

**Development Partner Statement on
Governance and Accountability with a Focus on Legal and Judicial Reform
delivered by HE Ambassador Adamson (Australia)**

**at the
15th Meeting of
The Government-Development Partner Coordination Committee
Phnom Penh, September 29, 2009**

*Excellency Deputy Prime Minister and Minister of Economy and Finance Keat Chhon,
Excellencies, Ladies and Gentlemen,*

At the outset allow me to congratulate the Royal Government on recent progress in legal and judicial reform, including submission of the Penal Code to the National Assembly. We understand the Anti Corruption Law will be presented to the National Assembly in the coming weeks. These two laws have been the subject of much discussion between the Royal Government and development partners, as of fundamental importance to Cambodia's successful sustainable development. We also commend the ongoing training and appointment of new judges to Provincial Courts.

In his first speech of this fourth mandate Samdech Prime Minister Hun Sen identified improving the functioning of courts and the judiciary as key priorities. Development partners strongly endorse the Prime Minister's statement that effective functioning courts led by an independent judiciary are a cornerstone of democracy, critical to economic development and improving the lives of the poor. We welcome the clear agenda for reform of the courts and judiciary articulated in the Rectangular Strategy II and the National Legal and Judicial Reform Strategy. The agreed Joint Monitoring Indicator is taken directly from these strategies, namely: to establish a well functioning, transparent and accountable legal and judicial system that protects individual rights as defined in the Constitution. Two key priorities have been identified: the legal framework for judicial independence and implementation of court reform, starting with four "Model Courts". Development partners also commend the Royal Government's convening in November of a national workshop on legal and judicial reform. Can the Royal Government inform us today of the intended timing for the workshop?

Independence of the Judiciary is enshrined in the Constitution. Three outstanding basic laws need to buttress the Constitutional guarantee: Law on the Status of Judges and Prosecutors, Law to Amend the Law on the Supreme Council of Magistracy and the Law on the Organisation of Courts. We welcome current progress on a Sub-Decree on the Administration of Courts. This leaves finalisation of governance arrangements for Judges and the Supreme Council of Magistracy. Development partners, through the Legal and Judicial Reform Technical Working Group stand ready to help finalise these laws, facilitate public consultation and assist speedy presentation to the National Assembly.

As guaranteed in the Constitution these two laws must uphold the separation of powers, in order clearly to distinguish between the roles of the Executive and the Judiciary. This level of transparency is essential to increase public confidence in the selection and genuine independence of judges, and in disciplinary procedures taken against judges. We note and welcome that the Supreme Council of Magistracy is taking disciplinary action against judges in breach of the 2007 Code of Judicial Conduct. Corruption in the judiciary is a major source of lack of confidence by the Cambodian people, and potential foreign investors, in the justice system. Development partners also welcome the creation by the Royal Government of an anti-corruption unit, and urge that it be empowered to expose and act against corruption associated with the judiciary.

A further guarantee enshrined in the Constitution is freedom of expression. Alternative voices are a key to a strong and effective democracy. Those who hold different views from Government, and their legal representatives, must be confident of their rights before the courts. Development partners, noting with concern a number of recent lawsuits, wish to highlight the need for all Cambodians, without exception, to be given full protection before the law, according to their Constitutional rights. Prompt adoption of laws guaranteeing judicial independence are essential in this regard, and we urge the Royal Government to achieve the adoption of the basic laws mentioned above, and giving high priority to strengthen the capacity and competence of the judiciary. As I stated earlier, development partners stand ready to assist.

I turn now to the second foundation for judicial independence: the day-to-day operation of the courts. If the legal framework is important, implementation is equally important. The Council for Legal and Judicial Reform has worked energetically with development partners since 2007 to develop standards and criteria for how courts should function. This comprehensive approach is a "model" for full implementation of reform and the Council has selected four courts to attempt to fully implement this model. Development partners look forward to the next steps, which will include funding arrangements.

While the Ministry of Justice has received some increases for court budgets in recent years, this funding remains well short of what is needed. Without budget for the investigating chamber, or facilities for three judges to hear serious crimes, fundamental new laws such as the Penal Procedure Code cannot be implemented. Funding to courts and the Ministry of Justice is one of the priorities under the National Strategic Development Plan, demonstrating the Royal Government's recognition that this is a core function of a modern state. Development partners stand ready to supplement and indeed match Royal Government funds. We urge Royal Government representatives here today to give priority to this essential governance reform.

To conclude, the issues identified here – laws to secure judicial independence, court reforms through the model courts, and core court funding – provide a concrete path towards improving Cambodia's standing as a country committed to the rule of law and to generate confidence of the Cambodian people in the justice system. We offer development partner assistance to implement this agenda in partnership with the Royal Government, and I propose that development partners and the Royal Government continue discussion through informal dialogue at Ambassador level in between meetings of the GDCC.