prison where it incarcerates people completely outside state jurisdiction. Its militia, together with that of other logging companies, intimidate local people, destroy and loot their goods and expropriate land. The companies do not face any enquiry by the local authorities for what are illegal acts. External monitoring, for example in Cambodia and Cameroon, can enable national enforcement units to tackle situations which would ordinarily be too sensitive for that country's nationals; for example, when they detect illegal activities carried out by companies with strong political allies.

Legislative Reform

Legislation governing forestry practices are often inadequate, at times an outdated relict from colonial times unsuited for controlling modern industrial timber extraction. For example, the Asian Development Bank (ADB) review of Cambodian forest legislation described it as "complex, inconsistent and unenforceable"; being "difficult to obtain and analyse, [the legislation] provides no objectives standards for forest protection and provides no integrated guidelines or standards for

forest management".[53] In Cambodia and Cameroon multilateral agencies have provided funding and expertise to draft new forestry legislation, with mixed success. Experience dictates that the producer country must have ownership of the development of the legislation or it is unlikely to take action based on the new law. On the other hand, without external pressure the experience has shown that producer governments are unlikely to bother to change existing legislation, which more often than not it does not adhere to.

Legislation is only effective in the context of a skilled and independent judiciary which can impose meaningful (i.e. expensive) penalties on illegal loggers. In Cambodia, the Malaysian GAT International concession company is one of the very few companies to be prosecuted for logging outside its boundaries, and is unique in Cambodia in actually being found guilty. However, the penalty imposed simply demanded that the company pay the royalties due on the illegally felled timber. In effect this was an incentive to the company because, by logging outside its boundaries, it obtained timber over and above its quota, with no permission required and no punitive penalty.

Certificates of Legality

The current lack of international legislation suitable to tackling illegal logging means that as soon as illegally obtained timber leaves the borders of the producer country, it is de facto immediately laundered into the legal timber trade. There needs to be some means of identifying legal and illegal timber, and a certificate of legality is one option. This would be awarded by the appropriate authority in the producer country, and be subject to independent verification. In turn, the certificate would be recognised in the legislation of signatory consumer countries. All timber imports would need to be accompanied by this certificate, with other imports being impounded. Like all systems this would be vulnerable to forgeries etc, but monitoring and enforcement should minimise this problem.

Chain of Custody

Research into and implementation of "chain of custody" tracking systems will be another important development for the global timber trade. Governments and enforcement agencies need to have the ability to track products from the forest to the marketplace, and overseas. Simple computer packages need to be developed to this end. Accurate systems of accounting and inventory control are imperative and, of course, will result in enhanced revenue collection. Tagging, bar-coding and transponder technologies need to be used to establish chains of custody and prevent the

[53] Associates in Rural Development (ARD, Inc) 1998. Forest Policy Transition Paper for Cambodia. p. 2.

admixing of legal and illegal material. Further, such technology is a powerful way to prove culpability in cases of illegal harvest or smuggling.[54]

Consumer and importer countries

There is an overarching need for international legislation governing illegal and conflict timber. Consuming countries could try to amend existing structures and laws to encompass illegal/conflict timber imports, but this is likely to be insignificant in trying to address what is already a significant problem. Given that an international agreement of this nature could take many years, an interim alternative solution is essential if the commercial extinction of tropical forests is not to overtake the legislative process.

A crucial first step would be bilateral cooperation between producer and consumer countries to enforce domestic legislation in both countries. If not already in existence, legislation should be passed in producing countries to outlaw illegal logging. Consumer countries should recognise this legislation and a bilateral agreement between the two countries should ban the trade in illegal timber. For example, Cameroon could reach bilateral agreements with the main consumers of its timber, such as France, which would prohibit the laundering of illegal timber onto the legal market. These bilateral agreements would form a body of international law that could form the basis of a future multilateral international agreement. In the case of conflict timber (as opposed to illegal timber), it is possible for consumer countries to ban the import of all timber from a specific country of concern under legislation related to preserving national security. In some cases, specific actions or procedures to check the provenance of timber shipments related to such controls, may require new legislation.

Customs collaboration – how co-operative enforcement could work

Customs officials normally possess a great deal of discretion in applying their authority. EU customs laws are somewhat general, instilling the member states with a degree of flexibility in designing their own customs laws.[55] There is permissive authority for states to request more documentation from the importer to verify information given in a summary declaration. Goods can be confiscated at the border when they are subject to bans or other restrictions.

[54] See Kehr,K.H. 1999. For a discussion of "Log Tracking as a Forest Law Enforcement Technology", Regional Symposium on Strengthening Cooperation for Forestry Law Enforcement in Mekong Basin Countries. 14-16 June 1996. Phnom Penh, Cambodia.

[55] Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code.

More effective networks of cooperation should be developed between producer and consumer countries, including bilateral memoranda of understanding and regularised enforcement contacts, to enable potential enforcement data from licensing and shipment information to be shared. For example, producer countries should be able to request information concerning the volume of imported material being declared to a consumer country's authorities for taxation purposes. A producer could also check shipment records with consuming countries to make sure it has kept track of exports and alert others to illegal logs and timber coming from their countries. Systems can be developed to promote reciprocal recognition of trade restrictions, ensuring consuming countries aid compliance with producer country measures.

Illegal timber can be made an assigned matter for consumer country customs, which allows them to ask where timber came from. For example, the authority for Customs and Excise officers in the UK derives mainly from the Customs and Excise Management Act (CEMA) 1979. There is nothing in CEMA that would require an importer to make any declaration avowing the legality of the good or product they are importing. It might be possible for a customs commissioner to require this but notice of the goods' arrival is a simple form that requires only general information. However, any standardised checking of the provenance of timber in cooperation with a producer country – e.g. checking a certificate of legality – would require new legislation to be passed.

If customs officials were directed to look for illegal logs or timber, or required importers to declare the legality of its source, the question would arise as to upon whom would fall the onus to vouch for the legality of the timber. Importers may be unaware of the preceding processes and authorisations required to export the timber. Shipping companies may unknowingly be transporting illegal timber or products. The exporting country would also be involved in the process since an export certificate may legitimise the shipment, despite any illegalities or corrupt practices surrounding the issuance of the export permit. In addition, for the purpose of insuring an efficient customs management process, a standard certificate would be desirable.

Consumer country customs controls might follow a "red – amber – green" approach to investigating illegal timber shipments. For example, exports from countries with known illegal logging problems could be flagged for further inspection; information on the shipment could then be exchanged with national authorities in the producer country.

Regulating Domestic Markets

Once illegal logs and timber products have entered the country, there still may be options to combat their distribution. The police have power to confiscate stolen

goods. In the UK, the Theft Act (1968) establishes offences for taking someone's property by deception. It arguably can apply to wildlife cases primarily where a person sells wildlife or wildlife products by deception, fraudulently claiming they come from a legitimate origin or are bred in captivity.[56] The Act has been applied to convict people selling peregrine falcons taken from the wild by falsely claiming the birds were bred in captivity.[56] It is not clear as to whether this legislation could be applied to a situation in which illegally obtained timber was purchased under the assumption that it was felled or processed legally and/or comes from a conflict zone.

There may be further options to control the sale of illegal timber in the UK. This could include establishing a legal requirement that all timber, forest products and derivatives that are sold must be produced legally. This would obviously impose a burden on sellers and manufacturers. In addition, there would be internal market implications in relation to the European Union since such regulations could place UK retailers at a competitive disadvantage to retailers in other countries not required to prove that their timber had been produced legally.

Governments can take measures to ensure that they do not procure any illegal/conflict timber. The UK Department of Environment, Food and Rural Affairs (DEFRA) operates a programme called Greening Government Operations. One of the objectives of this programme is to use wood efficiently and encourage sustainable forestry practices, which maintain the biodiversity, productivity and ecological habitats of woodlands. To fulfil this objective, all orders and contracts will require documentary evidence (which has been or can be independently verified) that the timber has been *lawfully* obtained (italics added) from forests and plantations managed to sustain their biodiversity, productivity and vitality, and to prevent harm to other ecosystems and any indigenous or forest-dependent people. To this could be added the proviso that the timber should be "conflict free". Similarly, the UK Department for International Development (DfID) is specifically instructed to avoid purchasing furniture containing non-sustainable hardwood. DEFRA is currently undertaking a scoping study of its procurement policies to determine what government department procures what. There are already procurement policies on using recycled material. Currently, there is a UK government commitment, to try hard to avoid using illegal logs. This should be strengthened and extended to conflict timber.

The UK, like numerous other OECD countries, is employing measures to ensure that procurement policies prohibit the use of timber from unsustainable sources. For instance, the Danish government has adopted an *Action Plan for a Sustainable Environmental/Green Policy for Public Procurement.* Moreover, it reflects a trend in

[56] J. Holden. 1998. *By Hook or By Crook*. RSPB, Sandy, UK. p.8.

international relations. The OECD has recommended that member countries establish and implement policies for the procurement of environmentally friendly goods and services. WTO members are currently considering expanding the *Agreement on Government Procurement* to ensure transparency and prevent corruption in government procurement. Current public procurement rules currently apply only to 22 WTO Members. Interestingly, there are exceptions available under the *Government Procurement Agreement* necessary for the protection of public morals and the protection of plant life.

3.2 Intergovernmental policy responses

A number of multilateral agreements and international institutions are of relevance in the development of initiatives to tackle illegal/conflict logging and trade. This section reviews the main ones and suggests some options for consideration. One key point is which institution, if any, might provide a suitable legal framework for establishing international regulations identifying legality of production. A range of options are possible, extending from a voluntary framework encouraging data exchange and enabling producer countries to request various actions (such as impounding illegal products) of consuming countries, to a legally binding multilateral agreement requiring signatory governments to take steps to identify and seize illegal products, together with capacity-building and financial assistance clauses.

International instruments

A survey of the international landscape concerning illegal logging indicates that there is no specific authority to regulate it, let alone the new concept of conflict timber. Although there are several agreements that tangentially address forest conservation and sustainable management, there is no specific treaty that could take on the issue of illegal logging or conflict in any concrete way.

Convention on International Trade in Endangered Species

CITES provides the only existing international framework for the licensing of imports and exports. Its relevance to logging is restricted, of course, to endangered or threatened species; currently, fifteen tree species are listed under CITES, although the World Conservation Monitoring Centre has identified over 300 Asian and African species in trade. However, individual countries may unilaterally list any species which they wish to protect on Appendix III, and then trade cannot pro-

ceed without an export permit. A CITES listing is, of course, a species-specific measure, but would, for example, give consumer country authorities the mandate to refuse shipments of certain precious wood species that may have been illegally obtained in producer countries.

Given the speed and scale of the illegal timber trade, CITES should probably be considered an adjunct to more wide ranging measures, rather than a solution in itself.

OECD Anti-Bribery Convention

The OECD Convention on Combating Bribery of Public Officials in International Business Transactions entered into force in 1997. Although the precise nature of the offences depends on the implementing legislation within a given OECD country, the Convention makes an offence of "active corruption" or "active bribery", meaning that the offence is committed by the person who promises or gives the bribe "irrespective of, *inter alia*, the value of the advantage, its results, perceptions of local custom, the tolerance of such payments by local authorities, or the alleged necessity of the payment in order to obtain or retain business or other improper advantage" (Article 1).

The Convention also covers undue indirect influence, making it an offence if "an executive of a company gives a bribe to a senior official of a government, in order that this official use his office – though acting outside his competence – to make another official award a contract to that company". Article 3.3 establishes the "proceeds" of bribery to be the profits or other benefits derived by the briber from the transaction or other improper advantage obtained or retained through bribery;[57] hence, it appears that forestry products from an improperly-obtained concession could be subject to sanction, establishing a clear mandate for a signatory's customs to act against timber shipments if bribery can be shown to be involved.

Companies which are required to issue financial statements disclosing their contingent liabilities will need to take into account their full potential liabilities under the Convention – in other words, losses which might flow from conviction of the company or its agents for bribery, exclusion from government contracts, or any other penalty. Provisions are also made in the Convention for legislation against money laundering to be used against the proceeds of the act of bribery, providing for more robust corporate investigations against corrupting companies.

The Convention is not limited to OECD members; it can be signed by non-members which become full participants in the OECD Working Group on Bribery

[57] Such that "the proceeds of the bribery of a foreign public official, or property the value of which corresponds to that of such proceeds, are subject to seizure and confiscation or that monetary sanctions of comparable effect are applicable".

in International Business Transactions. This provides a route for producer country-based logging interests to be covered by such rules, should their host countries wish to sign it. It appears that the costs of inclusion for such participants can be met under the OECD's financial mechanism. There is scope for collaboration with other international anti-corruption initiatives, such the Inter-American Convention against Corruption – of particular interest as its current signatories contain both significant producers and consumers of tropical timber.

Investigations into allegations of bribery and corruption will require significant levels of cooperation and collaboration between the countries involved. Also, details of implementation may differ between OECD countries; for the Convention to provide a useful mechanism against trade in illegal timber, implementing legislation needs to establish that the proceeds of bribery, rather than the act itself, can be sanctioned. The UK, for example, is to revise its laws addressing bribery and corruption in line with the Convention in the near future. Resource management issues and proceeds of bribery could be incorporated into revised legislation. The Convention may provide a suitable home for the development of a legal framework on the identification of legally produced material, though it is not clear whether this would only cover one category of products (such as timber).

The World Trade Organisation

Any government-mandated restrictions on trade, including labelling requirements, tariffs and taxes, trade embargoes, or any form of discrimination in trade, are potentially subject to the disciplines of the trade agreements administered by the World Trade Organisation (WTO) and centred around the General Agreement on Tariffs and Trade (GATT). However, in the case of illegal logging controls on the import of illegally sourced timber would not be based on arbitrary or unilateral standards of the consuming country, but upon the laws of the producer country. This means that WTO restrictions would not apply. In the case of conflict timber, countries could impose embargoes on timber from warring states if they had been sanctioned by the UN Security Council. In this case, the restrictions could be claimed to be in the national security interests of the consumer or importer country and therefore such legislation would not be covered by WTO restrictions.

Corruption and bribery are not issues addressed specifically in the WTO agreements. However, as the OECD Trade Directorate commented in August 2000, "… a number of WTO provisions can have a bearing on bribery and corruption inasmuch as the latter distort international trade"[58] and because they contravene the WTO principles of non-discrimination, transparency, stability and predicta-

[58] OECD Trade Directorate, Trade Committee, *Potential Anti-Corruption Effects of WTO Disciplines,* TD/TC/(2000)3/Final, (Paris: OECD Paris, August 2000), p. 4, para. 4. (www.oecd.org/ech).

bility, and limitations to arbitrary action. Transparency remains one of the main topics of the WTO's work on trade facilitation, and bribery and corruption were among the most important topics at a Trade Facilitation Symposium held in Singapore in 1997. Specific proposals were also forwarded by Venezuela in January 1999.[59]

Several multilateral environmental agreements (MEAs), including CITES, the Montreal Protocol and the Basel Convention, require parties to control or restrict trade in various ways, including imposing requirements for import and export licences or for different forms of prior informed consent, and applying total or partial bans in trade (in the products controlled by the agreement) with non-parties or with non-complying parties. The past few years have seen much debate about the extent to which these trade measures are compatible with WTO disciplines. Since there has never been a WTO dispute involving an MEA-mandated trade measure, it is impossible to predict what the outcome of such a dispute would be. However, it seems most likely that WTO problems would probably not arise in cases where the trade measures were taken between parties to the MEA, but are more likely to arise where they were directed against non-parties. This discussion is relevant, of course, to the development of any multilateral agreement on illegal timber.

Under the *Technical Barriers to Trade Agreement*, WTO members are supposed to "take such reasonable measures as are available to them to ensure compliance" with the agreement of technical regulations (such as labelling or certification) applied by local government and non-governmental bodies (Article 3.1). In 1992, Austrian plans for mandatory labelling of tropical timber with an additional voluntary label for sustainably sourced timber were abandoned after complaints from Indonesia and Malaysia; the scheme was made voluntary and extended to timber from all sources.

The question of issuing labels or certificates or applying other trade restrictions on the basis of illegal origin has not, so far as we are aware, been discussed within the WTO; debates have tended, not unnaturally, to focus on sustainability criteria. The relationship of illegal origin to the TBT Agreement on Technical Barriers to Trade's exclusion of process and production methods as a basis for trade discrimination is not entirely clear. Article 2.8 of the Agreement states that technical regulations shall be "based on product requirements in terms of performance rather than design or descriptive characteristics". However, Article 2.2 recognises the right to take the necessary measures to fulfil a legitimate objective such as "the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment".

[59] In a non-paper on "Transparency in Government Procurement and the fight against Corruption", Working Group on Transparency in Government Procurement, JOB(99)481 of 28 January 1999.

Government procurement measures are subject to another WTO Agreement, the *Agreement on Government Procurement (GPA)*, although this is a plurilateral agreement, which not all WTO members have signed. Its basis rests on the familiar WTO principles of non-discrimination between like products from foreign and domestic suppliers. Article XXIII of the GPA includes exceptions to its obligation for reasons of public morals or protection of human, animal and plant life.

Article VIII(1a) of The *General Agreement on Tariffs and Trade* specifies that in trade "all fees and charges of whatever character ... shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection." If bribery in connection with import and export activities can be construed as "charges of whatever character" then Article VIII could be brought to bear on them. As the OECD Trade Directorate remarked, "it should be noted that Article VIII applies explicitly to a number of areas where corrupt practices are often thought to be, or identified as, a serious problem, including, *inter alia*, consular transactions, licensing, exchange control, documents, documentation and certification, and analysis and inspection."[60]

International Action

The various fora for discussing forestry issues, such as the UN Forum on Forests (UNFF) could be worthwhile arenas to exchange ideas, but they are unlikely to be active in formulating international agreement on illegal/conflict timber or co-ordinating international action. The UNFF itself does not appear to have any specific mandate to take comprehensive action to combat illegal logging. The UNFF is supposed to consider the prospects for a legal framework on all types of forests within five years. This would provide an obvious forum for global discussion of the issues raised by illegal logging and conflict timber. In fact, the participants at the UNFF, either state members or NGOs, are still divided over whether a forestry convention is needed, let alone any forestry sector specific measures.

The International Tropical Timber Organisation

Currently, international trade data are of poor quality, precluding rational threat assessment and the identification of illegal trade problems. As the International Tropical Timber Organisation (ITTO) noted, "production statistics … are often weak or non-existent. The primary problem in many producer countries is the lack of a comprehensive forest out-turn measurement system as well as any kind of regular industrial survey to obtain production figures".[61] Consumer countries are usu-

[60] OECD, *Potential Anti-Corruption Effects of WTO Disciplines,*. p.12–13, para. 42.

[61] ITT0 1999. *Annual Review and Assessment of the World Tropical Timber Situation 1998.* ITTO, Yokohama.

ally unable to distinguish the processing of types of timber: "many make errors or omissions in providing trade data … [and] also have serious problems in their customs statistics." [62] The ITTO, FAO, UN Economic Commission for Europe and the EU have begun to streamline international reporting procedures, submitting joint questionnaires to national forest administrations for the first time in April/May 1999. The effort saved from duplicating reporting practices is to be put into gathering international data on price, industry structure, secondary-processed products and "undocumented production and trade".

The ITTO provides a framework for data collection and already makes efforts to investigate inconsistent export and import data which may represent illegal trade. This work could be expanded, under its Year 2000 objective, to establish a more comprehensive system for verification of the legality of shipments and to promote customs cooperation. The Organisation's Market Information Service can provide useful pricing information for tropical log exports to national customs authorities.

A mid-term review of the cost of implementing the ITTO's Year 2000 Objective to promote sustainable timber trade estimated the combined cost of institutional strengthening and capacity-building as US$ 22.5bn.[63] Estimates may come out much lower, however, if the exercise concentrates on the relatively few major players in the global marketplace. There are only six big producers – Indonesia, Malaysia, Brazil, Bolivia, Cameroon and Gabon together accounting for 60–80% of world markets. Overall, some 70–100 concession holders harvest around 25–30% of all the tropical timber entering the global market. Concentrating financial and technical assistance and monitoring on these concessions could reap early rewards.

Initial efforts at the ITTO appear to be promising, especially since they are tackling illegal logging using a sub-national approach and emphasising the need for technical and legal assistance. It is hoped that the results from these type of technical capacity building initiatives will feed into developing a consensus among members and overcome the inability to previously reach an accord on illegal logging. However, ITTO – an organisation funded by timber producing countries – is often used a shield by producers trying to fend off more onerous initiatives such as FSC certification and, possibly, international efforts to curb illegal logging. Furthermore, the tropical timber industry is far better at negotiating solutions to problems of illegal logging than implementing any of the resultant recommendations.

The World Bank and Positive Aid Conditionality

Costs of conservation and sustainable management are borne locally while its benefits are enjoyed internationally. So far, compensation from the international com-

[62] Ibid.

[63] M. Adams, "Resources needed but directed where?" *ITTO Newsletter* 7(3), 1997.

munity to forest rich countries for opportunity costs forgone in forest protection has been quite small relative to the magnitude of the problem; the scale of the public goods dilemma has not been addressed.[64] Fortunately, there may be new sources of funding on the horizon.

The World Bank's Adjustment Lending Policy explicitly discusses linkages between adjustment policies (a major form of aid disbursement) and environmental issues.[65] So far, three adjustment loans with forest-specific reforms – such as replacing logging concessions with management concessions, introducing forest management plans, making concession award procedures transparent, and increasing concession duration – have been given to Indonesia (after the World Bank was asked to leave the country after a "blunt" but private report in 1993), Papua New Guinea and Cameroon in conjunction with IMF stabilisation packages.[66]

There have been genuine problems generating domestic impetus for reform. Options such as tying each tranche of assistance to achievement of reform targets, and independent third-party monitoring, could be considered. Aid institutions also need to draw forestry reform out of the narrow circle of partisan advisers and to engage wider domestic constituencies. Again, independent monitoring can accelerate this process. The activities currently taking place under the World Bank-funded Forestry Reform Project in Cambodia provide a useful model, not least because of the establishment of a Forest Crime Monitoring Unit involving an independent monitor to increase the monitoring system's transparency and credibility.

In the Indonesian case, the World Bank delayed a loan disbursement of US$ 1.2 billion in mid-1999 (of which US$ 400 million was forest-related) because of illegal logging problems.[67] They have met with varying degrees of success; as a recent policy review commented, "the World Bank has approached the use of conditionality for environmentally-oriented reform as a high-stakes poker game … the assumption implicit in this bargaining approach is that the borrower government is a unitary actor, and that there is little genuine motivation for reform … The twisting-

[64] As the World Bank freely admits, most of its forest policies have failed to address this gap, focussing only on the GEF which lacks any mandate to compensate countries from loss of income from protection of forest estates.

[65] Operational Directive 8.60. December 1992.

[66] As the Operations Evaluations Department admit honestly, "the history of poor dialogue between the Bank and the countries on the forest sector explains the Bank's eagerness to use the opening provided by an economic crisis to push reforms in the forest sector". World Bank. 1999. p.13.

[67] Kyodo. 31 January 2000. Donors demand good forestry management in return for loan.

of-arms approach by itself is of limited use even in achieving the limited goal of getting forest laws and regulations on the books".[68]

An important policy shift amongst Indonesian Consultative Group donors has been to change the focus of treating illegalities from timber concessions to addressing the discrepancies between production and supply in the processing sector.[69] It should be pointed out that such "positive conditionality" on loans is not simply an extraneous linkage of issues: about 8% of non-performing loans (some US$ 4.1 billion) held by Indonesia Bank Restructuring Agency (IBRA) relate to the forestry sector and this "high level of non-performing loans held by forest conglomerates can be attributed to the fact that they have often been able to obtain finance for their investments with minimal due diligence".[70] Indeed, after two big forest conglomerates entered receivership earlier this year, the IBRA has ended up as the single most important forest asset owner in the country. This seems a golden opportunity for the government to put sound management practices in place but, so far, the IBRA has allowed previous owners to continue running their companies with little direct supervision. Further, with the legal right of IBRA to call in non-performing loans and seize assets thereof, the government has a ready means to quickly reduce over capacity (also see below). However, current indications are that the government might write-off up to US$ 1.9 billion of such loans as bad debt, effectively giving another heavy subsidy to the industry.

UN Sanctions

There is a precedent for the UN Security Council to impose sanctions on a country's timber exports. Sanctions on timber make sense in that they are relatively easy to monitor, unlike, for examples, sanctions on diamonds from UNITA rebels in Angola. Millions of dollars of diamonds can be smuggled in a cigarette packet, but timber requires a road network, large trucks and ships. Therefore, if sanctions were deemed appropriate in any given example, they could be relatively effective against conflict timber.

In 1992 it was recognised that the Khmer Rouge guerrillas in Cambodia were obtaining funding essential to their war effort by trading timber with Thailand, and that the country's forest resources in general were under severe threat from anarchic exploitation. Accordingly the UN passed resolution 792 which banned exports of round logs from Cambodia, effective from 1st January 1993. This move was

[68] N. K. Dubash and F Seymour, "The political economy of "environmental adjustment": the World Bank as midwife of forest policy reform"; Paper at "International Institutions: Global Processes – Domestic Consequences", Duke University, April 1999, p. 14.

[69] Asia Pulse. 1 February 2000. WB leads move to link Indonesia aid to forest conservation.

[70] Jakarta Post. 27 January 2000. Over capacity in the forestry sector.

absolutely correct in theory, but the resolution opened two serious loopholes: firstly the log ban did not take immediate effect, resulting in a logging frenzy as the loggers raced to beat the December deadline; secondly, the resolution did not ban rough processed timber, resulting in the proliferation of rogue sawmills across the country with logs being rough sawn and legally exported. The result was no meaningful decline in timber exports, and little decline, if any, in revenue generated by the Khmer Rouge. However the theory was good. Global Witness recently lobbied for similar sanctions to be imposed ion Liberia, but the UN expert panel regrettably recommended a similar approach to Resolution 792. It is not yet known what the UN Security Council's decision will be.

The G8

The G8 have taken a strong stance on illegal logging, particularly the five-point Okinawa statement (see below). The G8 could, for example, trigger debate within the UNFF, and elsewhere, on the need for a multilateral framework, and individual G8 countries could explore bilateral approaches with exporting nations on the identification of illegal material. In 1999 the G8 established the G8 Nations' Lyons Group Law Enforcement Project on Environmental Crime; this group provides a ready-made forum for discussion of the enforcement issues related to illegal logging and timber trade.

The G8 members will:

1. encourage the sharing of information and assessments on the nature and extent of international trade in illegally harvesting timber as a basis for developing practical and effective counter measures;

2. identify and assist in implementing measures to improve economic information and market transparency regarding the international timber trade, including through IFF and ITTO;

3. identify and assess the effectiveness of their internal measures to control illegal logging and international trade in illegally harvested timber and identify areas needing improvement;

4. take measures to implement their obligations under international agreements aimed at combating bribery and corruption in international business transactions as they pertain to trade in timber;

5. work with interested partner countries and through international organisations including the ITTO to develop their own capacity to assess the nature and extent of illegal logging and trade in illegally harvested timber and their capacity to develop and implement counter measures.

Due to the small number of members states it is difficult to view G8 activity as representing a global consensus. However, the G8 can provide direction to international action. Given the pace at which the forests are being destroyed, and the fact that armed conflict and criminality are both driving this destruction and resulting from it, member states of the G8 and United Nations should consider more immediate and direct measures.

The architects of illegal logging and the conflict timber trade are comprised of relatively few very large logging companies. These same companies – the Malaysian Samling and Rimbunan Hijau companies to name but two – crop up again and again in different countries. Their record of illegal logging, dealing with combatants, engaging in corrupt practices and human rights abuses is damning. Yet these same companies are engaged by the World Bank at the highest level and are selected as the company to practice the establishment of "model" concession programmes, with World Bank funding. They achieve this through expert government and public relations, and appearing to engage in international efforts to reform forestry practices. But at the same time these companies carry on logging in the way they always have, unsustainably and illegally, whilst negotiating all the while.

It is high time that these companies are regarded and treated as international pariahs. Their presence in a country undergoing internationally funded forestry reform programmes should not be tolerated while the same company engages in illegal logging there and elsewhere.

4 Conclusion

Many countries rich in timber have become poorer precisely because they possess such a valuable resource. There are numerous examples, many of which are discussed here, in which states promote the deliberate use of disorder to allow businesses to generate revenues to fund covert agendas and civil wars. Revenues generated by the sale of timber played an important role in the financing of a number of conflicts.

Unlike resources such as oil, timber is relatively easy to exploit and is therefore often the first target of predatory companies, governments and rebels. Any idiot can use a chainsaw. Compared to most forms of resource extraction, logging is a relatively easy activity, requiring low investment for quick return. A Rangoon sawmill owner told Global Witness that "timber is one of the most important foreign exchange earners. It is the key "above ground natural resource", which makes it easy to extract, as what you see is what you get, unlike minerals, oil and gas, gems and jade, which are in the ground, where there is a lot of risk and uncertainty, and which require big investments required.[71]" A few soldiers with chainsaws and trucks can generate hundreds of thousand of dollars in a relatively short time; a well-resourced company can generate hundreds of millions.

As a result, senior commanders and politicians begin to accrue personal wealth, in addition to revenues channelled to the war effort. Incentives are created to extend control over forest areas, and to bypass such national laws as may be in place to control forest exploitation. In more extreme cases military intervention in another country is based around the attempt to control that country's resources; a recent example being Zimbabwe's ongoing occupation of large swathes of the DRC. This accumulation of resource-based wealth by a country's elite acts as a disincentive for them to bring about an end to the conflict. For a warring faction in control of forest land, logging is one of the quickest routes to obtain significant funding with which to continue the conflict. For example, the notorious Oriental Timber Company in Liberia was exporting significant quantities of timber within three months of arriving in the country, whilst in 1995 the Khmer Rouge were generating US$ 10–20 million per month from their timber trade with Thailand.[72]

[71] Global Witness investigations; October 2000.

[72] Thai-Khmer Rouge Links & the Illegal Trade in Cambodia's Timber. Global Witness, July 1995.

The Industry Modus Operandi

As described in this study, the tropical timber industry traditionally engages leaders of countries with large forest resources and weak institutions. Abiding by "local business practices", it negotiates deals to extract raw materials as cheaply as possible. This mode of doing business suits the warlord economy extremely well. Predatory transnational companies have no allegiance to a given country, nor do they abide by local laws and regulations unless obliged by their hosts. Their ability to operate relies on direct deals with the ruling elite and the continued demand for their end products: plywood, chipboard and hardwoods, in this case unconcerned with, or ignorant of, the source of their goods. In this way the global market for logs plays into the hands of warlord leaders.

The tropical logging industry has created and then served to supply what seems to be an insatiable demand for its products, whilst at the same time building a reputation for graft which is probably only exceeded by the trades in illegal arms and drugs, with which it is often linked. Timber is, of course, a legally tradable commodity, but the trade is characterised by endemic corruption, links to organised crime and, in numerous instances, to various warring factions. Despite this, consuming countries and multilateral agencies, such as the World Bank, display an amazing tolerance for the illegal activities of logging companies.

These companies often target forest rich but economically poor countries to obtain forest concessions, usually from governments open to corruption. By bribing politicians, civil servants and military officials, logging companies can gain control over extremely valuable state resources for bargain prices, and are subject to minimum legal and fiscal controls. This opens the way for them to make short-term high return investments regardless of the social, economic and ecological implications for the country concerned, which are always severe. It has been estimated by Friends of the Earth UK that, based on 1999 figures, approximately 50% of tropical timber imports into the European Union are illegal.[73] There is no reason to suppose that worldwide imports are much better.

On the demand side, most timber importers do not take responsibility for the implications resulting from the product they're buying. Thailand knew and approved of the imports of Khmer Rouge-sourced timber, as did the French buying from armed factions in Liberia, despite being fully aware of the importance of the timber revenues in a war-zone. Surprisingly, there is no law that prevents, for example, a European country from importing the products of illegal, and indeed "conflict" timber operations. Despite decades of environmental campaigning, very few

[73] European League table of Imports of Illegal Tropical Timber, Friends of the earth UK; August 2001.

end consumers are concerned with the provenance of timber products. This final point illustrates the need to highlight the fact that forest destruction is not just an environmental problem. It is a major governance issue; it is an issue of human rights and land rights; and it is either part of the problem or solution in conflict situations. It also illustrates the need to bring the illegal international timber trade under legislative, not voluntary controls.

The exploitation of timber in conflict situations causes political, military and business elites to conspire to put profits, and therefore the needs of business, above the needs of the populations and countries concerned. This causes laws to be ignored and breeds a culture of impunity. Revenues generated by natural resources exploited and made possible by armed conflict fuel the power bases of these elites, and are a disincentive to bringing about an end to conflict. The state of disorder created by conflict suits the perpetuation of these business practices. This is state looting and state terrorism.

The crucial part of this equation is the consumer. Without a demand for timber, these practices would not be possible. Yet, in a world focused on the destruction of international terrorism, and where the rich nations spend billions of dollars to help development in the poorer countries, the consumers are blithely allowed to continue purchasing timber from conflict zones and other illegal sources. Indeed, in the west, there is no legislation that can prevent this from happening.

The policy responses in this chapter suggest some options that can be followed. It is imperative that the international community take firm and immediate action to address the issue of conflict timber. If they do, then the warring factions that depend on it will collapse just like the Khmer Rouge did in 1996. If they do not, then wars in countries like the DRC, Liberia and, until recently, Sierra Leone will continue, with all the associated costs in lives, resources and money.

Annex A: Illegal activities associated with the timber trade

Illegal activities associated with the timber trade[74]

Illegal logging

1. Logging in breach of contractual obligations (e.g. without an environmental impact assessment)
2. Illegally obtaining concessions through, for example, corrupt means
3. Logging nationally-protected species without explicit permission
4. Logging outside concession boundaries
5. Logging in prohibited or protected areas such as steep slopes or river catchments
6. Removing under-sized or over-sized trees
7. Laundering illegal timber through a concession
8. Use of old log permits or licences to collect illegally felled timber to "sanitise" illegal timber

Timber smuggling

1. Log import/export in defiance of trade restrictions and/or national control measures
2. Unauthorised or unreported movements across state boundaries
3. Avoidance of CITES restrictions

Misclassification

1. Under-grading and misreporting harvest
2. Under-valuing exports
3. Misclassification of species to avoid trade restrictions (e.g. mahogany) or higher taxes

[74] For a more extensive discussion, see D. J. Callister, *Corrupt and Illegal Activities in the Forest Sector: Current Understandings and Implications for World Bank Forest Policy: Draft for Discussion* (World Bank Forest Policy Implementation and Strategy Development Group, May 1999).

Transfer pricing

1. Nil profit accounting and manipulating revenue flows for services to avoid revenue
2. *Illegal processing* i.e. at unlicensed facilities

Grand corruption

Characterised by long-term, strategic alliances with high level of mutual trust. For example, companies providing support to senior politicians, political parties or major components of the state's apparatus to:

1. obtain or extend a concession or processing licences
2. avoid prosecution or administrative intervention for non-compliance with national legislation
3. negotiate favourable terms of investment, i.e. tax holidays or non-collection of statutory duties etc

Petty corruption

Shorter-term, more tactical, employer-employee relationship, facilitated by and may develop into grand corruption. Most obvious as graft given to or solicited by junior officials to:

1. falsify harvest declarations
2. avoid reporting restrictions
3. overlook petty infringements
4. ignore logging or laundering of logs from outside proscribed boundaries

Annex B: Levels of non-compliance/irregularities in international timber trade

Sector	Date	Volume of illegality	Value
World Bank – world-wide illegal logging[75]	1990s	5,000km2	–
Approx. global trade irregularities[76]	mid-1990s	15% global trade	c. US$ 15bn
Brazil – Amazon supply and demand and satellite data[77]	1998	80% of 20–25m cubic metres supply illegal = 8,000–10,000kcubic metres illegal forestry	–
Brazil – Mahogany concession audit by IBAMA[78]	1996–97	70% of 1,964 concession plans non-compliant	–
Burma[79]	1995	276,000cubic metres under-declared by comparing import-export data	$86m, 48% of official timber export revenues
Cambodia[80]	1997	4.3m cubic metres – almost ten times the estimated legal harvest	>US$ 200m in pay-offs, loss of over US$ 60m to national treasury
Cameroon[81]	1994	50% of production "indeterminate"	US$ 4.3m in unpaid taxes
Ghana[82]	1993	Cut exceeded allowable limits by 30%	c. US$ 29m or 2% of GDP
Indonesia – ITFMP supply and demand analysis[83]	1998	32, 613 cubic metres – 40% total timber throughput	>US$ 364.9m
Indonesia – Ernst & Young review of reforestation fund[84]	December 1999	–	US$ 4.17bn across 1990s
Malaysia[85]	1995	One third all logging	–
Malaysia (Sabah)	Early 1990s	30–40% exports improperly documented[86]	40% of logging ships avoid duty[87]
Papua New Guinea[88]	1982–87	–	US$ 100m-327m in transfer pricing + US$ 30m-80m in export tax evasion.
Papua New Guinea[89]	1994	–	193m Kina (c. US$ 193m) in avoided revenue
Philippines[90]	late 1970s – mid '80s	9m cubic metres	17% of rents worth US$ 1bn; US$ 110m-120m per year
Philippines (trade to Japan)[91]	1981–85	Exports under-declared by 59.1% (c. 813,000 cubic metres)	Exports under-declared by 46–73%
Russia – Siberia[92] Inst. for Economic Research	1998	20% illegal. In 1999, Vladivostok police investigated 261 related crimes and seized 15,000cubic metres of illegal timber. [93]	-
Russia (Atlantic forests)	1998	30–50% exports improper; volume under-declared by 40%	15bn roubles (c. US$ 2.6m)
Solomon Islands[94]	1994	_	US$ 6.5–23.5m forgone
Suriname[95]	1995	30% undeclared	-
Tanzania[96]	2000	130–500,000ha	9/10th revenue evaded tax c. US$ 30–35m
US[97]	1990s	Thefts from all 156 national forests	US$ 10–100m

[75] D. Callister, *Illegal Tropical Timber Trade: Asia-Pacific* (Cambridge TRAFFIC International, 1992).

[76] Friends of the Earth International, *The Chase For Quick Profit.* (London, March 1995).

[77] AFP, March 1998: "Bresil: le marche noir du bois devaste la forest Amazonienne"; BBC News Online, 12 April 2000: "Amazon tree loss continues".

[78] R. Glastra (ed.), *Cut and Run: Illegal Logging and Timber Trade in the Tropics* (Ottawa: International Development Research Centre, 1999), p. 39.

[79] World Resources Institute, *Logging Burma's Frontier Forests: Resources and the Regime* (Washington DC, 1997), p. 15.

[80] Global Witness, *The Untouchables: Forest Crimes and the Concessionaires – can Cambodia afford to keep them?* (London: Global Witness, 1999).

[81] F. H. Toornstra, G. A. Persoon, and A. Youmbi, *Deforestation in Context: a Cameroon Case Study* (Yaoundé, Cameroon, Enviro-Protect, 1994).

[82] Glastra, *Cut and Run: Illegal Logging and Timber Trade in the Tropics,* p. 66–67.

[83] Indonesia UK Tropical Forestry Management Programme, *Illegal Logging in Indonesia,*. ITFMP Report No. EC/99/03 (Jakarta, 1999).

[84] Indonesian National News Agency Antara, 29 December 1999: "Reforestation Fund: management inefficiency causes US$ 5.25bn loss".

[85] N. Dudley, (ed),. *Bad Harvest* (WWF UK, 1995).

[86] *Far Eastern Economic Review*, 4 July 1991, pp. 43-46: "Cutting down to size".

[87] P. Hurst, *Rainforest Politics: Ecological Destruction in South-East Asia* (London: Zed Books, 1990).

[88] J. Jackson,. *A Study of Timber Transfer Pricing in Papua New Guinea,* (New York: UNCTNC, 1990).

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About the Authors

Global Witness is a London-based non-governmental organisation which focuses on the links between environmental and human rights abuses, especially the impacts of natural resource exploitation upon countries and their people. Using pioneering investigative techniques, Global Witness compiles information and evidence to be used in lobbying and to raise awareness. Global Witness' information is used to brief governments, inter-governmental organisations, NGOs and the media. Global Witness has no political affiliation.

About Fafo and PICCR

The Fafo Institute in Oslo conducts policy-related research at the international level, concentrating primarily on countries undergoing substantial structural change. Fafo's Programme for International Co-operation and Conflict Resolution (PICCR) is an umbrella programme for initiatives related to the policies and practices of international responses to armed conflict. In partnership with other non-governmental organisations, governments, and multilateral institutions, PICCR is actively engaged in efforts to understand and promote sustainable conflict resolution, effective multilateral co-operation and efficient international organisation. PICCR is involved in research and dialogue activities that encourage and support principles of multilateralism and international co-operation in general. Since its inception in 1998, PICCR has implemented a series of policy fora and research projects related to peace operations and international responses to civil wars. The honourary Chair of PICCR is Terje Rød-Larsen.