

## Comments delivered by Jonathan Addleton (USAID/Cambodia) at 5<sup>th</sup> GDCC meeting

December 12, 2005

On behalf of donor community, I am pleased to have an opportunity to convey our common position on the three JMI's under "fighting corruption and increasing accountability".

- I. Reported Cases of Corruption: We would welcome data from Government on cases that have been brought before the courts and input on the approach that has been employed by law enforcement authorities. While in earlier GDCC meetings we have focused on the anti-corruption law, the development partners remain convinced that this is an important JMI and we would welcome the Government's input.
- II. Anti-corruption law: We greatly appreciate MONASRI's process in preparing this law. It has had wide consultations including various parts of Government, the donor partners, NGOs and international advisors as well as an important national conference in August opened by the Prime Minister. However, we understand that comments made by international advisors and civil society still remain to be incorporated in the draft law. We would like to highlight again some important details where the draft law could still be improved to reach international standards:
  - **Independence of anti-corruption body**: In order to ensure independence of the Secretary General, we would like to request for removal of the word ព្រឹត្តិការណ៍ = root pinit (control) and keep the word ណែនាំ = ner noam (guide) in Chapter 3, article 24, point #2.
  - **Investigative power**: The Secretary General and designated staff should have blanketed accreditation as Judicial Police to initiate investigations without permission from the Prosecutor General for each corruption allegation. Chapter 4, Article 28, 1.(c) should stipulate that the Secretary General has the authority to refer cases directly to the Judiciary. The current draft has no fixed terms for the Secretary General and Deputy Secretary General.
  - **Immunity of Informants and Witnesses**: Informants should be given immunity from civil or criminal prosecution for disclosing acts of corruption provided the information is given in good faith. The law should also establish an offence for retaliating against informants and witnesses. We will be happy to provide shortly some input on these Articles from the international experts you have worked with earlier.
  - **Asset declaration**: The law should allow the Secretary General, as Judicial Police, to have direct access to asset declaration documents during the course of investigations.

We understand that the law will soon be sent to the Council of Ministers for consideration of these important issues of international standards and eventual approval. We would therefore suggest preparatory steps be started for an effective implementation. An implementation strategy could be effectively developed through commissioning issues-based consultation with stakeholders.

III. Access to information: In support of realizing the right to information and to strengthen the fight against corruption, we encourage the Government to move forward on developing a policy framework regarding access to information. This is the important third JMI that we have agreed upon.

On behalf of development partners, we would like to assure you of our support on these issues and view action on them as essential for progress on Cambodia's Millennium Development Goals.

Thank you.

**5<sup>th</sup> GDCC – December 12 2005**  
**Intervention on Legal and Judicial Reform**

Your Excellency Senior Minister of Economy and Finance,  
Excellencies,  
Dear colleagues,

On behalf of the donors' community, I would like to congratulate the Royal Government of Cambodia for its effort to provide the country with a reliable judicial system. The National Legal and Judicial Reform Strategy represents one of the key elements of the rectangular strategy, and is crucial for the construction of a democratic society, respectful of human and citizen's rights. It is all the more vital for Cambodia's development as it is fostering security of investments.

The work provided by the institutions involved has allowed progress in drafting and revising fundamental laws. Nonetheless, the objectives set by the Consultative Group in December 2004, i.e. the adoption of 8 fundamental laws and the increase of the judicial sector budget, will not be met by the end of this year.

Three main difficulties can briefly be identified:

- The need for a high level policy statement to guide and coordinate the drafting of these laws. This is particularly needed for the law on the organisation and functioning of courts, which has to define an architecture of special jurisdictions
- The insufficient linkage and communication between the public institutions involved in both the policy development and law-drafting functions. This coordination is necessary for instance in drafting the anti-corruption law that needs to be consistent with the penal code.
- The limited human resources and other capacities of institutions to tackle an overwhelming number of new laws. The donors' community acknowledge that the legislative timeframe set at the last Consultative Group was too much ambitious. Nonetheless, these 8 laws remain interrelated and essential to establish the Rule of Law. The Government should consequently define its overarching priorities to other crucial draft laws, like the anti-trafficking law.

Another concern of donors relates to the enforcement of laws. On the one hand, the implementation decree or sub-decree still need to be published for several adopted laws. This deficiency hampers for example the enforcement of the law on domestic violence. On the other hand, the legislation needs to be disseminated towards judicial profession and citizens. We believe that the Royal Academy for Judicial Profession, the Training Centre for Lawyers and the University will include the new legislation in their training curriculum, but a proper legal and judicial information system is also required.

Considering these remaining obstacles and bottle necks in law adoption, the donors would like to renew the expression of their willingness to support the government in this reform. An appropriate approach could be for the Government to define a road map, with priorities and a time frame over three to five years, for the adoption and the enforcement of all draft laws, as well as of decrees and sub-decrees needed to implement them and the pending adopted laws. The Council for Legal and Judicial Reform, supported by the Permanent Coordinating Body and the Technical Working Group, could be the focal point for the coordination of institutions involved, in order to meet new realistic targets.

The international community is available to explore practical ways to address these challenges and to support RGC build capacity to develop and implement its reform agenda. We would like, on behalf of all donors, once again to express our confidence in the Government to swiftly and efficiently implement this reform and I assure you that the Cambodia's development partners are disposed to help accelerating the pace of these essential reforms, which are awaited by the people of Cambodia.

**Decentralisation and Deconcentration (D&D)  
International Development Partners Statement**

**Presented by UK Ambassador - GDCC meeting 12 December 2005**

Your excellencies ladies and gentlemen. At the CG meeting last December the joint monitoring indicator (JMI) for the Royal Government preparing a Strategic Framework for Decentralisation and Deconcentration (D&D) reforms was agreed. The strategic framework was approved by the Council of Ministers on the 17 June 2005. This represents a significant achievement in an important area for reform for Cambodia that will strengthen local governance and support local development. The principles of the strategic framework support service delivery to local people and strengthen local democracy through building political and social capital, these are important and challenging reforms that the international community fully support.

Another important step has been the approval by the Prime Minister of the establishment of the D&D Technical Working Group (TWG) on the 25 November, with HE Prum Sokha, Secretary of State for MOI as chair. This will provide an important forum for face to face dialogue between the government and stakeholders during the design and initial implementation of new policies. The international development partners look forward to the first meeting of the TWG early in 2006 to help facilitate more effective communication and information sharing.

To build on these achievements there is the need for the RGC to prepare an action plan to outline the implementation of the proposed reforms. This should provide a realistic timeline for the government to take the lead on the substantial work to draft and approve of the organic laws to provide a legal framework for the D&D reforms. The action plan should also identify the main steps for the government to formulate and implement a new National Programme for D&D (NDDP) that will be ready to start in 2007, to carry out the initial implementation of the proposed reforms. The transition from existing programmes and other projects to the **NDDP** will be important to provide continuity of support to commune councils. *National Plan 2010*

This action plan will allow the international development partners to start the collaborative design of new support programmes, as well as revising existing projects to ensure that they are aligned to the new government programme in D&D, due to start in January 2007. To ensure that funds can be approved by donor head offices in time to commence in 2007, most development partners will need to commence the preparation work in April 2006 to ensure there is no delay in funding, or disruption to the government planning and budget cycle.

The international development partners look forward to continuing to work closely with the RGC on this key piece of reform. We welcome the independent study that has been commissioned by the Inter-Ministerial Committee to assess the effectiveness of donor support to D&D. The recommendations will be valuable when the donors start to design the implementation and funding mechanisms in the second quarter of next year to support the new NDDP.

**5<sup>th</sup> Meeting of the  
Government-Donor Coordination Committee (GDCC)  
on 12 December 2005  
Intervention on  
Land and Natural Resources Management  
by H.E. Pius Fischer, Ambassador of Germany**

Your Excellency Chairman Senior Minister,  
Excellencies,  
Colleagues

On behalf of development partners allow me the following remarks:

Development partners of the Royal Government of Cambodia acknowledge the challenges posed by the issue of agriculture and natural resources management including the land issue. Therefore we are working intensively with the Royal Government in a spirit of cooperation to put in place the legal and administrative framework to overcome these challenges. In particular, we are working together to strengthen the legal framework and increase transparency and participation to ensure that Cambodia's natural resources contribute to sustainable poverty reduction and growth.

Today, we can state that in some areas progress has been made:

Regarding the legal framework, we welcome and applaud the fact that the Joint Monitoring Indicator (JMI), agreed to in December 2004, regarding the State Land Management Subdecree has been met both in process (public consultation) and in substance.

We also understand that the Economic Land Concessions Subdecree will be discussed soon in the Council of Ministers. We continue to emphasize, as agreed by the Prime Minister and donors on June 30, that the viability of concessions depends on ensuring that they do not have negative impacts on the livelihoods of local communities or the environment, as well as being awarded through transparent procedures.

Regarding Article 18 of the Land Law, we understand that some steps have been taken by MAFF to address encroachment on forest lands. However we believe that there is scope to strengthen enforcement in critical areas, such as Ratanakiri, where illegal purchase of state lands by wealthy and powerful interests is likely to increase poverty in local communities.

At the same time, given the widespread nature of encroachment on state lands, we welcome the fact that a working group has been established tasked to review how to address the situation of the poor who illegally occupy state land. We are prepared to support solutions, such as social land concessions, which are consistent with respect for the Land Law but which do not encourage further illegal encroachment.

In the area of fisheries, we are encouraged by the approval of the Subdecree on Community Fisheries, but note that the Fisheries Law has not yet been passed by the National Assembly.

In terms of transparency, a key requirement for both sustainable management and an effective investment climate, there has been some progress, but there is still much to be done relative to the Joint Monitoring Indicators.

We appreciate the disclosure of the list of 49 economic land concessions and the subsequent disclosure of additional information, including maps and geographic coordinates of the concessions.

Unfortunately, most of this new information was only provided very last minute so donor stakeholders did not have a chance yet to assess it properly.

If - and I stress **if** - we'll come to the conclusion that the new information meets our expectations and is in line with assurances on disclosure of ELCs made by the Prime Minister during our meeting on 30 June, then this is indeed a very positive step and a good indication of Government's intention to implement the emerging legal framework on state land management and management of concessions.

At the same time, we point out that similar information on fishing lots, mining concessions and economic activities in forested and protected areas, including military development zones, has not yet been disclosed. We are certainly prepared to work with Government to support this additional disclosure both in the context of the technical working groups, but more importantly as a standard practice for effective management of Cambodia's valuable natural resources.

Excellency Chairman Senior Minister,  
Excellencies,  
Colleagues

Almost daily news about land disputes remind us of the difficult reality and the paramount importance of the land issue in Cambodia. The Prime Minister himself said only a couple of days ago

**"There will be no forgiveness on forest land encroachment and grabs of state-owned land for personal ownership, otherwise a farmer revolution can happen"** (quote from Cambodia Daily of 9 December)

Development partners remain committed to work together with the Royal Government of Cambodia to meet this challenge.

Thank You.

**GDCC 12 December 2005**  
**Development partners' statement on the National Strategic Development Plan**  
**(NSDP) 2006-2010**

In a month's time the National Assembly and Council of Ministers will have approved the final NSDP document. This has been developed over the past year through an inclusive Government-wide process. We would like to congratulate the Royal Government, and the NSDP Secretariat in particular, for producing a succinct and comprehensive national plan in a timely and efficient manner.

The NSDP reports recent and welcome findings that poverty has fallen by 10-15% over the past 10 years. However, it also notes that inequality has increased and that several CMDGs will not be achieved at present rates of progress; and provides a good description of the challenges that face the Government in sustaining and accelerating progress in growth and poverty reduction. It then lays out a solid, country-owned framework designed to meet these challenges by aligning resources to priority policies and concrete targets for 2010. The NSDP is, quite properly, presented as a "live" document, to be elaborated in sectoral and sub-national plans and periodically monitored and revised over the next five years. With this in mind, we would highlight the following critical issues:

*Firstly*, to realize the promise of the NSDP requires strong, clear institutions that can translate the framework into detailed sectoral and local plans, build links between the NSDP and budgetary processes, and monitor and report on progress. The NSDP Secretariat that was created to coordinate the preparation of the NSDP needs to be extended – and strengthened – to fulfill this implementation role and to coordinate between the various branches and levels of Government. *Secondly*, managing the implementation and monitoring of the NSDP also requires working with donors to align their support to Government priorities, and engaging civil society as a constructive partner in national development. The Technical Working Group on Planning and Poverty Reduction provides the natural forum for managing partner support to the implementation and monitoring of the NSDP, and should meet soon (and continue to meet regularly) to coordinate support to the Strategy. The other 17 Technical Working Groups will in turn need to take the lead in operationalising the NSDP in costed activities and monitoring at the sectoral and local levels.

*Finally*, the impact of the NSDP will depend critically on its ability to influence how resources – domestic and external – are used. We welcome the Government's commitment to align the Public Investment Plan to NSDP priorities. However, building the institutions and processes needed to make these linkages a reality takes considerable time and effort. We therefore urge the Government to begin planning *how* to link the NSDP to the PIP as a matter of urgency. The NSDP is an extremely valuable statement of Government goals and priorities. We are all hoping that –unlike past plans and strategies—the NSDP will also become the instrument to influence the allocation of Government and ODA resources and to help Cambodia attain its MDGs. We look forward to discussing the NSDP and a PIP that is aligned to it at the Consultative Group Meeting to be held in March 2006.

**GDCC 12 December 2005**  
**Development partners' statement on**  
**Human Development- Health and Education**  
**by Mr Douglas Gardner, UN Resident Coordinator**

Your Excellency Keat Chhon - Senior Minister and Minister of Economy and Finance,  
Excellencies,  
Colleagues,

The government and donors have recognized the critical and multi-sectoral nature of health, gender, poverty, food security, nutrition and HIV/AIDS as elements of human development. We note these are reflected in the NSDP and progress monitored in the CMDG update.

Timely disbursement of Government budget is vital for the delivery of basic preventative and curative health services, as well as education at all levels. Such efficiency is critical to the improvement of the health of women and children, and for educational achievement. Timely disbursement of Government budget allows national, provincial and district health and education managers to direct resources according to the needs of the population, and in particular the poor. It ensures health workers in communities, text books and teachers in classrooms and midwives attending safe deliveries.

The disbursement of committed health care budgets has shown a pattern of increased transfers over the past years, with the disbursement rate in 2005 more than doubling since mid-August. This is welcomed. We look forward to improving rates of disbursement in 2006 as the Public Finance Management reform measures take effect. We welcome the Ministry of Economy and Finance plan to close the accounts for 2005 by the end of December. We are however concerned that a Ministry of Health report shows more than 50% is still to be released for the last two months of the year and that transitional arrangements are unclear. Funding for the implementation of the first Health Annual Operational Plan in 2005 should be ensured. This plan is a key element of the MoH contribution to the Public Financial Management reform process. A report from the MoEYS shows that the percentage of Priority Action Programme (PAP) disbursement at the end of two recent fiscal years compared to PAP allocation for the that year had declined from 61 per cent in 2001 to 15 per cent in 2004. Accordingly, the carry-over disbursement into the next fiscal year increased dramatically during the same period. The long delay in PAP disbursement had caused confusion at the school directors and teacher level and has also led to schools resorting to credit purchases, increasing costs and reducing operational efficiency.

In 2005, the current year disbursement rate has improved significantly to 51 per cent. Disbursement of the remaining 49% however, still remains a challenge. With the planned implementation of "no carry-over disbursement policy" to be effective from next year, MoEYS faces the risk of "losing" part of the 2005 PAP budget unless decisive action is taken to accelerate disbursement in the remaining month of 2005. Early allocation of the 2006 PAP funds is essential to implementation of the 2006 education sector plan and avoidance of disbursement delays and a possible eventual loss of funds.

These comments have been perhaps quantitative in nature as per the relevant JMI, but they also reflect the deep substantive nature of Cambodian service delivery and resulting impact on Cambodian children, women and men.

**Donors' Statement on Partnership & Harmonisation**  
**5<sup>th</sup> GDCC Meeting, 12 December 2005, Phnom Penh**  
**by HE Lisa Filipetto, Australian Ambassador**

Your Excellency Chairman Senior Minister, Excellencies, Ladies and Gentlemen,

I am very pleased to offer some comments on behalf of the donor community on the subject of Partnership and Harmonisation.

The adoption of the Paris Declaration this year by nearly 100 countries was a major step forward, setting out a consensus position on how we can promote aid effectiveness through better partnerships. The Paris Declaration outlines commitments in five key areas: ownership, harmonisation, alignment, managing for results, and mutual accountability. We welcome Cambodia's continuing global role in the OECD-DAC processes, and its offer to support the piloting of new monitoring frameworks

In Cambodia, we have made considerable progress over the last year in embedding partnership principles into our development cooperation processes. The 18 joint Technical Working Groups and this quarterly Government-Donor Coordination Committee are new mechanisms which are already showing great promise in promoting information sharing, joint activities, constructive policy dialogue and harmonised practices. These approaches to promoting harmonisation and alignment will be even more important as we work together – government and donors - to align behind and support the implementation of the National Strategic Development Plan.

We have been hearing reports this morning about the concrete results already being achieved through the joint efforts of government and donors coordinated through a number of the TWGs. However, in some other areas there has been less progress. As we are still at learning stages of this process, it will be timely over the next few months to conduct a stock-taking of TWG progress, identifying options to improve their impact on aid effectiveness, including through providing better support and coordination across TWGs. Government ownership and leadership of the development process, including in taking forward key reform actions such as those highlighted in the Joint Monitoring Indicators, is particularly important.

Donors recognise the Royal Government's leadership in drafting the Strategic Framework for Development Cooperation Management. We appreciate the efforts by the Royal Government to clarify the roles and responsibilities of different institutions in relation to development cooperation management and we look forward to further guidance and discussion on this issue. We commit ourselves to monitoring our performance against the Paris targets and in particular to strengthening the predictability and transparency of our aid flows. Donors also commend the strong initiative by the government to formulate a multi-donor support program to implement the Strategic Framework for Development Cooperation Management and provide coordinated assistance to key initiatives to promote aid effectiveness.

Donors are strongly committed to continuing to work in partnership with the Royal Government of Cambodia to implement the Paris Declaration, in order to improve aid effectiveness and achieve our shared objectives of reducing poverty and hunger and achieving the Cambodian Millennium Development Goals.