STATEMENT BY MR. TAKAHASHI FUMIAKI
AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF JAPAN TO THE KINGDOM OF CAMBODIA
ON BEHALF OF DEVELOPMENT DONORS IN CAMBODIA
AT THE 8TH GOVERNMENT DONOR COORDINATION COMMITTEE
5 OCTOBER 2006

Excellencies, Ladies and Gentlemen,

On behalf of the donor community in Cambodia, I would like to make some remarks, focusing upon key elements, regarding Cambodia's anti-corruption endeavours.

First of all, we can never emphasise more the importance and urgency of the issue. I myself, as well as other developing partners, have frequently expressed our positions on this important subject, emphasising the need to implement effective anti-corruption policy for social justice, rule of law, democracy, poverty reduction, as well as effective market mechanism and investment-conducive environment of the country.

Despite such importance and urgency of the issue, we are regrettably obliged to express our deep concern and disappointment on the endeavours by the Royal Government of Cambodia. When I was posted to Phnom Penh as Ambassador more than two and half years ago, this issue had already been drawing high attentions by donors. In particular, as I myself pointed out on behalf of the donor community in the Pre-Consultative Group meeting in September 2004, the enactment of an effective and reliable anti-corruption law as well as even more effective anti-corruption mechanisms have been continuously on the agenda in dialogues and consultations between the Royal Government and development partners.

Today, we express our regret that the Royal Government has not yet submitted their draft law on anti-corruption to the National Assembly, which was supposed to be done by the end of June this year. We would like to see this happen as soon as possible. Moreover, we have not heard any single incident in which high-ranking central governmental officials are accused or indicted for accepting bribery, though Samdech Prime Minister Hun Sen admitted several times the need to clamp down rampant corruption cases in the country. We feel that a part of the Royal Government lacks a sense of urgency, and should understand deep frustration shared by the development community.

Based upon these preoccupations, I would like to make some points which the Royal Government of Cambodia is invited to consider and today explain to us their current positions and future strategy to tackle the issue. We donors do hope that the

Royal Government will understand that our advice derives from our sincere desire to work for the sake of the people and government of Cambodia.

First of all, we need to know the exact schedule of the Royal Government for enacting the anti-corruption law, and we need clarifications if there are still obstacles upon the process. We understand that there is an issue of the consistency between the new law and the existing Cambodian legal system, including the recently-completed draft criminal procedure code. Secondly, as His Excellency Ambassador Mussomeli stressed, in delivering the donor statement at the Cosultative Group meeting in March this year, harmonisation of criminal offences with draft penal and criminal procedure codes is crucial.

In this regard, there is an issue of the position of judicial police under the new law *vis-à-vis* the normal command line of public prosecutors under the *Procureur General*. We believe that this issue should be ultimately solved by the Royal Government, taking into account the consistency with the new criminal procedure code as well as Cambodian legal system based upon code-based inquisitorial criminal procedures. It will be also crucial to consider the effective enforcement of the new anti-corruption law in its operation, which I will elaborate in the next part.

Secondly, as Ambassador Mussomeli already explained in his statement in March, the Royal Government is invited to consider the need for the new anti-corruption law to satisfy established international practice as well as introducing well-functioning practice of other countries as far as feasible. Here, we reiterate that consistency and coherence within Cambodian legal system is of utmost importance, as a fundamental basis for the country's nation-building and economic development, thus the Royal Government is recommended to avoid any haphazard application of different legal precedents, without taking into account the country's whole legal system in terms of both substantive and procedural rules.

In this regard, we once again suggest using the United Nations Convention on Anti-Corruption as a useful reference point for discussion. Article 36 of the Convention emphasises the importance of establishing effective and professional enforcement mechanisms, including investigation and prosecution in accordance with the fundamental principles of the legal system of the State Party, in this case Cambodia. The Convention also focuses upon core offences which should be tackled as priorities in Articles 15, 16 and 17. We strongly believe that the Royal Government will concentrate their limited resources upon these fundamental obligations stipulated in the Convention as manifestation of internationally established practice.

Finally, regarding the issue of a preventive anti-corruption body as stipulated in Article 6 of the UN Convention on Anti-Corruption, we believe that the creation of such a body should be strictly in line with the UN Convention, especially its

functional and political independence, while taking into account the consistency with the fundamental principles of Cambodian legal system as well as its limited resources, as I have already mentioned.

From this perspective, we are closely watching the objective and operation of the newly-created Anti-Corruption Body by the Sub-Degree on 22 August. We believe that the new body is harmonised with existing anti-corruption institutions in the country in terms of its purposes and jurisdiction. We also believe that the new body will evolve into at least part of the Supreme National Council for Anti-Corruption once the new law is enacted. We thus strongly encourage that the new body will commence its preparation for necessary work, especially its investigatory operations, in view of the enactment of the new law.

We need clarifications by the Royal Government on these points, and would like to understand that the creation of the new body is part of general anti-corruption strategy in which the Royal Government of Cambodia is engaged under the strong leadership of Samdech Prime Minister Hun Sen and his Rectangular Strategy.

To conclude my statement, I once again emphasise, on behalf of the donor community, that we strongly expect the prompt adoption of the new anti-corruption law as prerequisite for social justice and economic development of Cambodia, and equally expect its proper and effective implementation. In this regard, we, donors, are always ready to provide support and advice to the Royal Government of Cambodia, based upon our firm compassion and everlasting friendship.

Thank you for your attention.