

CAMBODIA

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prepared by

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THE CURRENT SITUATION IN CAMBODIA IS APPALLING THE DONOR COUNTRIES MUST REACT URGENTLY

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THE CURRENT SITUATION IN CAMBODIA IS APPALLING THE DONOR COUNTRIES MUST REACT URGENTLY

I- POLITICAL SITUATION: A SLIDEBACK TO A COMMUNIST-TYPE REGIME

The democratic process envisaged for Cambodia in the 1991 Paris Peace Accords, beginning with the 1993 UN-organized elections, has been brought to an end. In its place is a country now governed by an increasingly authoritarian régime that is all too reminiscent of the past. Despite the election victory of the royalist FUNCINPEC party, power has been retained by the former communist Cambodian People's Party (CPP).

The changes that have occurred in the last three years -- a new Constitution, the restoration of the monarchy, the formation of a coalition government between neo-communists and royalists -- are only cosmetic. In reality, a communist-type system -- characterized by a total fusion between the ruling CPP and the State -- remains firmly in place. The Constitution is not respected. There is no separation of powers. The National Assembly serves merely as a rubber-stamp parliament. Lacking independence, the Judiciary is under the control of the Government. The Constitutional Council, similar in function and scope as the *Supreme Court* in the United States or the *Conseil Constitutionnel* in France, has yet to be formed. In short, the Government exerts its authority without any checks and balances.

Moreover, there is no independent body, such as the *General Accounting Office* in the U.S. or the *Conseil d'Etat* and the *Cour des Comptes* in France, to control or to audit the Government. Government decisions are often arbitrary and illegal, yet there are no institutional mechanisms through which to question such decisions, let alone to appeal against them. Governmental decision-making is concealed from the public and public contracts are also kept secret. This applies particularly to a forestry policy that has led to large-scale and uncontrolled deforestation with very grave and damaging consequences for the environment.

Further, the rights and freedoms of the citizens such as expression, assembly and association are denied by the Cambodian authorities without any regard for the Constitution or the numerous international human rights covenants to which Cambodia is signatory. While government critics are silenced by threats to their lives and livelihood, journalists are killed in broad daylight or sentenced to prison. Opposition political parties are banned from operating anywhere in the country. And outspoken MPs are expelled from Parliament for exposing government corruption and other abuses of power. The political and civil rights of the Cambodian people are under assault by a government that is intolerant of dissent and a climate of fear prevails.

II- ECONOMIC SITUATION: INCREASING ABUSES AND CHAOS

Since 1992, Cambodia has received the largest per capita amount of international aid than any other country. Nevertheless, mismanagement in the public finance sector and of the country's natural resources has increased at a rapid pace and continues unabated today. As a result, the living conditions of the vast majority of the population have not improved due to:

1- the disastrous impact of deforestation which has brought about successive natural disasters (floods, droughts, storms), causing chronic food shortages throughout the countryside where more than 80% of the Cambodian population live.

2- the mismanagement of the nation's economy and the embezzlement of public funds through systemic corruption: State revenues are diverted from the National Budget (parallel budgets are run by the two Prime Ministers, the Army, the CPP, ...); State assets are sold or leased secretly and illegally (e.g. Embassies in Bangkok and Tokyo). Public contracts, awarded to dubious companies solely on the basis of "commissions", fail to make any contribution to the economic development of the country.

3- the lack of political will, and the resistance of the powerfully entrenched interests of the CPP through its association with the regional Mafia, to implement structural reforms such as land, tax, administrative and civil service reforms, and to set up the appropriate legal framework in order to attract serious and reliable long-term foreign investors.

4- a continuing civil war which accounts for 58% of the current expenditures in the 1995 National Budget and helps to conceal the many irregularities and abuses of power. This includes the payment of salaries to ghost soldiers, purchase of overpriced equipment and other inflated expenditures involving "commissions", collection of "taxes" and "duties" by armed groups acting as substitutes for the official Tax Department, massive illegal logging and smuggling, drug trafficking, covert borrowings on behalf of the State contributing to the parallel budget run by the Army.

The irregular and illegal practices involve enormous sums that exceed the total amount of international assistance received by Cambodia every year. Some examples include:

- logging revenues alone diverted from the National Budget amount annually to at least \$200 million over the last few years (more than two million cubic meters of wood were sold each year to foreign traders who disbursed more than \$100 per cubic meter to their Cambodian partners). As a basis for comparison, the 1995 State Budget was \$489 million of which \$232 million was offered by international donors.

- the Cambodian Embassies in Bangkok and Tokyo are worth \$100 million and \$600 million respectively.

- the \$1.3 billion Sihanoukville project was awarded to a small and unknown Malaysian company (Ariston) that promised to pay "commissions" totalling \$108 million (according to a statement by Prime Minister Norodom Ranariddh himself) but has met none of its contractual obligations to date. Nearly two years after the signing of the contract, construction has not yet begun. In the meantime, by not selecting the right partner for this most important project from the start, Cambodia has lost tremendous development, investment and job opportunities -- nor have taxes been collected to support the State budget. In fact, the country is stuck in a legal entanglement involving possible blackmail.

- State-owned rubber plantations provided one-third of the total State revenues before the war, yet this revenue is non-existent today. Nevertheless, customs figures reveal that Cambodia's rubber exports totalled \$37 million in 1995. Although this revenue was collected by institutions and people who were not entitled to do so, the two Prime Ministers last year alone allowed the cutting of rubber trees estimated at \$22.5 million. These funds were not transferred to the State coffers.

III- THE 1998 ELECTIONS ARE BECOMING MORE AND MORE PROBLEMATIC

The political situation in Cambodia today does not bode well for the 1998 national elections. The lack of attention given by the two Prime Ministers to future elections demonstrates that they are not committed to holding them according to the constitutional schedule, if at all. The absence of an open national debate about the proposed election system and law is just one example. The pre-election activities that are essential to a "free and fair" outcome -- including the conduct of a national census, identification and registration of voters, adoption of nationality and electoral laws, constituency definition, creation of an impartial election commission, recruitment and training of electoral staff -- are all being sacrificed to the chaotic political disputes that characterize the faltering relationship between Cambodia's top leaders and their parties.

If there is anything that the two Prime Ministers agree on, it is that they are both reluctant to place their mandate to the test of a popular consultation. They could easily justify postponing the elections for the following three reasons. First, although the United Nations granted unprecedented priority to the 1993 elections, UNTAC's impressive electoral infrastructure cannot be replicated by the Royal Government of Cambodia (RGC). Second, massive international assistance is required, yet an official Government request to donor countries for similar election support has yet to be made. Third, the Government could cite the familiar excuse for its problems, the Khmer Rouge, as a security threat. Time is running out for the Cambodian authorities. If they are genuinely committed to the spirit of the Paris Agreements, successive and periodic national elections must follow the current five-year transitional period. Furthermore, in accordance with the full scope of democratic principles that are enshrined in the Cambodian Constitution, the next national elections must be held in 1998.

In order for the outcome to qualify as "free and fair", the elections must also take place in a politically neutral environment. Given the current climate of intimidation, it is highly doubtful that the 1998 elections will be "free and fair". International technical advisors are needed now, well in advance of the election, to help develop the mechanisms that would lead to and strengthen a neutral political environment. International election monitors, stationed throughout the country during the campaign and polling phases, are also essential to the conduct of a "free and fair" competition. Since Cambodia lacks the political will and resources it needs to ensure a genuine electoral contest, international assistance -- financial, technical and material -- provides the only insurance that the 1998 elections will even take place.

In a public speech in March of this year, Second Prime Minister Hun Sen estimated the costs of the 1998 elections at \$20 million, but noted that this money would be "better spent on building roads and schools". Despite the cosmetic assurances of other top Government leaders to the holding of democratic elections in 1998, Hun Sen's comment reinforces the fact that these elections are becoming more and more problematic for the Royal Government. There is no better reason for insisting that the RCG promptly requests and accepts the international guidance and assistance it needs to guarantee a truly free and fair election in 1998.

The RCG has also demonstrated, time and again, its contempt for the basic democratic principles that, if implemented, would lead to greater economic development and prosperity in Cambodia. International donors must not allow themselves to be misled by rhetoric. Cambodia is not yet a democratic country. Moreover, the institutions that would normally ensure that progress is made during a transitional period either have not been established, or else function without authority and independence. For example, the Constitutional Council -- the highest institutional guarantor of the Constitution -- does not exist. The Courts are controlled by the CPP-State. As a result, there are no legal mechanisms through which to challenge fraudulent

electoral practices if and when they occur. The international community must remain vigilant to the growing threat this represents to the economic development of the country. Democratic elections are essential to the future of Cambodia. If Cambodia is to develop economically, the international community must insist that this democratic expression of popular will be allowed to take place in 1998.

IV- THE MORTAL DANGERS FACING CAMBODIA: DEFORESTATION, WAR AND ANARCHY

If present RCG policies continue without any serious adjustment, Cambodia will succumb to three mortal dangers associated with deforestation, war and anarchy.

1) DEFORESTATION

H.M. King Norodom Sihanouk has spoken out on several occasions regarding the RCG's timber policy. Environmental experts from the FAO, UNDP, World Bank and concerned NGOs have also analyzed and reported widely on the Government's unbridled exploitation of the country's forests. This policy of deforestation represents a reckless, short-sighted and negligent disregard for Cambodia's most valuable and life-sustaining natural resource. Nevertheless, the Government is unresponsive to the mortal dangers of its wanton destruction of Cambodia's forests. All remaining forests have been sold by the Government through secret logging concessions in violation of the Constitution and with total disregard of a ban that has been in force since 1992. Although there is ample evidence of the fact that this illegal felling of timber results in the diversion of urgently-needed revenues from the National Treasury, the RCG permits this to continue unabated. This alone should be cause for alarm among international donors who underwrite nearly 50% of the national budget. There are other reasons for concern.

Before the civil war began in 1970, Cambodia's forest cover accounted for 73% of the total land area. Today, this cover is reduced to approximately 35%. With the opening up of the country, deforestation has dramatically increased, causing widespread environmental damage. For the Cambodian people, the consequences are lethal: desertification process, climatic change, acceleration of the erosion of soils and the siltation of lakes and rivers, occurrence of more and more frequent "natural" (actually man-made) disasters with a new pattern of alternating droughts and floods, combined in some places with previously-unexperienced storms and landslides. These phenomena have led to crop destruction, reductions in agricultural yields, and finally to a chronic food shortage. Before 1970, Cambodia was the world's third largest rice exporter; but in 1996, Cambodia cannot even feed her own people and continues to rely heavily on international food aid. The siltation of the Tonle Sap (great lake in the central part of Cambodia) has also produced an increase in water temperature. In turn, this has provoked the dispersion of many species of fish, while others have disappeared altogether -- yet another cause of concern since fish represents the main source of protein for the Cambodian people. In summary, deforestation is heading down the wrong path at a reckless pace toward greater human tragedy and disaster. It is imperative, indeed urgent, to stop the killing hands of the loggers and their political accomplices.

2) WAR

The continuing civil war provides powerfully vested interests with the cover they need to exploit Cambodia for personal gain. Deforestation, corruption, smuggling, drug trafficking, arbitrary governmental decision making -- and the crackdown on political opponents who dare to denounce these abuses -- are the worst possible consequences for a country that has already

endured more than two decades of war. The war decimates the will and confidence of the Cambodian people, who hold per capita world records for the number of widows, orphans and handicapped individuals. Cambodians are also exposed to the horrific and indiscriminate impact of landmines that continue to be laid each day by combatant forces. The war not only obstructs the process of reform by diverting national resources from urgent civilian needs to useless and destructive purposes, it maintains Cambodia in a state of extreme poverty, underdevelopment and dependency.

3) ANARCHY

What is most lacking in Cambodia is the rule of law. As a result, the State is very weak and fragile; it is deprived of its customary responsibilities and the necessary means for governing the country. Those who benefit most from these anarchic conditions are warlords and regional Mafia who rule as a shadow force through their parallel and intertwining relationships with top political leaders.

a- Criminal activities

It is no exaggeration to describe Cambodia as a Mafia State. Criminal activities are on the rise and are flourishing with the full support and complicity of Government leaders who lack the political will and have no interests to enforce the law. Systemic corruption has created a symbiotic relationship between criminal organizations and State officials at the highest levels of Government. Activities such as trafficking in human beings and drugs, adult and child prostitution, and money laundering are undertaken by criminal organizations that receive the protection of these same high ranking Government officials. Yet the deadly AIDS disease is proliferating at an alarming pace because of prostitution, poverty and ignorance. Countless political assassinations, extra-judicial executions and other acts of violence and intimidation over the last few years also qualify Cambodia as a terrorist State. It is also no surprise that such crimes go unsolved. Any serious investigation would only lead back to Government officials and a State apparatus that has retained all of its communist structures.

b- Impossibility to implement reforms

To redress the present situation, many fundamental reforms must be implemented, yet powerfully entrenched interests, who want only to preserve the status quo, obstruct the process of reform. In fact, none of the basic reforms that would address Cambodia's real needs have been implemented by the RGC since it was established nearly three years ago. Land and agrarian reforms, tax reform, administrative reform, civil service reform, and reform of the Central Bank all remain unattended to. Vested interests also block the development and implementation of transparent regulations and procedures regarding the privatization of State-owned enterprises, the management of the country's natural resources and State assets, the granting of public contracts, and the supervision of external trade. Preserving the status quo has reinforced a lawless society in which systemic and predatory corruption, the embezzlement of public funds, general tax evasion, diversion of State revenues and the practice of parallel budgets run by the Army, the Prime Ministers and their political parties remain rampant and unchecked.

c- Chaotic management of the public funds

The RCG continuously violates and ignores the most basic rules and principles of public finance, e.g., the centralization of State revenues into one single national budget, evidenced, for example, by the systematic diversion of the massive timber revenues from the National

Treasury. Rather than collect corporate taxes from the business community, the present leadership also encourages these potential tax-payers to reward Government officials for "fast-track" cooperation and the right to do business in Cambodia with personal "gifts", i.e. , direct payments of cash. In fact, Second Prime Minister Hun Sen has already begun his election campaign and proudly shows off his "donations": hundreds of schools, canals and parks bearing his name and reportedly financed out of his own pocket. He openly acknowledges that he has requested and received "contributions" from prosperous companies and wealthy individuals. This corrupt system of clientelism works to the detriment of the State which is deprived of normal revenues and thus unable to perform its normal functions. In the absence of transparency and accountability, it is increasingly difficult to plan and implement development policy at any level, in any sector.

In practice, international assistance to Cambodia constitutes either direct or indirect budget support for the State in the sense that it enables the latter to avoid performing its normal functions such as development of the country's infrastructure, education, health care, social welfare, and so forth. A significant percentage of the functions that are normally undertaken by the State are actually performed by donor countries, either directly through bilateral agreements or through multilateral agencies and non-governmental organizations (NGOs). As a result, benchmarks of progress are ignored by Cambodian officials who do not manage public funds as stringently or scrupulously as they could and should. State revenues are not properly collected and expenditures are not properly controlled. Even the gap between current revenues and expenditures in the national budget is automatically covered by international assistance in the form of direct budget support (with cash or commodities that can be easily sold for cash). Therefore, there is no incentive for Cambodian leaders to collect additional revenues or to cut unnecessary expenditures in order to balance the State budget. Thanks to massive unconditional international assistance, Government officials lack all sense of public responsibility and accountability, while easily and safely indulging in corrupt practices through the mismanagement of public funds. It is simply unnecessary for the RGC to implement reforms in order to make Cambodia more self-reliant. Under these conditions, Cambodia will remain heavily dependent on international assistance, and retain her international beggar status, for many many years to come.

V- INTERNATIONAL ASSISTANCE MUST BE CONDITIONAL

Cambodia is definitely on a bad track. Some would argue that patience is required, that the leadership needs time to redress the situation. This is not a valid or helpful argument. Allowing more time when Cambodia is headed in the wrong direction will only make matters worse. It is not even a matter of being severe or complacent because we are not judging whether the glass is half-full or half-empty- -- we just notice that it is rapidly draining. The Khmer Rouge period (1975-78) should not be used as a basis from which to judge progress. This is a misleading comparison since it would not be difficult for any government to do better than the Khmer Rouge, who represent an absolute evil. It is more accurate and appropriate to compare Cambodia today with the Cambodia of Sangkum Reastr Niyum period (1953-1970), or to neighbouring countries in recent years. An even more appropriate benchmark of progress lies in the extent to which Cambodia could have developed, given the unique international attention and massive external assistance she has received since the Paris Peace Accords were signed. Indeed, where might Cambodia be today if there were less corruption, greater political will and a clearer vision for the future of the country on the part of the Cambodian leadership ?

Because of systemic corruption, political power is often associated with illegitimate financial interests that tend to distort economic and social conditions in Cambodia. A war that is

financed mainly by illegal logging, helps to conceal economic and financial irregularities, as well as human rights abuses, and only enriches and consolidates the power of a few authoritarian and corrupt leaders. War and deforestation inevitably lead to increasing poverty for the Cambodian peasantry who comprise the vast majority of the people. The resulting public discontent and protest generates reaction from the Government, leading to a political and military crackdown on political dissidents and opponents. Therefore, war, corruption, environmental destruction, poverty and human rights abuses are closely inter-related and form a vicious circle in Cambodia.

International assistance should be conditional upon fundamental benchmarks of good governance. This implies strict adherence to the laws of the country -- in particular the budget law --, transparency in public decision-making, and accountability to the National Assembly and public opinion. Donor countries should closely monitor the implementation of necessary reforms in accordance with a clearly defined timetable -- and make sure that the corresponding benchmarks are effectively met. They should not rely on rhetoric and promises made by the Cambodian leaders, nor on the purely cosmetic measures the Government has taken in response to the donors' legitimate demands, as has been the case over the last three years.

It has been suggested that the conditionality of aid to Cambodia will only hurt the Cambodian people. To the contrary, under the circumstances described above, massive and unconditional international assistance is a hindrance to the urgently-needed process of reform that is necessary if Cambodia is to get back on her feet. Unconditional aid helps to conceal the impact of the plundering of natural resources by a local Mafia that is supported by the current political leadership and that is engaged in various criminal activities. Unconditional aid also makes Cambodia increasingly and indefinitely dependent upon external assistance. The aim of donor countries should be to help Cambodia become more self-reliant by promoting sound and sustainable economic development policies. Adherence to the rule of law, transparency and accountability, as well as respect for human rights and basic democratic principles, are needed in order to reverse the current trend towards totalitarianism and economic chaos in Cambodia.

If the international community genuinely wants to help Cambodia, it should insist on the drastic changes in attitudes and policies that are required. It should not allow the feeling of guilt that may be associated with past tragedies to guide the relationship between donor nations and the Cambodian Government. In the face of the mortal dangers described above, such leniency only rewards an elite few at the expense of the entire nation. If the international community wants to help the Cambodian people escape future misery and tragedy, donors must be straightforward and tough with the anachronistically authoritarian and blindly-corrupt Cambodian leaders of today.

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