

**Cambodia Development Cooperation Forum**  
**June 19-20, 2007**

**Presentation**

by

H.E SAM Sokphal

Chairman of the TWG, Council for Legal and Judicial Reform

Excellencies, Ladies and Gentlemen!

Distinguished Representatives of Development Partners!

Generally speaking, the progress has been substantially made on the implementation of the LJR strategic action plan taking into consideration the human resource and budget capacity constraints of government implementing agencies. Donor partners have been cooperative in providing advice and the relationship continues to strengthen. The commitment of the government and its agency effort are shown but there are always some remarks about the slow process of this reform especially with regards to JMI compliance. Not everything can be perfect in our current working environment. That is why a monitoring mechanism has been established for each performance term. This mechanism shows the good will of the government that requires an acceptable cooperative manner and together with the good faith of the development partners.

Nevertheless, everyone is working hard and is dedicated to accelerating the pace of reform in each phase of implementation as indicated in the set timeframe agreed by both the government and development partners in the yearly CG and GDCC meeting.

Some development partners, due to limited funding and pursuant to their directive policies, suggested to further select *priority on priority* of the strategic action plan. With this suggestion, we bear in mind it is not sure to view that the remaining implementation of the adopted activities may not be fully completed.

PMU prepared the document on the progress of activities implementation for distribution to all parties concerned.

**I- JMIs**

For Cambodia side, we can see the following progress on the 7 (seven) fundamental laws, not taking into account the law on the Anti-corruption, which is being closely monitored by a number of international organizations and government agencies:

- Civil procedure code is **enacted**, and is going to be put into implementation in July 2007;

- Penal Procedure Code (PPC) is adopted by the NA plenary session on the 07<sup>th</sup> of June 2007, then it will be further proceeded to the Senate soon;
- Civil Code bill is also at the NA, it may proceed for adoption next after the set of agenda of the debate of the laws on Anti-terrorism and the Customs law that have been scheduled next to the PPC;
- Penal Code (PC) is proceeding at a slow pace due to the pending **review consistency** of the code with a number of other specific laws. This is not really a purpose of any government agency notably. MOJ, nor any other agency, is deliberately delaying drafting process. It is in fact a technical matter. In the past, before the final draft of this code (PC) completed in 2005, we would not have been advised to review to ensure consistency;
- The draft of the Statute of Judges and Prosecutors is expected to send to the IMM before the first CDCF agenda. It has been a bit slow as the COJ was unable to make a complete and common review without the participation of the MOJ technical representatives team. Difficulties due to non-availability of this MOJ team has resulted in delays in the review and correction of this draft since April of this year;
- The two drafts, Court Organization and the Law on the Amendment of the SCM, are still being handling by the MOJ to ensure a common view with the Judiciary/SCM. During the meeting of the Council for L&JR on the 06 of June 2007, we urged these two laws in particular progress toward the Council of Ministers Office, in order that the COJ may comply with its mandate and fulfills the JMIs;
- Anti-Corruption law is pending for the adoption of the Penal Code before it proceeds any further (Penal procedure code be enacted in the nearest future).

The matter of the **non-availability** of the technical team of the MOJ is viewed with concern as an obstacle to the process. The French Cooperation are aware of this constraint. TWG has raised this issue many times since early 2006 but no-one has been willing to help and share the burden. On the top of the task and responsibility just mentioned, the drafting of a few other laws relating to the protection of Human Rights are tasked to MOJ.

MOJ is suffering full-scale of hardship due to consecutive, heavy work load relating to the law drafting process. So how do we solve this difficulty? No-one should rightly blame MOJ, but subsequent criticism has passed on to the TWG and government in order to provide an answer.

Recently, in mid of May 2007, the government adopted the new revised Sub-decree on the Organization and functioning of the MOJ in term of streamlining the structure of this ministry to allow it to fulfill its mandate.

Talking about this heavy duty, obviously this ministry and other relevant institutions needs to be strengthened and assisted technically and financially as much as possible. The team may work overtime in exchange for incentives but other alternative appropriate support is also require in order to expedite those drafts within the agreed timeframe.

So far, we haven't seen any organization present the right solution to the problem regarding the constraints and weakness of the implementing agencies. French Cooperation alone cannot extend sufficient support to assist the achievement of the set target and timeframe. MOJ itself is unable to solve this issue.

We should urge everyone concerned to make up their mind as to what is a realistic mechanism that will be responsive and reliable in addressing this problem, and to think as to how to build partnerships to achieve the objective of redressing institutional weaknesses. There is also a need to enhance aid effectiveness and mutual accountability to avoid further highlighting of "partially met indicator notes" in the report on the JMIs.

L&JR is seen a very challenging issue since the first involvement in 2002. The public did not wish to see the reform activities preceded without proper financial support. The slow adoption of some remaining JMIs doesn't mean no commitment of the government. The H.A.R continues to base on the common understanding and accountability. The government should be blamed if full financial support is made accordingly to each strategic activity, and the pace of the reform is still going slow. Also most of TWG was not so far been financially supported either.

## **II- TWG/CDCF and New JMIs**

Following the meeting on May 22<sup>nd</sup>. 2007 at CDC, the Chairman of the PCB, TWG and Director of the PMU are working together in order to view comments and changes of the current and new JMIs and priorities based on the actual progress of the implementation of the Strategic Action Plan. The Council for L&JR in its meeting on the 6 of June, also concentrated upon the need to expedite the JMIs and the continued implementation of the strategic action plan.

In accordance with the agenda of the Governance and L&JR Reform issues will be discussed in the first day of the agenda of the CDCF session 19<sup>th</sup>-20<sup>th</sup> of June 2007. This will include suggested discussion topics on the TWG/LJR relating to the TWG/L&JR, especially:

- 1- the establishment of the specialized courts,

- 2- the establishment and strengthening of mechanisms for conflict resolution outside of the court system,
- 3- access to justice and quality of the judicial system.

Some representatives of Development Partners suggested two additional topics relating to the legal framework and resources.

The government effort was not much viewed and appreciated. There are so many daily supplemental tasks that is endlessly fulfilled, for instance about 70 laws and regulations were adopted in 2006 or lately in early 2007 on the top of the JMIs and the 7 fundamental laws. Fairly speaking, the L&JR cannot just bases on the 7-8 basic laws. Likely a human being needs not just to consume food and drink but generally requires inevitably other numerous sustainable elements and complementary factors as well. So I would like to invite those interested to discuss these issues during the time allotted this afternoon.

### **III- CONCLUSION:**

Generally speaking, it is good to see the joint TWG/CDCF has a chance to help to follow up and monitor the implementation of the L&JR and have a common understanding as to real process issues, and also determining how to help each other to advocate on issues of resources mobilization and applicable timeframes. It is important to ensure that the government agencies and institutions engaged in the Justice Sector Reform Program are appropriately supported to ensure that they have the capacity needed to undertake required activities. Also consideration needs to be given as to how to solve the time constraints and other weaknesses of institutions in the reform. Theory and academy provision are not sufficient.

Cooperation and Partnership shall be continually strengthened in good faith in order to adapt to the reality of reform in the Cambodian context in term of strengthening democracy, safeguarding peace, stability, and security. Once the two mentalities and experiences no longer differentiate, thing will move along well.

Thank you very much for your continued participation and support.

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**STATEMENT**  
**by**  
**H.E. SAM SOKPHAL**  
**Chairman of the TWG, Council for Legal and Judicial Reform**

Substantial progress on the reform has been made taking into account the human and financial resource constraints of the government. Cooperation with Donors Partners has been good and continues to strengthen.

Despite understanding resource constraints, criticism on aspects of the reform continues, particularly with regards to the JMI's.

The progress of the 8 fundamental laws, which form the JMIs for 2006/07 is:

- (i) Civil procedure Code is enacted and will be implemented in July 07
- (ii) Penal procedure Code is adopted by the National Assembly on the 07 of July 07
- (iii) Civil Code is at the National Assembly following the set agenda of the Laws on Anti-corruption and Customs
- (iv) Penal Code is proceeding slowly as much as reviewing for consistency is required
- (v) The draft Statute of Judges & Prosecutors is ready to send to the IMM. The non-availability of the MOJ technical review team has delayed the process
- (vi) Court organization is still with MOJ who are consulting with the Judiciary
- (vii) Law on the Amendment of the SCM is still with MOJ who are consulting with the SCM
- (viii) Anti-corruption Law is awaiting adoption of the Penal Code and the Penal Procedure Code.

Non-availability of the MOJ technical team is slowing the drafting process. This is an issue of resources available for the heavy work load that is being experienced as many large laws are needed to be drafted and passed in a short time. There is a need for assistance to MOJ in order to help them cope with the sudden demand for services.

There is a need for donors and government to continue to build partnerships and to redress issues of institutional capacity. Mutual accountability is required for aid effectiveness.

There are three main topics that RGC would like to bring to the attention of donor partners

- (i) the establishment of specialized courts
- (ii) the establishment and strengthening of mechanisms for conflict resolution outside of the court system
- (iii) access to justice and quality of the justice system.

The forum is open to discuss these and other issues that merit discussion.

Thank you very much for your kind attention.