

Systematic deforestation, land eviction, sacking of local people's resources and the poverty in Cambodia, a merciless worldwide organized crime.

CHAPTER THREE | Oil and gas

"The Cambodian National Petroleum Authority shall be the permanent institution governed directly by the prime minister."

Extract from the royal decree on the formation of the Cambodian National Petroleum Authority, 22 January 1998.²²⁹

Transfers of power

One example of this transfer of control can be found in the formation of the Cambodian National Petroleum Authority (CNPA) by royal decree on 22 January 1998.²³⁰ Under the terms of this royal decree, all phases of petroleum activities should be coordinated by the CNPA. Article 3 of the royal decree declares that the CNPA is a permanent institution, governed directly by the prime minister.²³¹ In this way, the royal decree transferred responsibility for the oil and gas sector away from the MIME to a new institution under the direct control of the prime minister.



Global Witness wrote to Hun Sen in October 2008 to enquire into the rationale behind this decision. At the time of publication we had not received a response. There has been no official explanation as to why, in 1998, Hun Sen made the decision to transfer responsibility for the oil sector away from the MIME to the CNPA and himself. Global Witness however, has concerns about the use of the royal decree as a legal tool which has circumvented public and parliamentary debate.

There are various different ways in which laws can be made and implemented in Cambodia. The Cambodian constitution states that legislative power sits with the National Assembly, and that legislative power is not transferable to any other organ or individual.²³²

In practice a number of other legal instruments are used to elaborate and provide implementing mechanisms for laws passed by the National Assembly. These include sub decrees, (which go past the Council of Ministers, prime minister and King) and royal decrees (which only go past the King and prime minister).

Typically, when creating a state institution or body which has the authority to award state property or make a state decision that has financial value, Cambodia's legislative arm – the National Assembly – would pass a law.²³³ The use of sub decrees or royal decrees tends to be reserved for the establishment of

less powerful institutions. In this context, the use of a royal decree to establish the CNPA – a powerful state institution in charge of disbursing oil concessions of potentially significant value – is out of keeping with normal practice.²³⁴

In the opinion of legal experts consulted by Global Witness, the transfer of such significant powers to a new organisation by royal decree only, without primary legislation passed by the National Assembly, is not only out of keeping with normal practice but is constitutionally dubious.²³⁵

Shortly after the establishment of the CNPA in January 1998, the first of two amendments to the 1991 legislation was passed.

This agreed to change the principles of procedures for the public announcement of bids, stating that "the Ministry of Industry may establish alternative procedures for the issue of bid invitation to companies."²³⁶ In effect, this phrase removed the requirement for the CNPA to hold open bidding rounds for the allocation of the petroleum concessions and opened the door for private, bilateral negotiations.

Bizarrely, the amendment contains a number of inconsistencies. Firstly, it claims to have been signed by Cambodia's two prime ministers of the time, Norodom Ranariddh²³⁷ and Hun Sen. Six months before the amendment was signed, Hun Sen had ousted Ranariddh in a brutal and violent coup. Global Witness wrote to Ranariddh to ask whether he had signed this legislation,



Sok An is the chairman of the Cambodia National Petroleum Authority (CNPA). Under a 1998 Royal Decree responsibility for Cambodia's oil and gas sectors were transferred from the Ministry of Industry, Mines and Energy to the CNPA.

but did not receive any response. Secondly, it refers to the Ministry of Industry as the controlling power, and ignores the newly established role of the CNPA. Regardless of these contradictions, the amendment has been applied to practice, and no open bidding rounds for Cambodia's oil concessions have taken place since then.

One year later in 1999, a second amendment to the Petroleum Regulations appeared to place the power to decide upon the allocation of petroleum concessions solely in the hands of one individual – Cambodia's deputy prime minister and chairman of the CNPA, Sok An.²³⁸

"Following evaluation and examination of a proposal, the Chairman of the Cambodian National Petroleum Authority

may execute such agreement, including, without limitation, an option to enter into a Petroleum Agreement, as is considered appropriate for the development of the petroleum resource industry within Cambodia ... Any agreement executed by the Chairman of the Cambodian National Petroleum Authority pursuant to this Article 5B shall be binding on the Cambodian Government in accordance with its terms."

Extract from Article 5B on 'Decision on the amendment of the petroleum Regulations 1991 of the Royal Government of Cambodia, No.25', signed by Prime Minister Hun Sen on 19 March 1999.²³⁹

The combined impact of both is to remove any safeguards in the initial 1991 Petroleum Regulations for the transparent and equitable allocation of Cambodia's petroleum concessions.

Box 9 | Sok An

Sok An is the current deputy prime minister for Cambodia and chairman of the Cambodian National Petroleum Authority (CNPA). Like many of his peers in the in the Cambodian Peoples' Party (CPP), Sok An began his career as a bureaucrat during Vietnam's occupation in the early 1980s and rose to prominence alongside Prime Minister Hun Sen. An astute political operator, he remained by Hun Sen's side throughout the CPP's ruthless consolidation of power and is now one of the prime minister's closest allies. Their relationship was recently strengthened through the arranged marriage of Sok An's son Sok Puthyuth to Hun Sen's daughter Hun Mali.²⁴⁰

Global Witness has written about Sok An previously in his capacity as co-signatory on many of the original agreements for logging concessionaires in Cambodia.²⁴¹ These concession agreements formed the basis of the disastrous destruction of forests which followed, at great cost to Cambodia's environment and little benefit to Cambodia's economy.

As the regime's second-in-command, Sok An holds a number of other important governmental positions, so many in fact that he has been likened to a many-armed Hindu god,²⁴² due to his tendency to have a hand in everything. It came as little surprise that, when the CNPA was established in 1998, Sok An was elected as its chairman. Since then he has presided over all contracts awarded to oil companies, acting as the point person for potential investors.²⁴³



One cartoonist's view of the many-armed Sok An. He is currently the Permanent Vice Chairman of the Supreme Council for State Reform,²⁴⁴ Chairman of the Council for Administrative Reform,²⁴⁵ Chairman of the National Tourism Authority. He is also Vice Chairman of the Centralist Democratic Institute (CDI), the Asia Pacific Institute; Chief of the Apasara Authority, Chief of the National Land Dispute Authority, Chief of the Cambodia Training Board, Chief of the Royal Academy, Chief of the Khmer Rouge Tribunal, a member of the Council of Royal Administration and Chief of the State Investment Board on Rubber Enterprise.²⁴⁶ In his spare time he also finds time to chair the Cambodian National Scout Association²⁴⁷.

Thump if you love oil: Exploring onshore in Battambang and Pursat

Most of the attention given to Cambodia's oil and gas exploration has focused on the offshore blocks, but onshore exploration has also begun around the Tonle Sap Basin – a vast area surrounding the Tonle Sap Lake which comprises parts of seven onshore Blocks numbered XI to XVII.³⁷³ Surveys done in 1996 by the Japanese National Oil Corporation show areas where oil or gas may be present to the south and the west of the Tonle Sap, but more tests are needed to determine exactly what lies below Cambodia's Great Lake and rice paddies.³⁷⁴

The lake is one of the most important natural phenomena of Cambodia in terms of the ecological and livelihood services it provides. As well as being the largest freshwater lake in Southeast Asia, the Tonle Sap is a designated UNESCO Biosphere Reserve³⁷⁵ and has been nominated for World Heritage status.³⁷⁶

Despite legal protection under the 2001 Royal Decree on the Establishment and Management of the Tonle Sap Biosphere Reserve,³⁷⁷ this fragile biodiversity hotspot is under threat from a variety of man-made factors. Overpopulation in the area is severe, with approximately 1.2 million people living in the floodplain alone³⁷⁸ and the highest rate of poverty in Cambodia, according to the Asian Development Bank.³⁷⁹ The deterioration of the Tonle Sap's ecosystem is already beginning to show: soil and water quality have declined and there are

fears that the Tonle Sap's fish stocks are decreasing.³⁸⁰ The consequences of any reduction could extend to food security throughout the whole of Cambodia, as the estimated 230,000 tonnes of fish caught in the Tonle Sap every year amounts to 40-70 per cent of the country's annual protein intake and is an essential source of food and livelihoods for around two million Cambodians.³⁸¹

Despite concerns about its potential environmental impact, the Cambodian government has begun to allocate licences for oil exploration in the Tonle Sap Basin.

In the first half of 2008, the Norwegian company Petroleum Geo-Services (PGS) conducted two-dimensional seismic testing along roads in Battambang and Pursat Provinces. PGS was working as a subcontractor for the Indonesian company PT Medco Energi Internasional (Medco) which, as explained earlier, is the main holder of exploration rights for Block XII.

According to information obtained by Global Witness, the survey in Battambang and Pursat Provinces covered the districts of Banon, Sangkai, Mong Russei, Koh Kralor and two communes within Svay Doan Keo District.³⁸² However, seismic testing could extend further than this. Most of the surveying was conducted well away from the Tonle Sap Lake – which lies about 40 kms from Highway 5 – but one PGS company official commented that “the lake was also of interest.”³⁸³



Poor management of oil infrastructure has the potential for disastrous environmental consequences

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The testing involved laying out a 5 km-long tangle of wires alongside stretches of Highway 5 and the smaller roads running off the highway. Small sensors were inserted into the ground at intervals of 10-20 meters. Once the cables and sensors were in place, a 'thumper' mounted on the back of a small truck drove slowly along, stopping at each sensor to slam down a heavy square block.³⁸⁴ This low-impact method provides data which will tell if there are petroleum reserves underground.

While no official results have been released, there is excitement amongst locals that a major oil discovery is, quite literally, just around the corner. A commune chief in Pursat Province who accompanied the international testing team, was told by a company representative to expect investment of US\$1 billion in the area, including new roads.³⁸⁵ Local officials who spoke to Global Witness welcomed the potential oil boom, thinking it would lower the price of petrol and provide jobs.

Despite the government's involvement in facilitating the exploration at a national, provincial, district and commune level, there seems to have been little consultation with the community. Some residents were concerned about the possibility of future drilling causing an earthquake, and approached their commune chief. They were assured that any liquid removed from the earth would be replaced with water and that there would be no environmental damage.

The next stage of testing involves drilling and Cambodian officials have already given PGS permission to extend their survey into the rice paddies after the harvest in late 2008.³⁸⁶ As of mid-2008, there had been no community consultation about this

development, but one commune chief thought public forums might happen some time in the future.

Given the instability of its ecosystem, the development of the extensive infrastructure needed to extract and transport fossil fuels could pose a serious hazard to the Tonle Sap Basin. However, despite concerns among environmental groups, the government has so far appeared reluctant to take its potential impact seriously.³⁸⁷ According to the official in charge of the management of the Tonle Sap's oil reserves, the government "will make sure there is no pollution" during exploration.³⁸⁸



Wire cables used for onshore oil exploration. Locals told Global Witness in August 2008 that Cambodian officials had granted permission for the survey to be extended into the rice paddies after the harvest in late 2008

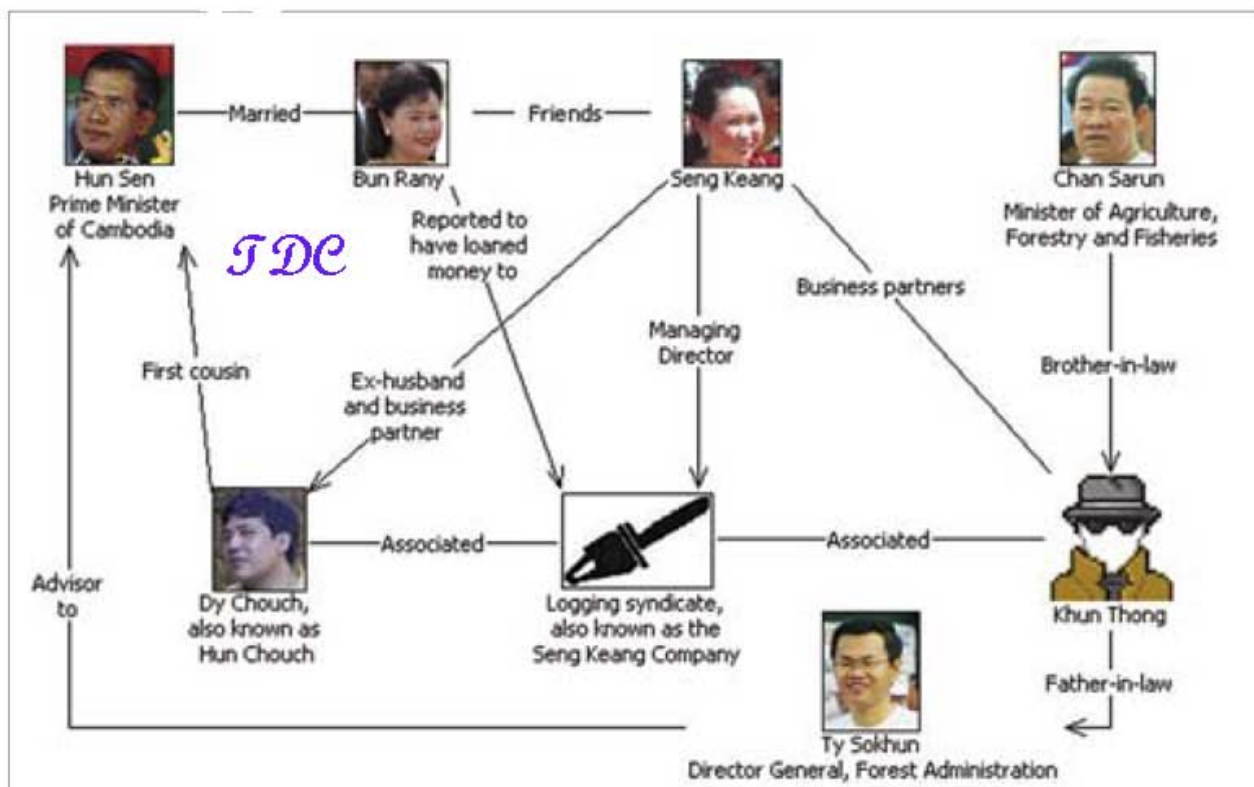


Sawmill near Kompong Thmor reportedly purchased by Dy Chouch, November 2005



CRONOMETR

CAMBODIA'S FAMILY TREES 



Cambodia's premier logging syndicate and friends

1.3 Khun Thong

Khun Thong has the dual distinction of being the brother-in-law of Minister for Agriculture, Forestry and Fisheries Chan Sarun and the father-in-law of Director General of the Forest Administration Ty Sokhun.⁷⁰ Phnom Penh telephone directories previously listed one of Khun Thong's sawmills as Ty Sokhun's residential address.⁷¹

Like Seng Keang and Dy Chouch, Khun Thong is a logging subcontractor and has worked with Kingwood Industry and Everbright CIG Wood.⁷² In 2001, in its capacity as official independent forest monitor, Global Witness exposed a large-scale illegal logging operation by Everbright outside its concession. Members of the government team that subsequently investigated the case blamed Khun Thong's relationship with Ty Sokhun

for their inability to mount a successful prosecution against the company.⁷³

In addition to his work with Kingwood and Everbright, Khun Thong is known to have generated additional income by extorting money and timber from rival wood traders along the Mekong River. According to those he targeted, Khun Thong would accompany his demands with threats to invoke 'crackdowns' by forestry officials answerable to his son-in-law, Ty Sokhun.⁷⁴

A low-profile figure, Khun Thong has nonetheless been described by Dy Chouch as the "backbone" to his timber business and his name appears on a range of documents relating to the group's activities.⁷⁵



Khun Thong likes to keep a low profile



Khun Thong's brother-in-law; Minister of Agriculture, Forestry and Fisheries, Chan Sarun



Khun Thong's son-in-law; Director General of the Forest Administration, Ty Sokhun



Seng Keang company representative in Tumring Seng Kok Heang (bottom right) and company guards

3.3 Log Laundering

Seng Keang, Dy Chouch and Khun Thong appointed as their representative in Tumring Seng Keang's brother Seng Kok Heang, an officer in the elite Royal Cambodian Armed Forces Brigade 70.¹⁴⁵ Seng Kok Heang is known as 'Ta Kao Pram' or Mr. 95 – 95 being his number in the numerical sequence of radio call signs used by his entourage. Seng Kok Heang had previously worked for Mieng Ly Heng and made a seamless transition from logging as forest concession management to logging as plantation development.¹⁴⁶

Tasked with supplying the Kingwood factory, Seng Kok Heang quickly showed himself uninhibited by the perimeters of the poorly demarcated Tumring site.¹⁴⁷ During field investigations in September and October 2003, Global Witness found his loggers cutting over half a kilometre outside the plantation boundaries. Commenting on this illegal expansion of the plantation operation, Chup Rubber Company's on-site representative stated "I don't know ... On the other hand I'm not supposed to know too many things."¹⁴⁸

Seng Kok Heang's cutting within the plantation boundaries involved the removal of all tree cover. Logging beyond the perimeter however, focused on the most suitable throughputs for the Kingwood plywood mill: *chhoeuteal* (resin tree), *phdiek* and other commercial grade species. Having felled the trees, Seng Kok Heang's crews then moved the logs inside the plantation boundaries where they could be presented as a by-product of the authorised land conversion process.¹⁴⁷ The Tumring formula – officially-sanctioned clear-felling within a valuable forest – provides almost unlimited scope for laundering illegally-logged timber.



Logs classified as 'firewood' in Tumring, 2002

5.2 Dealing with Dissent

From the early stages of the Tumring plantation project, local people trying to protect the forest met with threats from the loggers. A report on plantations published in November 2004 by the UN Office of the High Commissioner for Human Rights made a clear link between this intimidation and the presence in Tumring of Seng Kok Heang, alias Mr. 95.

“A man who goes by the name of ‘Ta Kao Pram’ [meaning 95 in Khmer; his radio call sign is 95] heads the security guards of Mieng Ly Heng Company, and has a particularly brutal reputation. He is the brother of Seng Keang, the director of Seng Keang Company, the main subcontractor of Mieng Ly Heng. In Roniem village, people reported that they have been frequently threatened with death for their attempts to block illegal logging and illegal transport.”¹³⁹

Persistent intimidation of this sort gave way to outright violence on 10 July 2005, when Seng Kok Heang is reported to have tried to kill two local men who had played a leading role in protecting villagers’ resin trees.



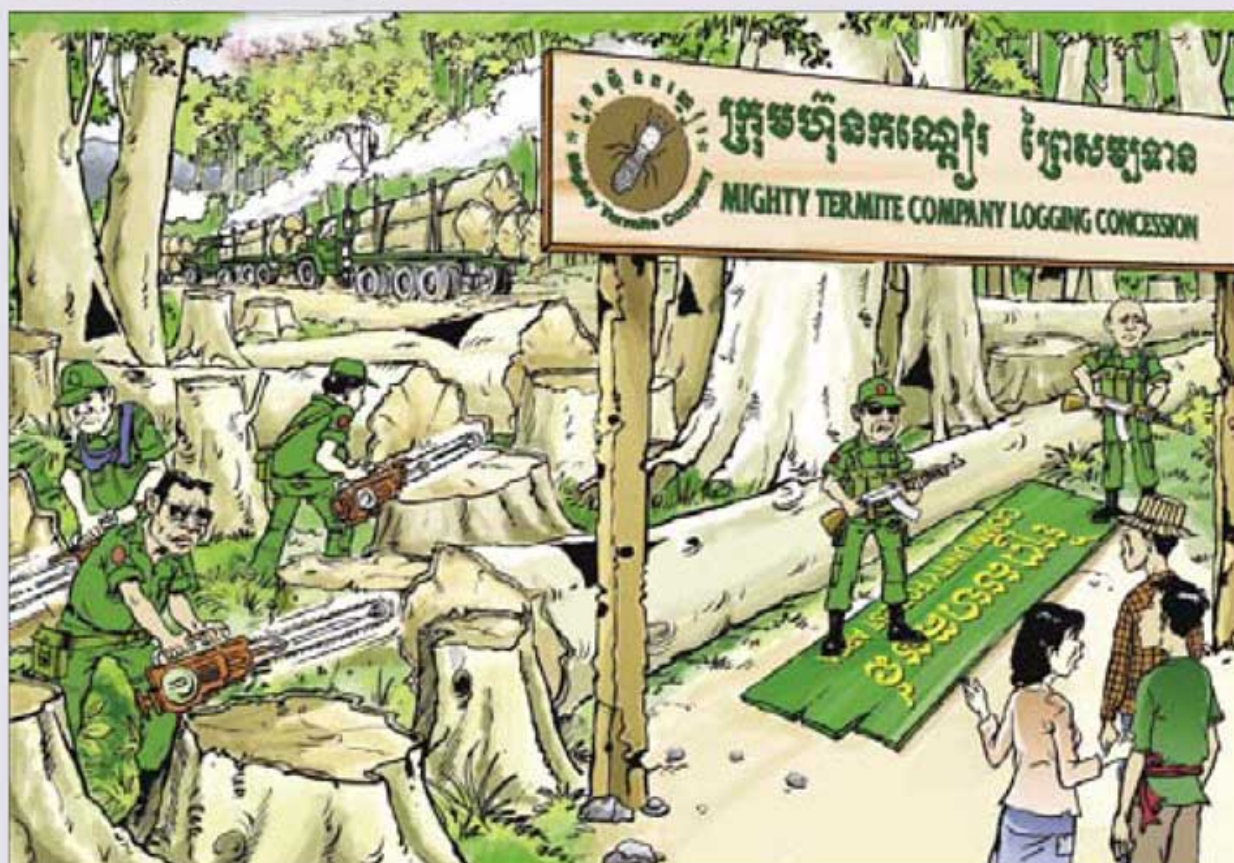
Resin tapper standing in front of one of his trees which was cut illegally by loggers supplying Seng Keang Company, March 2006

Global Witness interviewed eyewitnesses to the attacks on the two men the day after they occurred and conducted follow-up investigations in Tumring in September and November 2005. The UN Office of the High Commissioner for Human Rights investigated the case from July to October 2005. Two other NGOs also went to Tumring to gather information about what happened. The description of events in Box 9 is based on the findings of the investigations by Global Witness, the UN Office of the High Commissioner for Human Rights (UNOHCHR) and the two NGOs.



Stump of freshly cut resin tree outside of Tumring rubber plantation boundaries, November 2005

A Short History of Forest Management in Cambodia



1. The Logging Concession System



2. The Prime-Ministerial Crackdown



3. The 'Restructuring' Process



4. The Plantation Developments

Bushba

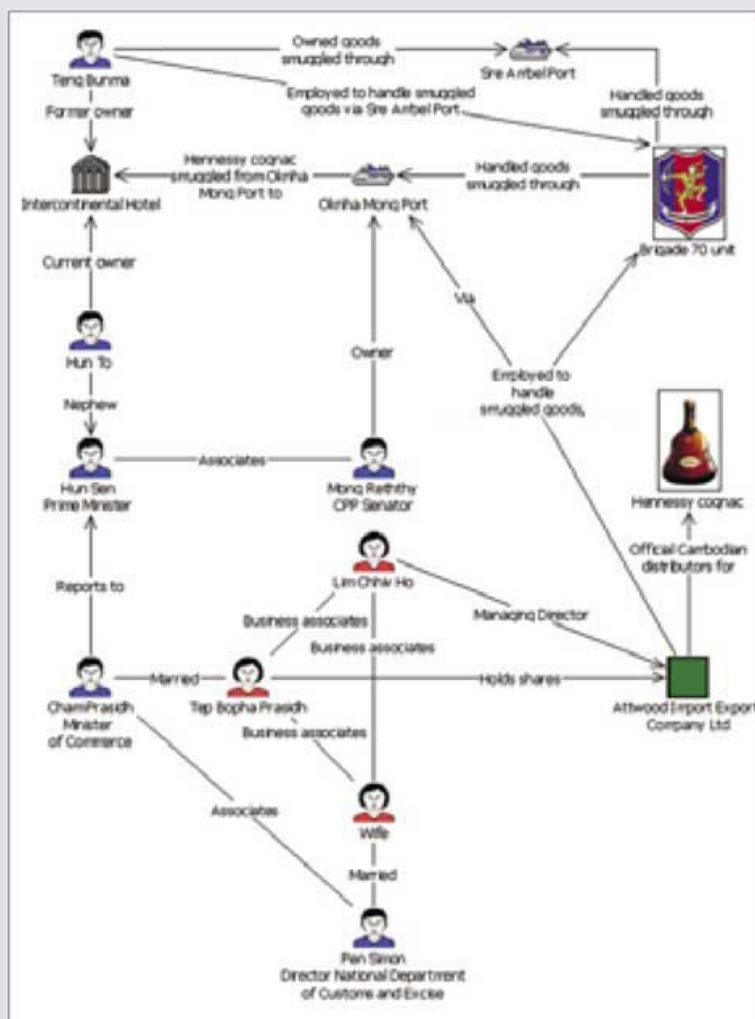
Box 19: Special Deliveries

According to members of his staff, in March 2005 Hak Mao received US\$100,000 for transporting 60,000 bottles of Hennessy cognac from Oknha Mong Port to the InterContinental Hotel⁴³² in Phnom Penh.⁴³³ The InterContinental Hotel building previously belonged to Teng Bunma, a tycoon famous for shooting out the tyres of an aeroplane after the airline mislaid his bags.⁴³⁴ However, hotel staff told Global Witness in 2005 that ownership had passed to Hun To, the nephew of the prime minister.⁴³⁵

As of September 2006, the bar at the InterContinental Hotel stocked three different Hennessy cognacs. Top of the range was the Hennessy Paradis, weighing in at US\$35 per measure or US\$980 per 70 cl bottle. Global Witness does not know which type of Hennessy cognac Hak Mao was asked to deliver to the hotel. At InterContinental prices, however, the retail value of 60,000 bottles of Hennessy Paradis would be close to US\$5.9 million.

Hennessy's official distributor, Attwood, runs a large shop retailing duty free liquor in a building next to the InterContinental Hotel. In January 2007 Global Witness wrote to both Attwood and Hennessy companies to ask if they were aware of the evidence of cognac smuggling, but has not received a response from either firm. There is no suggestion by Global Witness that Hennessy is involved in the smuggling of its products, or that the InterContinental Hotels Group is implicated in any way.

In December 2006 Global Witness staff observed a truck bearing the Hennessy logo leaving a warehouse on Street 430, one block south of the InterContinental Hotel. Two large green military-style trucks parked outside this depot were both labelled 'LM', indicating that they were part of the Long Meng Group, a smuggling operation run by members of the police which is profiled in Box 20. Global Witness has written to both Attwood and the InterContinental Hotel to ask them if they have any connection with these premises, but has not yet received a reply from either company.



Brigade 70, the InterContinental Hotel and Attwood



Hennessy and Long Meng trucks near the InterContinental Hotel, December 2006

Box 20: Long Meng Group

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In the course of investigating Hak Mao and Brigade 70, Global Witness also gathered information on a rival syndicate run by a colonel in the economic police named Long Meng. According to officials in Koh Kong Province, Long Meng has been active in the business since around 2000, arranging delivery of smuggled goods in much the same manner as Hak Mao.⁴³⁹ He manages a fleet of at least 20 large trucks, which are painted military green in the style of the Brigade 70 vehicles. Each truck carries an identification plaque in the front windscreen which begins with the letters 'LM'.⁴⁴⁰

Long Meng's group initially took up the slack left by Hak Mao's switch from Sre Ambel to Mong Reththy's port in 2004.⁴³⁹ In March 2006 however, Global Witness found 'LM' trucks parked at Oknha Mong Port, suggesting that the Long Meng group may have expanded its zone of operations. During the same aerial survey, Global Witness found a cargo vessel labelled with the Long Meng 'LM' logo docking alongside a loaded barge sailing under a Thai flag just off the coast from Keo Phos.

During investigations in December 2006 and January 2007, Global Witness found Long Meng trucks in convoys of up to 25 vehicles transporting goods along National Road 4, which connects Phnom Penh to ports on the coast.



Boat bearing the Long Meng group 'LM' logo, March 2006



Long Meng Group trucks at Oknha Mong Port, March 2006. (Inset) LM logo in the truck's window



Log rafts, logs and sawn timber, Pheapimex concession, Kompong Thom. August 2001





A system that privates people from their resources is a crime against humanity.

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Land eviction

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A system that privates people from their resources is a crime against humanity.



A system that privates people from their resources is a crime against humanity.



A system that privates people from their resources is a crime against humanity.

*Massive deforestation in Cambodia
Not only human are suffered but also nature.*

*Massive deforestation on Cambodia
Not only human are suffered but also nature.*

*Cambodian take care, respect, planed
vietnamese cut and destroy, everything single life...*



They killed them first then stealing their resources



A system that privates people from their resources is a crime against humanity.



A system that privates people from their resources is a crime against humanity.



Massive deforestation in Cambodia by vietnamese company.



*Massive deforestation in Cambodia by
vietnamese company.*



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A logging concessionaire's loaded trucks

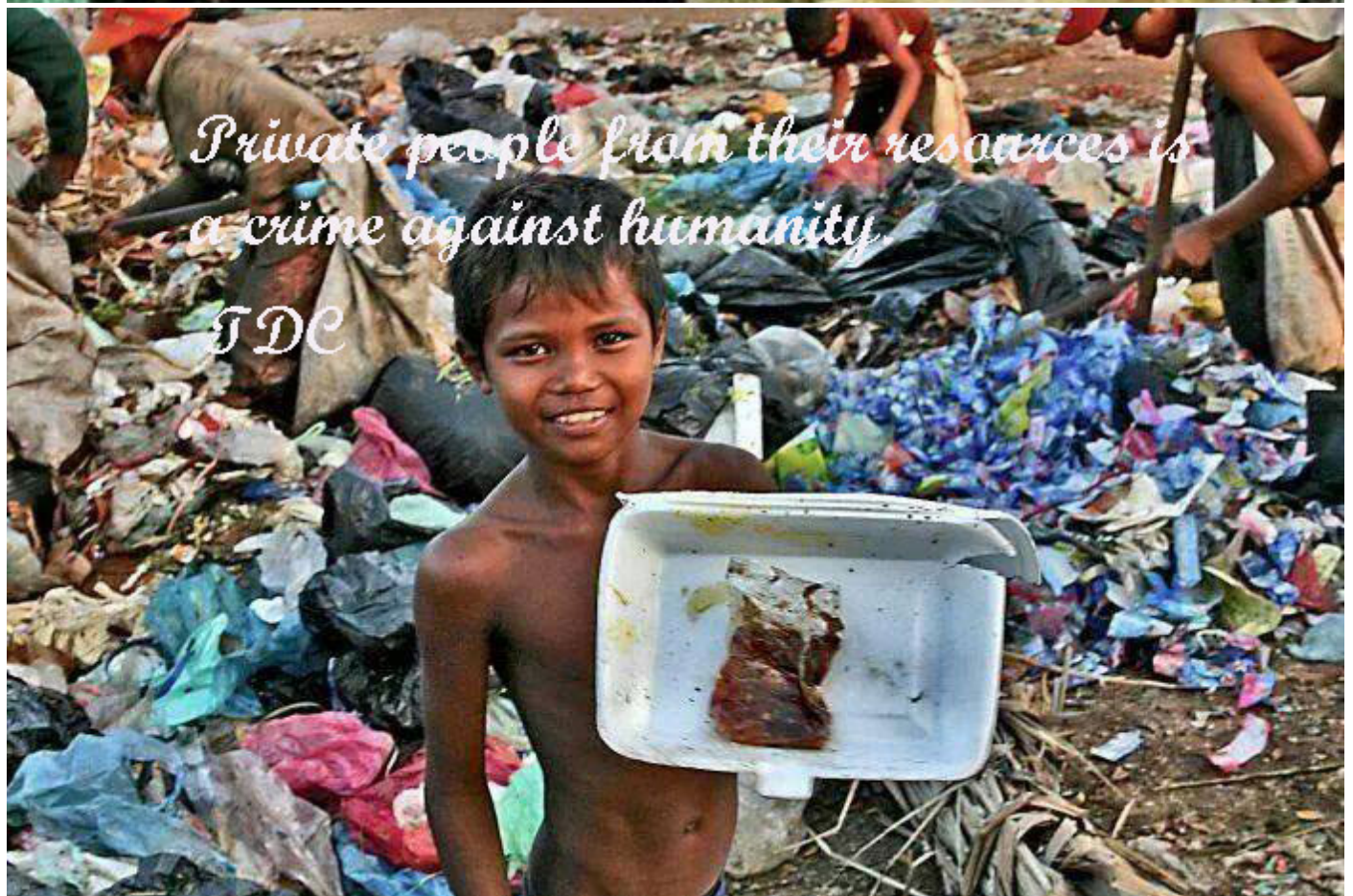
A photograph of a young boy with dark skin and hair, wearing a striped shirt and shorts, sitting on a large, dark, weathered stone elephant statue. The boy is looking down with a somber expression, resting his head on his hands. The statue is outdoors, and the ground is wet with puddles reflecting light. The text "Private people from their resources is a crime against humanity." is overlaid in a white, cursive font, and "JDC" is written below it in a similar font.

*Private people from their resources
is a crime against humanity.*

JDC



SDC
*Private people from their
resources is a crime
against humanity.*



*Private people from their resources is
a crime against humanity.*
SDC