



KINGDOM OF CAMBODIA
PERMANENT MISSION TO THE UNITED NATIONS

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**Statement
of**

**H.E. Dr. Kosal Sea
Ambassador, Permanent Representative
of the Kingdom of Cambodia
to the United Nations**

on

the Extraordinary Chambers in the Courts of Cambodia

**New York
Thursday, 31 January 2008**

Excellencies,
Distinguished delegates,

First of all, allow me on behalf of the Royal Government of Cambodia to express my deepest thanks and appreciation to Controller, Mr. Warren Sach, Assistant Secretary-General, for his thorough presentation on “Budget for the Extraordinary Chambers in the Courts of Cambodia (ECCC)”, as well as to extend my gratitude to the Department of Economic and Social Affairs, and UN Secretariat for its efforts in convening this important meeting.

Twenty nine years ago, on 7 January 1979, the Cambodian People began what we call “our second life”, as we were finally liberated from the suffering who endured for 3 years, 8 months and 20 days under Democratic Kampuchea, during the period over a quarter of our population perished.

In August 1979 – just seven months after the overthrow of that regime, we held the world’s first genocide trial in Phnom Penh in which two Khmer Rouge leaders, Pol Pot and Ieng Sary, were convicted. In December 1997 the United Nations General Assembly voted to request the Secretary General to respond to a letter from the Cambodian Co-Prime Ministers seeking assistance in bringing those responsible to justice.

Following this historic vote, the United Nations and Cambodia began to work together and in 1999 came to the “Cambodian model”– the first time a hybrid court was envisaged anywhere in the world. It was to be neither a purely domestic court nor an international tribunal (like the International Criminal Tribunal for the former Yugoslavia - ICTY or the International Criminal Tribunal for Rwanda - ICTR) but rather a national court with international characteristics.

It took a long time – longer than any of us imagined – to bring this new concept into reality. This was not an easy task, as it required not only seeking mutual agreement between the negotiating parties, but also gaining consensus among all the political parties and general public in Cambodia and among the Member States of the United Nations.

It was precisely to assist this process that the Group of Interested States (GIS) was formed by certain Member States in mid-2002, in order to seek a way to restart negotiations following the United Nations decision to withdraw. Five years ago, on a very snowy 7 January 2003, the Cambodian delegation, led by then Senior Minister (now Deputy Prime Minister) H.E. Mr. Sok An, who once again

sat down at the negotiating table with the United Nations counterpart, led by His Excellency Mr. Hans Corell, Under Secretary-General and UN Legal Counsel. By March that year, the Extraordinary Chambers in the Courts of Cambodia (ECCC) as we know it today was agreed between the Royal Government of Cambodia and the United Nations.

It is opportune for me to extend our deepest thanks to the founders of the GIS, countries that later came forward as significant funders of the ECCC and have continued to be firm supporters of the process, not only in New York but also in Phnom Penh in the Friends of the ECCC.

As you may recall, in February 2006 a start-up team led by the national Director of Administration (His Excellency Mr. Sean Visoth) and International Deputy Director of Administration (Ms Michelle Lee) moved into the premises and began the task of setting up the infrastructure of the court, and in May 2006 the Supreme Council of Magistracy, chaired by His Majesty the King Norodom Sihamoni, appointed 29 judicial officers, both national and international, to their positions.

We can proudly say that although many years had lost since the crimes were committed and the long time spent in negotiations, the ECCC has shown itself to be exemplary, when compared with its international and hybrid counterparts:

Internal Rules – despite of the fact that the ECCC is the first hybrid tribunal to be established in a civil law system, and the first to be mandated to follow national procedure, the ECCC completed the work of drafting and adopting its Internal Rules in record speed. Other international and hybrid tribunals have taken years to do this task.

Arrest and charging of suspects – the first suspect was arrested in less than two weeks from the date of the Introductory Submission, or six weeks from the adoption of the Internal Rules. All five suspects named therein had been brought to the ECCC, charged and placed in provisional detention in just four months of the Introductory Submission. No other tribunal has acted in a fast motion like that. The International Criminal Court (ICC) has only two detainees after five years in operation, and six outstanding arrest warrants; the International Criminal Tribunal for the former Yugoslavia (ICTY) was fully operational in 1994 and took about 9 months until the first persons was arrested, and 4 main suspects are still at large.

Financial aspects—the ECCC is the smallest tribunal, with the lowest budget. It has a staff of around 300 (200 national and 100 international), compared to over 1,000 at the ICTY and ICTR. The current total budget of the ECCC of around \$20 million per year is relatively small, as we can see by comparing it to that of the ICTY (now \$157.5m per annum) and ICTR (now \$138.5m per annum).

At this point I wish to stress that, in contrast to other international or hybrid courts, where the international community has borne almost the whole financial charge of the courts, the Royal Government of Cambodia is contributing approximately 15% of the total costs of the ECCC.

Excellencies, Distinguished delegates,

Before concluding my remarks, I feel it is necessary to address some of the particular difficulties faced over the past year during which the ECCC has suffered from continuing circulation of unspecific allegations of extortion of salary kickbacks and hiring of unqualified staff. These allegations have been extremely damaging to the public perception of the ECCC and its staff, and have served to undermine the real achievements made.

The Director of Administration has stated firmly that no kind of corruption or extortion is allowed at the ECCC, and that he will take strong action if any such practices come to his attention. The Office of Administration has asked each employee to sign a Code of Conduct pledging not to undertake such practices, established a Complaints Reception Committee, and installed six complaint boxes throughout the building. He has encouraged any staff member who wishes to lodge complaints on any issue to do so without fear of reprisal.

As you may know, principally as a result of these allegations, the Cambodian side has been through an almost unending series of investigations in addition to the regular and rigorous program of spot checks and audits agreed with the UNDP in mid-2006 – all of which have resulted in good assessments and reports.

In early 2007 the UNDP commissioned human resources management audit carried out by Candide Consultancy, followed by the UNDP's Office of Audit and Programme Review (OAPR). The observations and recommendations by OAPR raised some very serious questions and, indeed, OAPR went so far as to suggest that the United Nations should consider withdrawing from the ECCC. This shocked all parties – the UN, the donors and the staff of the ECCC alike.

Over the past six months since this OAPR report was delivered, a number of more searching investigations have been undertaken, and they have shown a rather different reality.

An in-depth review of the salaries paid to the Cambodian staff was made by an independent consultant appointed by the UNDP – and they were found to comply with the prior agreement reached between the Royal Government of Cambodia and the United Nations that Cambodian professional staff shall be paid 50% of their UN counterparts.

In regard to the quality of the ECCC staff, a job matching exercise was carried out to examine all Cambodian staff between P4 and FS3 – comparing the qualifications and experience of the staff appointed to those stipulated in the vacancy announcement – again, the compliance rate was found to be extremely high. Of course, nobody denies that weaknesses do exist, among both the Cambodian and international staff, and that much more attention is needed to strengthen certain critical areas such as translation and interpretation, so fundamental to a hybrid court with three working languages.

All in all, the Director of Administration has asked me to inform you that he feels confident in the competence and the integrity of his staff, and regrets that morale and the public image of the ECCC have been so badly affected by unsubstantiated rumours. He has noted the positive progress made by all parts of the court during 2006 and 2007, and wishes to convey his determination that the Office of Administration will continue to provide a sound underpinning and support for the judicial process.

In conclusion, my Government wishes to reiterate its strong desire for this process to achieve its goals as soon as possible, being particularly mindful of the advancing age of the Suspects, as well as the long time that the Cambodian people have waited for justice to be done. We wish to maintain the pace shown in adopting the Internal Rules and effecting arrests, and further, we are determined that the ECCC should continue to show the lead in cost-effectiveness as well as in offering opportunities for public participation in the process.

Finally, I would like to express on behalf of the Royal Government of Cambodia, our great appreciation to all Members of the GIS who have contributed to the ECCC. We hope that all of you, distinguished Members of the GIS, will join with the Royal Government of Cambodia in providing the financial basis that will enable the ECCC to continue to discharge its historic responsibilities until the conclusion of its mandate.

Thank you