Appendix: Two tables analysing the Cambodian Government’s progress towards key governance benchmarks for land and natural resource management between 2002 and 2008.

Table 1: How to give money and still not influence people

<table>
<thead>
<tr>
<th>Year</th>
<th>Agreed Reforms</th>
<th>Progress towards reform priorities</th>
<th>Donor comments</th>
<th>NGO comments</th>
<th>Media comments</th>
<th>RGC comments</th>
<th>Aid requested</th>
<th>Aid given(^1)</th>
</tr>
</thead>
</table>
| 2002 | Set in 2001\(^2\) | - Anti-corruption law not passed.\(^3\)  
- Continued impunity and high level corruption.\(^4\)  
- Chaotic forest/natural resource management.\(^5\) | UK – "Overall disappointing progress against the action points agreed at the 2001 CG [The] pattern of increased donor support should not be regarded as a given. We need to see that Government is doing its part [...] The passage of an anti-corruption law is still awaited."\(^6\) | NGO Forum – "The progress in policy has not translated into progress in impact [...] Corruption and the culture of impunity remain rampant."\(^7\) | - "[Analysts] warned [that] the slow pace of reforms, endemic corruption and a failure to try surviving Khmer Rouge leaders was testing donor patience, and could result in conditions being attached to aid for the first time."\(^8\) | Hun Sen – "The Royal Government is committed to finalize the draft of the Anti-Corruption Law before end June 2003."\(^9\) | US$485 million | US$530.9 million |
| 2003 | No meeting held | - Anti-corruption law not passed.\(^10\)  
- Very limited action on corruption.\(^11\)  
- Suspension of forest concessions, but continued illegal | World Bank – "Corruption is endemic [...] The volume of bilateral and multilateral donor support needs to be conditioned on the adequacy of Cambodia’s reform" |
| 2004 | Set in 2002\(^12\) | - Anti-corruption law not passed.\(^13\)  
- Very limited action on corruption.\(^14\)  
- Public disclosure and opportunity for | NGO Forum - "NGOs feel there are currently a proliferation of plans, policies, and strategies in circulation. The challenge at this point is to ensure that [...] Despite the government failing to fulfil many previously set benchmarks, international donors pledged $504 million dollars in aid to Cambodia for next year, but warned that Sok An – "[The Anti-Corruption] law will be resubmitted to the National Assembly and the Senate as a matter of urgency."\(^15\) | $500m\(^16\) | US$555.4 million |

<table>
<thead>
<tr>
<th>2005</th>
<th>No meeting held</th>
<th></th>
<th>US$610 million</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>Set in 2004</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **Anti-corruption** | - "Reported cases of corruption shall be brought before the courts for investigation and hearing.’
- ‘The existing draft law on anti-corruption shall be brought into compliance with international best practice’
- ‘Enforcement of Article 18 of Land Law, that private sales transactions on state lands are illegal’
- ‘Increase transparency of state management of natural resources through immediate public disclosure of existing contracts and compliance status (royalties and other key provisions) of contracts governing economic land concessions, mining concessions, fishing lots and continued disclosure of status of review of forest concessions’
- ‘RGC disclose the location and legal status and process for termination of mining concessions, Military Development Zones, economic land concessions and other development arrangement situated on forest land or in protected areas and inconsistent with law governing management of these areas.’ [In annex]
- Information disclosure
- ‘Public authorities must change current practice by displaying a preparedness to share information with the general public’ | - Anti-corruption law not passed.
- Partial disclosure of information on concessions, but limited detail.
- Illegal logging and land grabbing continued. | Germany – ‘The still unsolved problems of land grabbing and land speculation are of great concern […] We hope the information provided on economic land concessions will be quickly followed up with more complete disclosure.’
| NGO letter to CG attendees – “there has been an increase in the misuse of natural resources and other public assets by elite families and crony companies.”
- ‘The request was for $513 million, but the pledges amounted to $601 million,’ said Finance Minister Keat Chhorn. [...] ‘Donors have praised the achievements under Prime Minister Hun Sen.’ | - ‘Reform is not a just shallow word.’

**2007**

<table>
<thead>
<tr>
<th><strong>Anti-corruption</strong></th>
<th>- Anti-corruption law not passed.</th>
<th>World Bank representative – &quot;We</th>
<th>President of Cambodian Human</th>
<th>US$689 million</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2006</strong> Set in 2006</td>
<td></td>
<td></td>
<td></td>
<td>US$790.4 million</td>
</tr>
</tbody>
</table>
- 'Finalize and approve Anti-corruption Law, based on best international practices.' Due End June 2006.

Concessions
- Periodically disseminate information on economic land concessions'. 2\textsuperscript{nd} quarter 2006
- '[Disseminate] all relevant sector information on the activities of government agencies, including information on mining concession and military development zones, as well as donors and NGOs by periodically postings on TWG-F&E website.' Due 4\textsuperscript{th} quarter 2006
- 'Strengthening the enforcement of the Forestry Law, especially combating forest land clearing and encroachment' Information disclosure
- 'Develop a clear policy framework on access to information'. Dec 2006

- Limited transparency on the awarding of ELC contracts.\textsuperscript{32}
- Poor management of natural resources.\textsuperscript{33}

are very concerned that provisions for transparent bidding on ELC contracts are being circumvented.\textsuperscript{34}

Rights organisation Licadho – 'The meeting has become a routine. We know that nothing will change. There will be promises from the government - the same promises as last year - and after the meeting everything will remain the same.'\textsuperscript{35}

being firm with the government has passed,' said one source with extensive experience of donor-government meetings, who requested anonymity. 'I worry that the donor community have missed their opportunity now,' [...] A year on and the anti-corruption law is still languishing in draft form, judicial reform is progressing at a glacial pace, and the government's management of natural resources is being lambasted from all sides.\textsuperscript{36}

is committed without any hesitation to fighting corruption by undertaking many concrete actions to meet this objective including the drafting of the Anti-corruption Law itself.'\textsuperscript{37}
Table 2: Promises & Procrastination - How the Government has consistently failed to fulfill its commitments to protect indigenous land since 2002

<table>
<thead>
<tr>
<th>Year</th>
<th>Agreed reforms - Benchmarks / Joint Monitoring Indicators (JMIs) Set</th>
<th>Progress towards reform targets</th>
<th>Development Partner comments</th>
<th>NGO comments</th>
<th>Cambodian Government Comments</th>
<th>Aid requested by RGC (R) and Aid given by donors (G)</th>
</tr>
</thead>
</table>
| 2002 to 2004 CG Meetings | a) Prepare interim procedure, in full consultation with concerned stakeholders for the delineation and registration of indigenous communal property.  
                  b) Develop a pilot project to test the appropriateness of the interim procedures. | No interim protections for indigenous peoples (IP) land are prepared.  
                  Pilot project begun in three villages: two in Ratanakiri and one in Mondulkiri.  
                  Land grabbing and illegal and coercive "land sales" continue. | Statement of the Presidency, on behalf of the European Union, at CG 19—21 June 2002:  
                  "The overall human rights situation has changed little since last year. Impunity contributes to the persistence of human rights violations. It is therefore unfortunate that little progress has been made in the areas of legal and judicial reform..." | NGO Position Paper:  
                  Our major concern ... is regarding prioritization of activities within the reform program...it is now imperative that decisions about implementation of policies and programs are made such that a real poverty reduction impact is delivered.  
                  Hun Sen:  
                  "I request you to keep in mind our demonstrated track record till now for exceeding expectations and also the promise and potential it denotes for the future. ...despite shortcomings here and there." | | US $ 485 million (R) | US $530.9 million (G) |
| 2004 to 2006 CG Meetings | No specific benchmark relating to indigenous land.  "Pass/enact key laws and sub decrees, governing natural resources management" and "increase transparency of state management of natural resources through immediate public disclosure of existing contracts and compliance status" | Beginning of Kong Yuk and Kong Thom land dispute with Keat Kolney, wife of Secretary of State at Ministry of Land and sister of Keat Chhun, Finance Minister and Chairman of GDCC.  
                  No interim protections for IP land are prepared or implemented.  
                  Land grabbing and illegal and coercive "land sales" of indigenous land continue.  
                  Adoption of Sub-decree on ELCs (2005), Escalation in granting of illegal economic land concessions (ELCs) on IP community land by national and provincial level Government. | Ambassador of Germany at GDCC on 5 October 2006:  
                  "The granting of ELCs over indigenous land ... impacts upon the availability of land for registration. Progress so far seems insufficient to meet the JMIs. While [clarification of the registration process] is taking place, there is an urgent need to enforce measures to protect indigenous land, and declare a moratorium on further land sales or alienation, including through ELCs". | NGO Position Paper:  
                  "the Land Law of 2001 [should be] respected, and land should not be forcefully or maliciously acquired from the poor to be industrialized. The rapid alienation of indigenous minority land, which is ostensibly protected under the Land Law, needs to be stopped and communal titles awarded." | Hun Sen:  
                  "The Government of Cambodia is committed to land security for poor people and that land held illegally by powerful people will be repossessed and redistributed." | US $500 million (R) | US $555.4 million (G) |

*Compiled by two non-governmental organisations working in Cambodia Bridges Across Borders Southeast Asia and the Community Legal Education Centre for the 14th Government Donor Coordinating Committee meeting on 28th April 2009. For further details, contact Bridges Across Borders Southeast Asia at http://www.babsea.org/index.htm.*
2006 CG to 2007 CDCF Meetings

**JMI #4.** A well functioning, transparent and accountable legal and judicial system that protects individual rights:

V.c) Complete drafting the regulations to enforce State Land Management Sub-Decree.

V.e) Adopt RGC's strategy and regulations for managing indigenous land.

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Ambassador of Canada at GDCC on 12 February 2007:

"The situation [of IPs] represents the most severe expression of this unacceptable state of affairs... six years have passed since the adoption [of the land law] and still not a single indigenous group has been issued with title... urgent action is required to protect indigenous rights to land as there is a genuine risk that little land will be left to register once a regulatory framework for collective title is in place."

NGO Position Paper:

"Against the background of tenure insecurities, increasing conflicts over land and resource capture, NGOs would like to see a stronger focus on the actual implementation of laws and policies. ... NGOs recommend the harmonization of interlinked processes, including the identification and mapping of state land, demarcation of forest and protected areas and the registration of the collective lands of indigenous communities."

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Hun Sen:

"The Government wants to speed up land titling... however, given our limited physical capacity, we warmly welcome all development partners who wish to provide more assistance... we aim to register 32% of land by 2010."

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2007 to 2008 CDCF Meetings

**JMI #8.** Implement the legal framework established by the Land Law:

1) Adopt RGC's Policy on Registration and Use Rights of Indigenous Communal Land.

2) Pilot interim protective measures (e.g. identification, mapping, classification and provisional endorsement of indigenous land legal claims) in two provinces, according to sub-decree #118.

Draft sub-decree rejected by indigenous representatives as inadequate to protect their rights and in conflict with the 2001 Land Law. Revisions following public consultation not released. Interim protections applied in only 3 pilot villages. Despite a Court order Keat Kolney resumed clearing traditional indigenous farm land and a burial ground without being held to account. Mining licenses and ELCs continue to be granted illegally on IP community land. Illegal "land sales" continue; a letter from the Mondolkiri Provincial Governor forbidding witnessing of land sales by local authorities is ignored.

Chargé d'affaires, Embassy of Canada at GDCC 4 March 2008:

"It is deplorable that since [the Land Law's] promulgation, not a single Indigenous group has been issued title. Development Partners urge the adoption and implementation of the Policy on the Registration and Use Rights of Indigenous Communal Land. Of immediate concern, is the need for the rapid application of interim protective measures in all [IP] areas."

NGO Position Paper:

"NGOs note that the inadequate level of consultation with indigenous communities throughout the development of the Indigenous Peoples Communal Land Registration Policy has created a document that fails to provide adequate protection for the rights of indigenous people."

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H.E. Im Chhun Lim of MLMUPC:

"I would like to ask all relevant stakeholders to provide cooperation and full support in the effort made by the RGC in preparing a policy on registration for Indigenous people's communal land, avoiding any issues that slowdown the preparation of this process."

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Table 1 Footnotes


8 ‘Cambodia banking on donors for annual handout after a troubled year’, AFP, 12 June 2002.


Concluding Remarks by Co-Chair, Ian C. Porter’, http://www.cdc-crdb.gov.kh/cdc/7cg_meeting/7cg_document/concluding_remark_wb.htm

Country Director for Cambodia, World Bank.


27 Global Witness wrote a letter to Keat Chhon in October 2008 to ask for his comments on the main issues raised in this report as involve or relate to him. At the time of the report’s publication, Global Witness had not received a response. For information on the content of this letter to Keat Chhon please contact Global Witness via mail@globalwitness.org.

28 Charles McDermid and Vong Sokheng ‘RGC counts $601 million blessings’, The Phnom Penh Post, 10 March 2006.

29 ‘RGC counts $601 million blessings’, The Phnom Penh Post, 10 March 2006.

30 ‘RGC counts $601 million blessings’, The Phnom Penh Post, 10 March 2006.


36 Cat Barton, Government deeds to face CG, Phnom Penh Post, 15 June 2007.


38 AFP, ‘Cambodia boosts aid request to 689 million dollars’, 20 June 2007.

Table 2 Footnotes


42 Comments by the Ambassador of Germany at GDCC on 5 October 2006.


45 Comments by the Ambassador of Canada at GDCC on 12 February 2007.


47 Opening Address by Samdech Hun Sen at the Cambodia Consultative Group Meeting Phnom Penh, 2 March 2006.


