Whether the U.S. government should provide funds directly to
the Extraordinary Chambers in the Courts of Cambodia (ECCC)

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U.S. Ambassador Mussomeli and his staff are of the view that the ECCC is now on the right
track and that the U.S. should now seriously consider direct support. I believe direct U.S.
support of the tribunal is appropriate, but only if the ECCC agrees to some key reforms to
keep the trials on track:

♦ **Robust Anti-Corruption Commitments** – One key condition is that the ECCC adopt
tough anti-corruption controls. Since the issuance of a scathing UNDP audit last
summer, the tribunal has taken minimal steps to crack down on alleged corruption. The
tribunal must appoint an ad hoc panel immediately to investigate the allegations and
must take decisive action against any employee found to have engaged in malfeasance.
The United Nations and Cambodian government must publicly commit to stringent
measures going forward. The Khmer Rouge trials are above all a chance to show
Cambodians how justice can be done, and corruption could deal the process a fatal
blow.

♦ **A Clear Operating Timeline** – The ECCC also needs to commit to a clear timeline for
the completion of its mandate. It is essential to conduct the trials carefully and to deliver
credible verdicts, but efficiency is also important. Cambodians have waited for three
decades for justice, and an unnecessarily drawn-out process would likely generate
considerable public dissatisfaction. If the ECCC lasts as long as the ICTY or ICTR, all of
the Khmer Rouge defendants may pass away without ever facing justice.

♦ **A Credible Budget Plan** – Third, the ECCC needs to present a credible, binding
financial plan. The fact that it has already asked for additional funds is somewhat
disconcerting. The Special Court in Sierra Leone began with a 3-year, $56 million
mandate like the ECCC but has now spent roughly $150 million and five years with no
clear end in sight. The ICTY and ICTR have consumed well over $2 billion. Tribunals
sometimes press donors for funds by insisting that justice cannot be done without large
additional contributions. In some cases, theirs pleas are justified, but a balance needs to
be struck. Bureaucracies have powerful incentives to perpetuate their own existence,
and tribunals are no exception. The United Nations and Cambodian government may
view the tribunal’s relative success to date as a way to secure more funding, but funds
should only be given if the UN and RGC commit to efficiency measures, such as using
local resources and outsourcing functions where appropriate.

♦ **Civil Society Participation** – A third condition for direct U.S. assistance, related to the
first two, should be inclusion of civil society participation in periodic reviews of the
ECCC’s budget and operations. An outside voice can help the tribunal allocate
resources more efficiently, help to break political impasses, and provide a useful
watchdog function.

The reforms above will not eliminate the risks associated with the tribunal, but they need to
be taken if the ECCC is to complete its mandate effectively. U.S. assistance may not be
financially critical for the ECCC, but both the United Nations and Cambodian government will
view it as symbolically and politically important.

End.