

**The Cambodian Approach:
Finding the Truth and Reconciliation in Cambodia through ECCC**

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Ladies and Gentlemen, Friends and Colleagues,

It is a highly rewarding and educative experience for us from Cambodia to share these two days with you, hearing the rich discussion regarding the legal process that took place in very recent years in a other countries as far away as Germany and Sierra Leone and from East Timor -- a fellow country in Southeast Asia -- and attempting to draw lessons from their experiences.

The Extraordinary Chambers in the Courts of Cambodia is the youngest member in the family of international and hybrid tribunals. This baby is only newly born. Our national and international judicial officers were appointed by the Supreme Council of Magistracy in May and sworn in on 3 July, and the Co-Prosecutors (Ms Chea Leang from Cambodia and M Robert Petit from Canada) began their work on 10 July 2006. In a few days' time the Co-Investigating Judges (Mr You Bunleng and M Marcel Lemonde from France) will take up their posts.

I have been asked to address the Cambodian approach and so would like to share with you the perspective of the Royal Government of Cambodia in seeking to achieve justice regarding the crimes of the Khmer Rouge, in which we have been guided by three fundamental principles.

The first is the respect for and search for justice. We condemn the crimes of the Khmer Rouge as crimes of genocide and crimes against humanity. We seek justice for their victims, and for the entire Cambodian people, and we wish also to contribute to the development of international humanitarian principles, condemning genocidal crimes and seeking to prevent their recurrence. The Cambodian people express their deep thanks to the international community for joining this justice-seeking process over the last few years, even though most had turned their heads away during the Pol Pot regime and immediately afterwards.

The second principle is maintaining peace, political stability and national unity, which Cambodia has achieved only in recent years. Even though we can not say we have ensured 100% social law and order, and 100% security, we are however proud of moving forward in the process of strengthening political stability, peace and security in Cambodia, and this is a valuable achievement for our beloved motherland after a whole generation of conflict. Whatever we do must not damage our peace and stability, and throughout the process over the past four years of designing the Khmer Rouge trials we have always sought to gain consensus, based on respect for the highest national interests. Such consensus was

demonstrated in the unanimous vote achieved in both houses of our legislature both in 2001 when the Law establishing the ECCC was passed and again in 2004 when the Agreement with the United Nations was ratified.

The third principle is respect for national sovereignty, enshrined as a fundamental principle in the Charter of the United Nations. Our raising the principle of respect for our national sovereignty is reasonable; and we have struggled hard for this principle, which has been implemented in the ECCC in the following ways:

1- Appointment of judges: both national and international judges have been appointed by the Cambodian Supreme Council of the Magistracy, although the Secretary-General of the United Nations nominated the international judges for selection by the SCM.

2- Composition of the trial chambers –both chambers are composed of Cambodian judges in the majority. In the Trial Chamber there are 5 judges, of whom 3 are Cambodian; in the Supreme Court Chamber of 7 judges, 4 are Cambodian. This is balanced by the requirement that decisions will be made based on an unprecedented formula of the “Super Majority” or qualified majority, which requires 4 votes out of 5 or 5 out of 7 to make a decision.

3- Initiation from within – As I related above, the history of international criminal tribunals from Nuremberg on shows they were organized by foreign judges and initiated and imposed from without. But our mechanism, known as the Extraordinary Chambers, is organized within the structure of the Cambodian courts, using both Cambodian and international law, and following Cambodian procedure, while assuring international standards.

The United Nations and the Royal Government of Cambodia came to mutual agreement on this unique formula – the Cambodian model – for the ECCC. We expect the ECCC to be a model court for Cambodia, serving to contribute to the overall process of legal and judicial reform. In addition, if we are successful, we see our model as a contribution to the family of internationalised courts that others may wish to follow.

In conclusion, I would like to thank the Cambodian Institute for Cooperation and Peace and the Friedrich-Ebert-Stiftung for organising this valuable conference and for bringing participants from other countries to share their experiences with us, and to see first-hand the approaches we are following in Cambodia.

Thank you.