

**House Foreign Affairs Committee  
Tom Lantos Human Rights Commission**

**Hearing  
on  
Labor and Human Rights in Cambodia**

**September 11, 2019 – 3:00 p.m.  
2200 Rayburn House Office Building**

**Statement of Daniel K. Mitchell Jr  
CEO, GreenWolf International Limited  
Managing Director, SRP International (Cambodia) Limited**

My name is Daniel Mitchell. I am the Managing Director of SRP International (Cambodia) Limited (“SRPICL”) and CEO of GreenWolf International (Cambodia) Limited (“GWICL”), two American companies operating in Cambodia. Our companies are focused on the development and management of environmentally sustainable and socially responsible timber plantations and the processing of timber grown on those plantations, into outdoor furniture. I would like to express my thanks to Members of Congress, members of the Tom Lantos Human Rights Commission and the other persons that made this hearing possible. I am honored to have the opportunity to testify today.

I am an entrepreneur and a business strategist. I have over 20 years of experience in Cambodia which has allowed me the opportunity to witness the country’s development. I have long been an advocate of foreign investment in Cambodia, successfully attracting millions of dollars over the last two decades.

Prime Minister Hun Sen and the Cambodian People’s Party (“CPP”) have led Cambodia through a period of significant achievement. It has been a period of peace and continued economic growth. Per capita GDP in constant 2010 dollars has averaged just over 5% compound annual growth rate. Key welfare indicators have improved. Life expectancy and education have steadily climbed. Infant and maternal mortality have fallen. However, after initial progress, there has been backsliding over the past few years in democracy and human rights.

I am an unusual person to testify before a human rights commission. I am not a labor advocate nor a democracy or human rights activist. I am not here in support of the Cambodian National Rescue Party (“CNRP”) or any of the other opposition political parties. Frankly speaking, I am here more as a result of conditions than convictions. My primary concern is the practical issue of rule of law. Rule of law is foundational to human rights and the implementation of labor standards. Therein lies the intersection of business and human rights interests. Today I bring firsthand knowledge of the deterioration of the rule of law and the subsequent negative impact on both business and human rights.

April 25, 2018, six of our employees were extrajudicially arrested by the Royal Gendarmerie Force of Tboung Khmum Province (a Paramilitary Police, under the command of General Sao Sokha, Commander of the National Military Police and Deputy Commander of the Royal Cambodian Armed Forces). There was no warrant or writ. The actions did not even present a façade of rule of law or due process. The purpose of the extrajudicial arrests was to allow powerful and wealthy people to seize the timber owned by SRPICL. The land was leased for a period of 70 years since 2002, and the lease was fully paid. We were only able to secure the release of the employees by allowing them to sign a document promising to not re-enter the seized area, under threat of re-arrest, thus surrendering control of the leased land and company assets. Effectively, our employees were held hostage. We were not provided a copy of the letter signed by our employees or even allowed to photograph it. The commander of the Royal Gendarmerie Force of Tboung Khmum Province refused to allow our company’s lawyer to

review the letter, but maintained that if our employees re-entered the seized land they would be re-arrested, despite no legal basis for the threat.

As a direct result of the actions of the Gendarmerie, 16 years of work and several million dollars of value were destroyed over the next 6 months as the timber was cut sold and illegally exported to Vietnam and the stumps bulldozed for a mango plantation, by a wealthy individual with reported government and military connections. This seizure of timber planted, maintained and owned by SRPICL and of the leased land could not have been executed without the unlawful and extrajudicial actions of the Gendarmerie, who forcibly removed our personnel from the land.

When the April 25, 2018 incident occurred, I immediately contacted the US Embassy in Phnom Penh. The US Embassy staff have provided excellent support; writing letters, participating in meetings with the government, visiting our remaining plantation and raising our issue with multiple government ministries (Reference Attachment 1, Letter from Ambassador William Heidt) In November 2018, the US Embassy Defense Attaché raised the issue directly with General Sao Sokha. Unfortunately, this has led to only limited progress through the Ministry of Land Management, Urban Planning and Construction. It limited the seizure to approximately half of the total plantation, but no compensation for substantial losses.

In November 2018, we began a dialogue with the offices of the United States Trade Representative (USTR) regarding the possibility of filing a petition for the review of Cambodia's status as a Beneficiary Country under the US General Systems of Preferences (GSP). SRPICL's petition requested a review nearly identical to the review proposed in the House and Senate bills sharing the title "Cambodia Trade Act of 2019" (H.R 1376 and S34). In March 2019, I reached out to the sponsors of the bills and met with the staffs of Senator Ted Cruise, Representative Steve Chabot and directly with Representative Alan Lowenthal and his staff. All these congressmen have provided support. In April of this year, SRPICL filed a petition for requesting termination of Cambodia's status as a Beneficiary Country under GSP, for actions prohibited in the GSP criteria for Beneficiary Countries, specifically, nullification and repudiation of a contract with a US owned company, as set forth in the Trade Act of 1974 (19 U.S.C. 2462 (b)(2)):

*"Other basis for ineligibility. The President shall not designate any country a beneficiary developing country if any of the following applies: ... (II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, appropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned"*

As a result of our continued dialogue with USTR, and concerns expressed by multiple parties in the US government regarding the safety and security of SRPICL's staff, and the remaining business assets, SRPICL voluntarily withdrew the petition. USTR raised the issue with the

Cambodian Government when Mr. Karl Ehlers, Assistant U.S. Trade Representative for the Office of Southeast Asia and the Pacific, during his visit in June 2019. SRPICL's issue remains unresolved and we are continuing to pursue the matter through the Cambodian Courts and USTR. We are not currently on a path toward a fair and equitable resolution of this matter. If we are not on such a path by the next window of opportunity for filing, SRPICL will resubmit an updated petition to USTR.

Unfortunately, this reflects a trend in Cambodia. Prime Minister Hun Sen's and the CPP's commitment to human rights has always been inconsistent. As Cambodia has moved closer to China, it has steadily moved away from rule of law, human rights and democracy. In hindsight, I believe the turning point began in 2012, when Cambodia, as Chairman of Association of South East Asian Nations (ASEAN), broke with the other ASEAN member countries and promoted China's positions in the South China Sea. Most recently, Cambodia was the first Southeast Asian country to speak out in support of recent government actions in Hong Kong.

Despite the Cambodian Government's rhetoric regarding threat to its sovereignty from the US and EU, in reality, one cannot discuss Cambodia without consideration of China's influence. Today, companies with close ties to the Chinese government have multiple projects in Kampot, Koh Kong, and Sihanoukville, some of which may have military uses. If this is true, it is a genuine threat to Cambodia's sovereignty. There are whispers that the US and China are in the early stages of a new cold war. It is my opinion we are. Cambodia is one of the front lines. In few other places are the philosophies and policies of the US and China put in sharper contrast. Human rights and labor rights are two areas of the greatest differences.

US policy is based on fostering open markets and fundamental freedoms of the individual. The system of the People's Republic of China is based upon an economic model of a centrally planned economy with state owned companies and banks providing the means of implementation of policy and tight control of the individual, the press, and social media to ensure the party stays in control. Like in China, the environment created by the Cambodian Government, is one where a wealthy elite, who are members of or have close ties with the government and military, are able to act with impunity.

The US has long employed a policy of economic diplomacy. The objectives of the US policy has been to assist Cambodia in the rebuilding of its economy, while providing economic incentives to pursue responsible labor policies and implementation of those policies. Garment industry exports have been the backbone for Cambodia's economic growth. The critical element of that growth has been favorable access to the US market. The US is Cambodia's largest single country export market. Far from being a threat to Cambodia's sovereignty, the US policy expects the Beneficiary Countries to establish their own systems of management of the clearly defined requirements for favorable access. The Beneficiary Countries always have the option of not accepting the benefits.

This began with a bilateral agreement with Cambodia, granting Cambodia greater exports of garments to the US beginning in 1999. This attracted foreign direct investment, not from the US,

but principally from Cambodia's more developed Asian neighbors. Favorable access to US markets was the primary driver in these investment decisions. This provided the foundation upon which Cambodia has built a thriving garment industry. In 2016, the US began to allow travel goods to be imported under US GSP program. This provides much needed diversification of Cambodia's exports. This program was extended in April 2018.

Since 2001, the EU has allowed Cambodia to import "Everything But Arms" (EBA) duty-free. This has allowed Cambodia to further diversify its export products. Because of EBA, Cambodia is now the leading supplier of bicycles to the EU. The EU's economic diplomacy includes requirements for responsible labor policies, implementation of those policies, and specific human rights and democracy requirements. Democracy and human rights requirements are not explicitly required under the US GSP criteria, except that the country not be a communist country.

Cambodia needs tariff free access for its products to be globally competitive. Issues of labor productivity, high energy cost, high logistics cost and informal payment requirements and outright corruption, drive up costs of production in Cambodia. As a result, Cambodia has a garment and light manufacturing industry employing over 800,000 persons, a majority who are women. These programs offset these higher costs. It is unlikely the reforms proposed by the Cambodian Government will be able to bridge the gap if the US and EU programs are terminated. Jobs will disappear.

Of Cambodia's \$13.2 billion of exports in 2018, we estimate, US\$3.8 billion went to the US and US\$5.8 billion to the EU. This represents over 70% of total exports. Last year, Cambodia's total exports would have decline by \$ 0.75 billion, a contraction of 2 % without the growth that was provided by the travel goods exported to the US under the GSP program. (Reference Attachment 2).

The US and EU programs are now at risk because of the actions of the Cambodian government. I have described the actions against our company by the Cambodian Government that violated the criteria of a Beneficiary Country under US GSP. Those actions led to our filing of a USTR Petition. The Cambodia Trade Act of 2019, H.R 1376, sponsored by Congressmen Chabot and Lowenthal asks for a review of Cambodia GSP status. EBA is also currently under review for possible termination. A major reason for the reviews was the arrest of Kem Sokha and the dissolution of the CNRP. Kem Sokha is accused of receiving assistance in his election campaign from the US and other countries. Only minimal evidence has been presented. A trial has not been scheduled. Our congressmen in the House of Representatives, face their constituencies for election every 2 years. I believe that they would agree jobs and a growing economy are critical to winning or retaining their seats. It seems to me; it is Prime Minister Hun Sen and the CPP that the US and EU have been helping stay in office through the employment and economic growth these favorable trade programs have created. We are providing the economic prosperity that they are leveraging into increasing autocracy.

Now is the time for Cambodia to make acts of good faith to demonstrate it wants an improved relationship with the US. With the approval of Ambassador Patrick Murphy, as the new US Ambassador, Cambodia has a window of opportunity for a fresh start. I do not believe the Cambodian Government has reached the point of no return, but that point may be fast approaching.

**Attachment A: Excerpt from Letter from Ambassador William Heidt**



*Embassy of the United States of America  
Office of the Ambassador*

August 14, 2018

H.E. Pan Sorasak  
Minister  
Ministry of Commerce  
Royal Government of Cambodia

Dear Excellency:

*Sorasak:*

I am writing to express concerns about a commercial dispute involving an American-owned company, SRP International, and a local Cambodian businessman in Tboung Khmum Province. Promoting mutually-beneficial American business engagement in Cambodia is one of our top priorities, and we hope that this issue can be resolved quickly.

In 2002, SRP International (Cambodia) Ltd., a company owned by U.S. investor Daniel Mitchell, signed a 70-year lease for land in Tboung Khmum Province with the purpose of planting and harvesting teak; the land was leased from Mr. Keat Hong, Chief Consular of District of Seoung. Since 2002, SRP International has made all payments and fulfilled the terms and conditions of the lease agreement.

Recently, relatives of Mr. Keat Hong have asserted that SRP's lease is invalid and have seized control of some of the land, in violation of the terms of the contract. Furthermore, company employees were recently prevented from harvesting the teak by Cambodian authorities – specifically the Royal Gendarmerie Forces of Tboung Khmum.

SRP's International's investment is a laudable effort to support the government's goals of high-value, sustainable forestry and has provided hundreds of jobs to the local community. Its owner, Daniel Mitchell, also testified before the U.S. Congress in 2013 about the positive role of U.S. investment in Cambodia. (The video of his testimony can be found here: <https://www.youtube.com/watch?v=L6yEAZWYWVU>).

As you know, I have been a strong proponent of increased U.S. investment in Cambodia. Disputes like this one, though, make it difficult to persuade U.S. companies to invest here and reduce investor confidence. I would greatly

appreciate your assistance in helping to ensure a quick, fair and transparent resolution to this issue in accordance to Cambodian law.

Please accept the continued assurances of my highest consideration.

Sincerely,



William A. Heidt  
Ambassador Extraordinary  
and Plenipotentiary

CC: Samdech Krolahom Sar Kheng, Deputy Prime Minister and  
Minister of Interior  
H.E. Prak Sokhonn, Senior Minister and  
Minister of Foreign Affairs and International Cooperation  
H.E. Ly Leng, Governor of the Board of Governors,  
Tboung Khmum Province

Enclosure: Summary of SRP Investment Dispute.

## Summary of SRP Investment Dispute

- In 2002, SRP International (Cambodia) Ltd., a company owned by U.S. investor Daniel Mitchell, signed a 70-year lease for land in Tboung Khmum Province with the purpose of planting and harvesting teak; the land was leased from Mr. Keat Hong, Chief Consular of District of Seoung.
- Since 2002, SRP International has made all payments and fulfilled the terms and conditions of the lease agreement as well as employed hundreds of Cambodian residents.
- On 25th April 2018, six employees of Mr. Mitchell were arrested by Royal Gendarmerie Forces of Tboung Khmum while harvesting teak on the property leased by SRP International. In order to be released, the employees were made to sign a document saying that they would no longer harvest teak on the property in question. Neither the employees nor Mr. Mitchell were provided a copy of the signed document nor allowed to photograph the document.
- The arrest was based on a verbal complaint made by Mr. Voeng Rami, son-in-law of Mr. Keat Hong, and was made without an arrest warrant from the prosecutor of Tboung Khmum Provincial Court.
- Legal consul for SRP International contacted Mr. Keat Hong and was referred to his son and legal counsel, Mr. Hong Bunhour of the Khemara Rod Law Group, who reported that the land had been sold.
- This purported sale, if it did occur, was done without due notice to SRP International, in violation of the lease contract. Legal counsel for SRP International has verified that no record of the sale has been registered with the cadastral authorities of the commune or district.
- A local farmer who brokered the alleged land sale, Mr. Hin Hok, has since sold timber on the SRP-leased land and, on June 20, 2018, began to cut and remove trees.
- SRP International has sought intervention by the local police and Forestry Administration officials. Both decline to intervene because of the continued involvement by Royal Gendarmerie Force of Thbong Khmom.

## Attachment 2

### Analysis of Growth of Cambodia's Exports

<b>Actual Cambodia Export Growth</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Total Cambodia Exports (CIA Fact Book)	\$ 10,070,000,000	\$ 12,650,000,000	\$ 13,156,000,000
Total Actual Export Growth Value		\$ 2,580,000,000	\$ 506,000,000
<b>Total Actual Export Growth Rate</b>		<b>25.6%</b>	<b>4.0%</b>

#### What If Exports to US and EU had stop Growing?

##### Without the US Export Growth

Total Cambodia Exports (CIA Fact Book)	\$ 10,070,000,000	\$ 12,650,000,000	\$ 13,156,000,000
Total Actual Export Growth Rate		25.6%	4.0%
Value of Cambodia Export to US Growth (US Census Data)		\$ 252,100,000	\$ 759,300,000
Cambodia Exports w/o US Growth		\$ 12,397,900,000	\$ 12,396,700,000
<b>Export Growth Rate w/o US Growth but w/ EU export growth</b>		<b>23.1%</b>	<b>-2.0%</b>

##### Without the EU Export Growth

Value of Cambodian Export Growth to EU (EU Commission Report)	\$ 92,440,000	\$ 231,100,000	
Cambodia Exports w/o EU Growth	\$ 12,557,560,000	\$ 12,924,900,000	
<b>Export Growth Rate w/o EU growth but w/ US export growth</b>		<b>24.7%</b>	<b>2.2%</b>

##### Without the EU and US Export Growth

Total Cambodia Exports (CIA Fact Book)	\$ 12,650,000,000	\$ 13,156,000,000	
Total Actual Export Growth Rate		25.6%	4.0%
Value of Export Growth to EU and US	\$ 344,540,000	\$ 990,400,000	
Cambodia Exports w/o EU and US Growth	\$ 12,305,460,000	\$ 12,165,600,000	
<b>Export Growth Rate w/o EU or US Growth</b>		<b>22.2%</b>	<b>-3.8%</b>

