



**THE COMMITTEE FOR FREE AND
FAIR ELECTIONS IN CAMBODIA
(COMFREL)**

MONITORING REPORT

ON

THE FULFILMENT OF

THE CAMBODIAN GOVERNMENT'S

POLITICAL PLATFORM

FOR THE PERIOD OF SIX MONTHS

JULY 2004 — JANUARY 2005

(Original Text is in Khmer)

(Report no. I.3.1.1)

Table of contents

	Page
1. RIGHT TO PEACEFUL DEMONSTRATIONS AND STRIKES	1
2. WAR ON CORRUPTION	3
3. JUDICIAL REFORM	4
4. PUBLIC FINANCE MANAGEMENT	5
5. THE PUBLIC ADMINISTRATIVE REFORM	6
6. NATIONAL DEFENSE AND SECURITY	8
7. LAND MANAGEMENT AND REFORM	10
8. THE SENSITIVE POINT OF THE BUSINESS ON NATIONAL ROAD #4	11
9. JOB GROWTH	12
10. AGRICULTURE SECTOR	13
CONCLUSION	15

The Royal Government of Cambodia for the third Legislature of the National Assembly was founded on July 15, 2004, and expected to apply the **Rectangular Strategy**, with **Good Governance as the Core**, in order to implement its 73 points-political platform for its people, who had cast their votes for them on July 27, 2003.

Obviously, statements and recommendations have been consecutively made by government leaders and the new Assembly, which seem to be more committed than the previous mandates. On August 20, 2004, in a **Government and Private Sector Forum**, held with the aim to get rid of corruption and bureaucracy, **Samdech Hun Sen** strongly stressed that *“Cambodia has no better option besides keeping and continuing the implementation of these reforms. With the commitment of the reform, we will have a 90% chance to survive. If we retreat from the reform, we have only a ten percent chance to survive.”* And **Prince Norodom Ranariddh** said on August 22, 2004 that *“at least four issues needed to be solved in the public administrative reform in order to improve the possibility of luring foreign investors, including (1) the elimination of corruption, (2) bureaucracy, (3) the strengthening of the court system and (4) the ensuring of national security.”*

However, this report is based on an observational study, accompanied with the first six month evaluation on the fulfillment of the government's political platform, especially on the reform of some main sectors and the government leaders' recommendations. The report showed that the reform of the government's major sectors, as stipulated in the 73-point Political Platform, **has not yet been started mostly**. Few points have been accomplished, though, such as the creation of the Ministry of Employment/Labor and Vocational Training, the ratification of the agreement between the Royal Government of Cambodia and the United Nations on the establishing of a tribunal for former Khmer Rouge leaders and an increase in salary for civil servants up to around 10 to 15%.

Below are the report's subjected points, which are just a good black-and-white and informative on what the government has been going to fulfill with the platform since its inception six months ago:

- Right to peaceful demonstrations and strikes
- War on corruption
- Judicial reform
- Public finance management
- Public administrative reform
- Security and national defense policy
- Land management and reform
- Review the National Road #4 contract
- Job Growth
- Agricultural sector

1. RIGHTS TO PEACEFUL DEMONSTRATIONS AND STRIKES

Although demonstrations and strikes were peacefully held to demand better living conditions, the competent authorities suppressed and prohibited them. That is, the Royal Government of Cambodia **has not followed its recent promise** in the **political platform** on the 8th point saying that: *“The Royal Government encourages the practice of freedom of press and the*

freedom of expression, the right to go on strike, the right to conduct peaceful demonstrations, and the freedom of meetings within the legal framework and regulations in effect. These are the factors that contribute to the development of the free political will and faith of the society." The platform also highlighted the willingness "to draft the Law on Demonstrations and Strikes before the end of 2005 by counseling with other relevant milieus."

On August 7, 2004, Phnom Penh authorities and police suppressed a peaceful strike held by the **Students' Movement for Democracy** and the **Cambodian Liberal Democracy Transportation People Development Association**, concerning the sky-rocketing price of gasoline. [The groups] just rode cyclos [three-tired bicycle] along the streets to express their concern. Through its announcement, Phnom Penh Municipality authorities declined to allow the protest of the Students' Movement, announcing that "*it is not the solution*¹." [sic]

International and national human rights NGOs and the Special Representative of the Secretary General for Human Rights in Cambodia used to criticize the situation saying that "*some meetings were not allowed to be held because of the public and social order issue, and the authorities did not elaborate on these problems. There are a few cases of strikes, which were staged without permission, and protestors were violently dispersed by the authority*²." Besides, "*the peaceful demonstrations, which were held with the purpose to protest for protestors' legal rights, were intimidated and suppressed by the authorities by using AK-47 rifles and electric batons. We observed during these incidents that the police and gendarmerie were equipped with arms, and the armed forces numbered more than twice the amount of protestors*³."

There is an assessment that the freedom faces serious violations by the authorities, who simply have awkward power to grant support or not. Actually, Cambodian Human Rights Action Committee (CHRAC) reported that from February 2003 to October 2004, the cases of violations committed by the relevant authorities such as the Phnom Penh Municipality and the police forces over the right to hold meetings and demonstrations, which were held by the non-governmental organizations, associations, garment factory workers, the opposition parties, students, businessmen and monks, numbered 35 cases. Prior to December 2004 CG Meeting [the Cambodian Consultative Group meeting of donors] on December 2004, Human Rights Watch criticized that "*the Cambodian authorities continued prohibiting many demonstrations.*" Particularly speaking of local residents' problem, the organization said that most villagers are getting less possibilities to express their ideas and concerns because the government's policy tightened the freedom to assembly.

Instead of undertaking the platform's point above, responsible authorities even have restricted freedom of expression and peaceful assembly at public places, and at worst, some protestors were detained. Freedom restriction of such **thus a serious violation of the 1993 Cambodian Constitution Article 37**: "*The right to strike and to non-violent demonstration shall be implemented in the framework of a law.*" and **Article 41**: "*Khmer citizens shall have freedom of expression, press, publication and assembly.*" , and **Article 19, Article 21 of the International Covenant on Civil and Political Rights (ICCPR)**, of which Cambodia is a signatory.⁴

¹ Koh Santepheap, "Phnom Penh authority warns the strike today, gasoline crisis is steadily increasing", No 5219, August 7, 2004.

² Report of the Special Representative of the Secretary-General for Human Rights in Cambodia, COHCHR.

³ ADHOC: "**2004 Human Right Situation**" January, 2005.

⁴ CHRAC, "**Seven protesters are arrested by Chamkar Morn district police**" Press Release, Sept. 7, 2004.

On another part, it is very regretful that the Constitutional Council provided full constitutionality to the law on demonstration adopted in 1991, which has been a tool to reduce the right of expression through peaceful demonstrations. The decision did not favour the full right of people according to the spirit of the Constitution and the existing law enforcement. Article 37 and Article 41 of the Kingdom of Cambodia's 1993 Constitution and Articles 19 and 21 of the ICCPR in reality prioritise the protection and improvement of people's basic freedoms. The law on demonstrations in 1991 (Article 3, Paragraph 2: *"If the local authority considers that the demonstration can cause chaos, it can prohibit the demonstration by issuing a decision..."*) gives more power as priority to the public authority, and sometimes the authority uses this power to breakdown the right and freedom of people because more frequently demonstrations are prohibited without any particular reason.

2. WAR ON CORRUPTION

Government leaders simply keep talking about the issue of anti-corruption, however, in these six months, there were no any practical actions taken against corruption.

After the third-legislature government was formed and named sooner after **"The Government of Good Governance"**, **Samdech Hun Sen** already declared three times a **"war on corruption"**. The first one was made in a Council of Ministers meeting on July 16, 2004; the second in "Government-Private Sector Forum" on August 20, 2004; and the third time was at a preparatory meeting for the Consultative Group Meeting on September 10, 2004. It is noticeable that point 15 of the political platform in the paragraph titled "Anti-corruption," mentions a push *"for the adoption of the Anti-Corruption Law and the establishment of an independent and neutral institution to fight corruption within 2005..."*

It is true that the Royal Government of Cambodia in its last two legislatures failed to achieve basic reform in terms of both legal base and the mechanisms to combat corruption. So far, the law [on corruption] has not been approved or there has been no organization of the independent institutions, and the real action to combat corruption. It needs obvious willingness and enough means, to win the war on corruption. Though there is no anti-corruption law, the government can start fighting corruption using article 58 about "bribery" of the forcible Provisions relating to the Judiciary and Criminal Law and Procedure applicable in Cambodia during the transitional period. It can be an effective article for combating corruption. To materialize political promise, the Royal Government has to show real commitment and actions against corruption. For two cases of the kind already happened including the case of misuse of US\$ 2.8 millions in the military demobilization project supported by the World Bank and reported corrupt involvement of government officials with the US\$ 2 millions loss in the rice distribution project of the World Food Program.

Currently the draft bill against corruption, with the participation of some NGOs, is being discussed after it was returned from the National Assembly. And taking into more discussions on the draft by the Ministry of the Senate, National Assembly Relations and Inspection should be encouraged and congratulated.

3. JUDICIAL REFORM

The six month observation since the creation of the third legislature of the Royal Government of Cambodia showed that judicial reform has not started yet, not even a sign of a lead to such reform. Only a new part of that, there was an initiative idea with the encouragement from the United Nations that drove to former Khmer Rouge leaders trial and the preparation of the long term and short term action plan of judicial reform.

The report noticed many points in the 15th point about the judicial reform of the 73-point political platform, that the government may have to achieve within its third mandate such as: enhancing the confidence of the national and international milieus of the Cambodia court system; strengthening the rule of law; eliminating the culture of impunity; finalizing the draft bill on the Statue of Judges, the Law on Organisation of the court, the Criminal Code, the Law on Criminal Procedures, the Civil Code, the Law on Civil Procedures, the Law on the Organization of and Functioning of Notaries Public, and the Law on the Organization and Functioning of Bailiffs, the creation of the Commercial Tribunal, the Juvenile Tribunal, the Labor Tribunal, the Administrative Tribunal, the retirement of the Judges who are 60 years of age or more, the Judge Training, the establishment of institutions for the training of court clerks, bailiffs, notaries, and judicial police.

Judicial reform, regarded as an important issue since the last legislature, continues to be raised repeatedly by all national and international institutions. Donors at the Consultative Group Meeting, non-governmental organisations, and the World Bank in its report “Cambodia at the Crossroads” reflected that, generally, the reform is slow. In the last legislature there were some actions taken such as judges training, the preparation of judge’s salaries, the draft bill on the Criminal and Criminal Procedures Code, the Civil and Civil Procedures Code.

Regarding the confidence enhancement in the judicial system and eliminating the impunity culture elimination, most public opinion, some donors and NGOs have gone on to say that **Cambodia’s judicial system is corrupt, biased and not independent**. For instance, **Mr. Thun Saray**, President of ADHOC, recently said that: *“...In 2004...we observed that only the poor and the powerless were arrested while the powerful and those who have money were rarely arrested or were not at all. The court was not brave or did not have the courage to issue warrants to arrest them although they encroached on other people’s land and/or state land, but for the poor and the powerless it was courageous enough to issue arrest warrants.”* And an NGOs' recommendation to the seventh Consultative Group Meeting in late 2004 also demonstrated concerns about the political neutrality of the court, questioning *“which law has to be made to ensure that the judicial body is not politically affiliated?”*

Judicial reform is necessary and serves as a foundation for the other reforms of the government, which directly contributes to building the rule of law. Relevant institutions, especially **the third legislature government, should begin moving toward the conduct of judicial reforms** because their results will not only offer justice for citizens, reduce human rights violations, but also provide a reliable judicial systematic environment which facilitates and encourages the just, legal and satisfactory contributions of private investors to develop the country’s economy.

4. PUBLIC FINANCE MANAGEMENT

Public finance management has been in the same process as that in the previous governments, and has not changed significantly on the political platforms. Although in late 2004, there were documents of an action plan regarding public finance management reform program and an increase of national budget projects for 2005. According to our observation, the points 33 and 34 of the 73-point political platforms have not been fulfilled yet. Those points include: *"Upholding of strict budget management disciplines...commits to enhance revenues collection both from taxes and non-tax sources...strict enforcement of the Law on Taxation, combating against corruption..., dismantling the culture of tax exemptions, diversifying the tax base, strengthening capacity of taxes and customs administration, and proper and strict management of all kind of state assets, both tangible and intangible properties,...to reinforce the process of privatization and drafting the Law on Casino Management... strengthening of audit and public procurement mechanism, by giving high priority to expenditures for socio-economic sectors and public investments...strengthening the domestic banking system... to promote rural finance in order to provide financial services and credits, charged with the lowest interest..."*

As follow observation, the 2005 National Budget, increased up to US\$792 millions, compared to the US\$752 millions in 2004. However, there is no balance between national expenditure and revenues. The average **deficit** is approximately US\$190.5 million from 1997 to 2003⁵. According to the calculation of the balance of the general national budget in the 2005 law on finance management, the total deficit of the general budget has a rate of 25% of the total expenditure, which will have to be completely filled by foreign funding. It is lucky that Cambodia still receive foreign aid to bridge the deficit gap, but, it is expected that through the public finance management reforms, it will help increase a national revenue item which is separated from foreign aid.

The 2005 budgeting is aimed to increase domestic revenues to 12.17% of the Gross Domestic Product (GDP). Domestic revenues currently represent only 10% of the GDP, which is incomparable to the average income of developing countries, which is 16% of the GDP.

In this sense, the World Bank (WB) has recommended that: *"the new government needs to consider piloting a major overhaul of incentives and performance management in the tax and customs department... Such an improvement should not have to await a major civil service reform..., without a substantial improvement in customs and tax administration ... declining growth prospects will not be easy⁶..."*

In addition, the annual trade deficit mentioned above can be said that it is because of over expenditure and because the expenditure does not go to the right target, such as the creation of ministries, institutions and other additional committees which are useless and ineffective and the increase of government members, especially in this third legislature government.

As criticized by the World Bank in its report, *"...a number of critical weaknesses in practice [result in the lack of the] effective oversight of public financial management [by] the National Assembly..., [and the absence of any] effective mechanisms of citizens to demand that oversight."* The WB report continues that: *"Weak internal and external controls allow for a*

⁵ Source: National Statistics Institute, 2003 statistics book, the report of the Ministry of Economy and Finance, and of the International Monetary Fund.

⁶ World Bank, **"Cambodia at the Crossroads"**, October 15, 2004, p. 15 (English version).

public financial management (PFM) system in which abuses can and do occur. All of this means that the public resource management system falls far below expectations in the fight against poverty.⁷"

So far, there is no consideration over the draft law of casinos yet.

During this time, the action of stripping and changing the tax official is just the change of an official who lacks leading capability and who has occupied the position for a long time (around 20 years). One still doubts how government leaders' measures will work to eliminate corruption in the future, and whether or not these measures can affect the high-ranking government officials if they are found to have exploited or made a loss of the national budget. The government "*should not only sharpen the decaying wood, but it should not use it*" in order to improve the income and the management of expenditures transparently and accountably and even reform the public financial management system to be qualified and effective.

5. PUBLIC ADMINISTRATIVE REFORM

The report noticed that not only the fulfillment of the political platform related to the public administrative reform had not been substantially conducted, but also the political bureaucracy has been increased. The fulfillment of the government's political platform has been done for few points but they are still unclear at the beginning. The Ministry of Interior and commune councils were performing the civil registration, issuing permission letters and land titles in a slow speed in referring to the platform's point 15 which focuses on the strengthening of public services. According to the 2005 national budget, the civil servants' salary will be increased from 10% to 15%, and it is done. But, other priority sectors are as staying still in their performance as they are from last term such as: the investment related services, the basic services (education and health) and services related to the state's expenditure and revenue. And the "*procedures for such services will be revised and simplified through removing redundant works, reducing bureaucracy... sangkat/commune technical decentralization, single exit-entrance mechanism, as well as the establishment of the Office of Citizens.*" And there is no change following the transformation of the relation between state and citizens from "*administrators towards the administrated ones*" to "*service providers towards service users.*"⁸

However, a supporting letter from the leaders such as **Prince Norodom Ranariddh**, announcing on August 22, 2004 that "*at least four problems, associated with the public administrative reform, are needed to be solved in order to improve and lure the foreign investors, including (1) the elimination of corruption, (2) the elimination of bureaucracy, (3) strengthening of the court system, and (4) the insurance of the national security.*"

Although the problems associated with the investment were directly raised by the private sector and the government, the resolution has not been effective since the first Government-Private Sector Forum. Actually, the **World Bank's report** issued on August 12, 2004, on Cambodia's investment climate, showed that *four-fifths of 800 private companies available in Cambodia agreed that bribes play an important role in doing business in Cambodia.* In

⁷ World Bank, "**Cambodia at the Crossroads**", October 15, 2004, p. 36 (English version).

⁸ Political Platform of The Royal Government of Cambodia For the Third Legislature of the National Assembly, point 15, p. 9.

addition, the **King**, on August 17, 2004, wrote in an article in *Cambodge Soir* newspaper: “...*Cambodia is the most and the number one corrupt country (Cambodge: le plus corrupt, Corruption: problème n° 1)*”⁹.

Different from the political platform and the leader's speech, the government decided to increase the number of political officials and district and provincial officials, which increases bureaucracy. **Mr. Koul Panha**, the Director of COMFREL, expressed his concern that “*the handing over of positions to the partisan people who do not have enough qualifications will lead to ineffective administration.*” The government and the representatives of private companies [in their forum] also appeared to acknowledge that the bureaucracy does not encourage the private sector.

Although corruption and bureaucracy has always been in discussion the problems still exist without solution. The government has to show the capability to make effective reforms, as it already has 10 years of experience. The increase in the salaries of civil servants around 10 to 15%, however, remains a small amount and is done without certain measures and procedures. From this, the government cannot reduce corruption and increase the service's effectiveness to the clients.

In addition there was suspicion over the government's new measures to delegate a power in a deconcentration way, allowing cities and provinces to collect tax income and put into their own account within their territorial jurisdiction. They were also given the power to make their own decisions on investment agreements that are worth less than US\$2 million. This situation may lead to an increase of illegal checkpoints and therefore it must be asked, which measures should be taken to monitor the transparency and the accountability at a city and provincial level where the check and balance [monitoring] system of such new shift has not been strengthened. If checks are implemented, then this strategy would be effective.

The decentralization of commune financing has yet to be implemented, when one considers important aspects such as the national budget foundation (allocation) to help the commune and the law on commune income.

Point 15 of the political platform states that there will be “**appropriate**” financial resources for commune budgets. But the word “appropriate” has not yet been made clear and implemented to make changes on commune funding budgets. *The communal budget funding for 2005 will be provided in the amount of 58 billion Riels [US\$14,5 million]*¹⁰ by the government, which is equal to 1.82% of the national budget for 2005. For this amount of money, there has been a small increase and it is not enough for the communal administrative works, yet with no consideration of the need to develop communes. On average each commune received only US\$8,945 for 2005 although there is a 16% increase of annual allocation from the national budget for communes. The 2005 allocation is equal to 2.52% of the current national income, and this rate continues to increase to 2.54% and 2.56% in 2006 and 2007 successively, according to the government statements. World Bank experts emphasized that at least US\$20,000¹¹ allocation should be distributed to the communes on average. Thus, following our observation, the government **misuses the budget for the direct benefit** of decentralization work, because **a big sum of money is put into use in the budget for ministries of similar works and in some inefficient institutions at the national level.**

⁹ Radio Free Asia, Wednesday night, August 18, 2004.

¹⁰ *The statement of the draft law on 2005 Financial Management (in Khmer, p. 16).*

¹¹ World Bank, “**Cambodia at the Crossroads**”, October 15, 2004, p. 36 (English version).

Recently, according to the findings of COMFREL local watchdog at commune councils, in parallel to others' report's, there are some major difficulties concerning financial decentralization such as the delay of the government's funds to commune councils.

The government is on average four months late in handing commune council funds. *"The report on the performance of decentralization policy in 2003 and the action plan for 2004"* of the National Committee to Support the Communes showed that up to 2004 there was 9,281 million Riel which is 21.6% of the annual gross national allocation budget for communes, which has not yet been transferred to the communal council budget for 2003. 70% of the not yet transferred budget is funds for local development. It is the same situation for the 2004 allowance which was delayed as of December. The delay in budget transaction leads to the slow development on a local level in consequence. To solve this problem, there is a suggestion to use commercial banks account for commune funds, rather than that of provincial treasuries which have frequent problems and are inactive in transferring commune budgets.

6. SECURITY AND NATIONAL DEFENSE POLICY

The Royal Government of Cambodia needs to ensure the security, safety and harmony of the people in their daily life and as well as the safety of their society. Instead of making efforts to meet and improve the demand within the first six months after its formation, the government continues remaining projects and is confronting new problems. The promises made in security and **national defense policy**, described in seven points (from point 16 to 22) in the 73 political platform have not yet begun to fulfill.

Point 16, stating *"...promote all kinds of reforms on armed forces including the control of exact military number to strengthen quality of the armed forces and ensure eternal faith to the nation, respect of ... disciplines and morals..."* still has no major action been carried out in order to strengthen the national security service. For instance, in the last legislature the Prime Minister strictly ordered to remove illegal checkpoints but so far, the Prime Minister has only begged for the elimination of illegal checkpoints, this situation shows the **poor discipline and morality** of the concerning authorities. In point number 17: *"the Royal Government will continue to build up and strengthen the Royal Cambodian Armed Forces... with adequate quantity of troops..."* the government did really miss to state what the reasonable amount is and which method is used in such arrangement. With failure to do so, the government even proposed a draft on military service obligation which does not part in the platform. How can mandatory military service help to promote **reasonable quantity**? What's about its quality?

Point number 18 states that *"the Royal Government will pay more attention to the vocational training and help facilitate living conditions of demobilized soldiers..."* However, concerning this issue, the World Bank found that US\$2.8 million was used improperly, involving corruption with the funds for improving the standard of living of demobilized soldiers. As a result, **the government immediately reimbursed the money to the Bank and announced that it stopped cooperating with the Bank** in its demobilization platform. Anyway, it is not clear if the government is able to find another partner to continue this project on time?

In the political platform in point number 19, it states that *“The Royal Government will continue to build up and strengthen the national police forces..., strictly abiding by the law, respecting human rights, faithfully serving the people, being capable to achieve good management, security and public order such as protecting the life and property of citizens, protecting the rights of expression through legal demonstration and strike, and protecting the harmony of the society”* However there were many news’ reports on the grabbing of villagers' lands and the protection of illegal activities by the armed forces. **Mr. Thun Saray**, President of ADHOC on January 26, 2005, said in reference to security and the occurrence of crimes that *“Many major reasons that lead to the occurrence of crimes throughout the country are permission to casinos businesses, unemployment, the trafficking and use of drugs, loss of confidence in the judiciary system and the improper strengthening of the armed forces. These problems were not taken care of or stopped or suppressed effectively”*.

In addition, point 20, saying of active participation *“with the international community in promoting cooperation and preventing and fighting against all kinds of terrorism...”* was noted of an advance following international move, as recently the government unilaterally decided to destroy many anti-aircraft missiles, cooperated more with concerning countries to arrest international terrorists and initiated an anti-terrorism draft law. However, Mr. Heraldo Munoz, Director of the UN Security Council Commission on Sanction against terrorist cells, said on October 22, 2004 that *“Cambodia needs an urgent international cooperation to be able to combat terrorism. Cambodia has a weak anti-terrorism structure and it can be a safe haven for terrorist operations such as Jemaah Islamiyah and the Al-Qaida terrorist cells.”* In other paragraph of this single point 20, the statement: *“The Royal Government is determined to take all necessary actions to enhance the effectiveness in preventing and suppressing all kinds of crime especially those involve drugs abuse and trafficking, trafficking of women and children, kidnapping, armed robbery, sexual exploitation and other forms of violation that stirs up the fear and degrades the morality within the society”* has been addressed with vague results from last year. Actually, in late 2004, Graham Shaw, Program officer of the United Nation Office on Drugs and Crimes (UNODC) said that the *“drug trafficking in Cambodia is out of control”*¹². Furthermore, a recent scandal dealt with the controversial problems on victimized girls and women between Chhay Hour II Hotel and AFESIP organization produced many interventions and criticisms from some international Embassies. Furthermore the sexual violation on little girls and women were reported that *“it is more serious, because there is an increase of murdered victims after they were raped.”*¹³

The establishment of the Ministry of Immigration and Citizenship as promised in point 21 of the 73-points political platform has not been started or discussed yet because one doesn't know when the statement “ The Royal Government will examine the possibility to establish the Ministry of Immigration and Citizenship at an appropriate time” will be made clear and done to any particular extent.

The military reform is referred to demobilization. In addition to the reforms that have not been conducted, the government approved draft bill on **military service obligation**. It means that the number of soldiers will increase. It was claimed to be a step towards the reform of the armed forces by the government in the third legislature after the postponement of the demobilization since the second term. [sic]

¹² Phnom Penh Post, **“Drug Trafficking “out of control” says UN”**, December 17-30, 2004.

¹³ ADHOC, **“Human Right Situation in 2004”** January, 2005.

In this contrary process, **H.E Tea Banh**, Co-Minister of National Defense, agreed to create another 100 military commander positions¹⁴ in all units of the Royal Cambodian Armed Forces for the senior Funcinpec military officers, upon a result of political agreement between Cambodian People Party and Funcinpec. The granting of positions was seen no transparent and based on politically biased principals for **seniors or commanders; and** it will add more burden to the government's expenditures. **Why are they to be selected from political party?** This creation of new commander positions is contrary to statements by government leaders such as Prime Minister **Samdech Hun Sen** as well as **H.E Nhiek Bun Chhay** who said that *"In the Kingdom of Cambodia, there are currently more commanders but less soldiers"* and **H.E Ke Kim Yan** who expects that mandatory military service will be imposed also accepts that the *"Cambodia army [currently] was spoiled by politics and old soldiers are partisan and involved in politics."*

7. LAND MANAGEMENT AND REFORM

In October 2004, at the Cambodian Development Council (CDC), Prime Minister **Samdech Hun Sen** brought the country's **land reforms issue** into discussion, imposing strict measures to eliminate illegal land grabbing and seizing committed by the powerful. He then also acknowledged his mistakes in his political life of making slow land and fishing lot reforms. His echoed promise that moment appeared very committing to the reforms taking example that: *"Mr. A illegally controls 1,000 hectares of land... if I do not take action against him, I will step down..."*. In reality, the reforms performance is just following what the **government's political platform and Rectangular Strategy** are saying: *"The Royal Government will focus primarily on measures to strengthen equitable management, allocation and use of land, ensuring economic efficiency..., elimination of anarchic illegal land ownership and implementation of proper measures to prevent land speculation without using it for production or business, etc."*

Various observers acknowledge that land issues are a complex problem in Cambodia and it is a vital issue for this country. According to voices from many public forums organized by COMFREL and the demonstrations staged by villages to demand for justice in Phnom Penh, land problems frequently occur in some local areas and illegal land grabbing by the powerful is considerably a serious problem that needs to be solved with an on-time land reform. In addition, this reform is a good choice supportive of poverty alleviation policy conducted by the government because 80% of Cambodians are farmers who depend on land for agricultural business and their living. These are the problems in Cambodia, relevant to land reform as detected by the Sectoral papers of NGOs in 2004 in which three issues are raised relating to land reform. First, the land administration, of which the process of land registration was not widely conducted and done inconveniently, will cause the people's living conditions to additional hardship. Second, land disputes have always existed between groups of the poor and the rich or the powerful over possession rights. Third, land distribution, has not been conducted practically, but more demands on land are increasing every year. Land distribution is only available on paper, but to see it happen in practice has yet to exist.

¹⁴ *The Cambodia Daily*, August 24, 2004, **"RCAF Makes Room for FUNCINPEC Officers"**.

8. THE SENSITIVE POINT OF THE BUSINESS ON NATIONAL ROAD #4

Recently, one sensitive point amongst the 73 points of the government's political platform (the 48th point: “ *The Royal Government will review and evaluate the National Road #4 contract which includes toll fee for all types of vehicles traveling along this road* ”), has not been fully conducted by the government. An unfavorable climate is being created stemming from business deal on National Road #4 because people [Taxi Drivers] are finding the toll fees too high compared to their average income. The construction of the National Road #4 was financially supported by the United States of America. However, the government made a concession agreement with AZ Investment Co., Ltd¹⁵ for repairing, maintaining and collecting the road toll fees, claiming that the charge is for the road repairing and maintenance. The fee collection was fully getting into force from January 3rd, 2005 and because of the high fees, the taxi drivers and the road users held a strike, then two representatives of the protesters were violently suppressed and apprehended by the authorities. The contract, which affected the people's both the traveling right and the national economy, should be revaluated. According to **Mr. Thun Saray**'s speech, “*the government is actually capable to inspect such an investment and to look for a solution. The review encompasses the inspection in the concession agreement, which affected the people's right to travel.*” The people have the right to travel on other roads without paying the fee. The requirement for the travel fee is too high compared to the people's present living conditions. To illustrate, each taxi driver have to pay US\$3.08 (12,400 Riel), and so his normal 7 passengers who are mostly common people and often poor who also have to share with the taxi drivers the amount of 1,800 Riel each (not including the taxi fare) for traveling on National Road #4 from Phnom Penh to Sihanouk Ville. It is an unsuitable amount compared to the people's net income, which is on average below US\$1 per day (per capital income is US\$306 per year¹⁶).

Moreover, the report found that the concession agreement was not done transparently. The company received the agreement without bidding. The government did not feasible study transparently the possibilities of revenue and expenditures on this road, especially the effect of this contract. There is no information and clear explanation for the reason, which allowed the company to set such a travel fee. Although the agreement did not provide the company with possibility to expand the road, the company claimed that it raised the fee because of the road's expansion, and the road expansion forced the people living along the road to dismantle their house with no compensation or little compensation. Now, the small businesses and the people living between the toll booths from Kandal province and Kompong Som are seriously affected due to less communications.

For the expenditure on repairing and maintenance of National Road #4, the government can be responsible for easily [this expenditure], if the expenditure of the national budget is properly managed. This year, the national budget has increased, but the increase in expenditure was made for the wrong target and is ineffective in reserving a budget for new

government members' salaries of the third legislature government. With more than 300 members of the Council of Ministers there will be more expenditure needed compared to last term's amount of US\$536,400 per year¹⁷.

¹⁵ [The agreement was signed] in March 28, 2001, on the investment, repairing and maintenance for the national road 4 and permission letter number: 1325, issued on November 18, 2004 by the Council of Minister.

¹⁶ Economic Institute of Cambodia, “**Cambodia Economic Watch**”, Key Economic Indicators, October 2004,

¹⁷ According to COMFREL's estimated figures.

The people, who are required to pay the toll on National Road 4, are appealing and looking for resolutions from the government with a hope that the toll will be modified to a reasonable price. It is the government's disgrace, which did not only disrespect the contract of its political platform, but also harmed the protestors and violated people's right.

9. JOB GROWTH

There were challenges and uncertainties in implementing the policy to increase jobs, stated in points 63 and 64 of the political platform of the Royal Government, saying “ *push for the implementation of a systematic and chained policy that creates more jobs for youths, who reach the age of entering the labor market, and for all Cambodia labours...encourage domestic investments and attract foreign direct investments...establishing a network of vocational and professional training for the poor...the network will be coupled with the Employment Center for youths,...preparing an employment statistics system,...the control of foreign labors in Cambodia...monitor and trace the labor exports...ensure the rights and interests of workers, employees...* ” as well as [stated in] the Rectangular Strategies prioritising job creation availability.

Those challenges are occurring in agricultural, industrial and service sectors. 2005 began with a landmark end of a quota system for Cambodia to export garments to US markets, which has caused shared doubt that more than 200,000 garment factory workers will possibly be unemployed in the labour market. However, this doubt has triggered more questions over government efforts for the inactive domains of involved people as well as active Cambodian people as a whole, especially newcomers in the labour market who have recently been reported to have increase by 320,000 per year.

The only point the Royal Government has achieved is the setting-up in December, 2004 of the Ministry of Employment/Labour and Vocational Training. Nonetheless, analysts have observed that the setting up of the Ministry is designed only to provide jobs and benefits for politicians and political parties alike. By the way, it is unknown what the Ministry of Education, Youth, and Sports, and the Ministry of Social Affairs have being doing in this job creation so far. Budget should not be reserved to establish too many ministries and offices for politicians as well as to establish the level of bureaucracy, but real investment should be made in the labour sector.

Those uncertainties should be mentioned over the condition to determine proper income for employees, despite the existence of the labour laws. [Regarding this], the political platforms aim at increasing jobs for jobless people, who, according to an official report, account for 5% of the population. However, if taking a deeper look, we do not know whether the government is increasing new jobs for the unemployed or arranging new conditions or job change for proper income for the employed, because most labour force involves agriculture, representing 71.4% of the total labour consisting of more than seven million people. Most of the approximately 300,000 government officials and armed forces receive their salaries nearly below the line of poverty, meaning they earn less than US\$1 per day.

The point 63 of the political platform just states “ *push for the implementation of a systematic and chained policy that creates more jobs for youths, who reach the age of entering the labor market,...* ” , but it is unknown what policies the government has for unemployed youth of whom 43,000 [university] graduates whose rate grows each year. At the same time, the

government instead wants to make laws on mandatory military services for the youth, without specifying if the youth will have enough capacity to enter the labour market after they have fulfilled their military obligations.

A new study done by the World Bank, the Asian Development Bank and some independent institutions has shown that Cambodia is seeing no improvement in private investment environment particularly in small and medium scale enterprises, which could create a lot of jobs. The bad environment has obstructed the growth of small and medium scale investment stem mainly from corruption and irregularity of the judicial system. The report for the last six months has found out that little and irregular new investment exists to respond to the growing job market. It is true that in the public sector, the economic policy of the current government focuses less on a balance to promote public investment for creating jobs, than on a macro-economic policy to prevent the inflation of the Riel.

In point 63, the Royal Government promises “*establishing a network of vocational and professional training...for the poor...the network will be coupled with the Employment Center...preparing an employment statistics system,...*”. The point has so far remained on government paper, but such vocational training [programs] are being implemented by associations and NGOs. It is hoped that the newly founded Ministry of Labour will carry out the political platform. However, the Ministry will definitely give [excuses] that it has just been formed, it has an insufficient budget because it receives little budgetary reserves from the national budget, only for current expenses.

While “*the control of foreign labor in Cambodia...monitor and trace the labor exports...*” still has many flaws because immigration laws to control foreigners in Cambodia have not so far been enforced by means of a mechanism, and uncertain management still exists. Even a specific number of immigrants is not available. Foreign people from neighbouring countries, such as Vietnam and China are competing for factory and construction jobs. Specific information on the follow up of Cambodian people sent abroad is unavailable, many of whom are currently reported to have been exploited, deceived and received still limited help from the Cambodian government and its embassies in those foreign countries. The government is congratulated on its efforts to encourage more people to work overseas to learn, but only with proper [procedures] and insurance to help facilitate the labour market for them to learn new technology according to their ability.

In conclusion, many tasks still remain for the Royal Government which it has promised to do in its policies of increasing jobs. The government is also facing growing uncertainty in implementing these policies, including the insufficient organisation and management of the existing human resources.

10. AGRICULTURAL SECTOR

By reviewing the Sectoral Economic Policy of the Agriculture in the 73-point Political Platform, the government put in both the ongoing works of the previous legislatures and the new additional works. In these, there are some points that have been changed or were not stated clearly.

Point 35 says that: “*... the Royal Government will increase domestic resources utilization to implement agricultural intensification and diversification in order to ensure the continuity of*

economic growth, to create jobs and to generate income in rural areas..." Actually this point was planned in the previous government has been being implemented without addressing its main issues. **The Royal Government has no effective solutions on the problems of domestic resources, such as a major related one—Land Reform.** The report of the Economic Institute of Cambodia assesses that: *"Generally, arable land areas have the potential for agricultural expansion, especially for high value-added crops. Most such areas are privately owned and are expensive investment prospects that discouraging investors interested in this field"¹⁸...*

Technically, 75% of the total land is belong to the state and the average arable land for each Cambodian people is only 0.27 hectares. Moreover, the land concession policy has not been improved for agricultural development because some concessions are inactive and furthermore, frequently causing conflicts to local people. Referring to consecutive reports of national human rights NGOs (ADHOC¹⁹: *Land conflicts occurred more that strongly affect the rights to own land of the poor and the powerless*") and the report of the Special Representative to the Secretary-General of the United Nations (Mr. Peter Leuprecht: *"Concessionaires frequently had little regard for the interests, rights and welfare of affected local populations, and given rise to conflicts"*²⁰...

The 35th point stating about the *"...ensuring food security for all people,..."* and **Prime Minister Samdech Hun Sen** used to strictly confirm that: *"The Royal Government would not let any Khmer citizen die [be victim] of hunger."* Yet actually, the promises both on the paper and poverty reduction strategy have not been effectively fulfilled because **the rate of the people who live below the poverty line (US\$ 1) that affect the overall food security still high (36%) and could be on the way upward.**

Actions taken in corresponding to the food security for the people is just reactive usually such as a little gifts-giving to a few miserable people and has it broadcasted on TV. So far, the government solution on food distribution project's corruption involvement with the World Food Program (WFP) has not revealed. Badly from another corner in recent days, around 10 to 20% of the villagers in Korng Pisey district of Kampong Speu province of equal to over 2,000 families have been reportedly in serious hunger- some villagers cut down their meals and drink water as a supplement.²¹

Regarding the irrigation issue, the government leader declared that the 3rd legislature government is *"The Irrigation Government"*. On the contrary, the money for constructing irrigation system in the 2005 national budget is as little as the sum of previous term and **there is no plan on the irrigation yet. Recently, a Senior official from the Ministry of Economics and Finance was seen monitor and manage an irrigation building project following a say of Samdech Prime Minister. It is to be doubted what the Ministry of Water Resources is doing?**

In point 37, 38 and 39 of the political platform on the service provision for the national agricultural improvement, many major issues need to be materialized, provided that the

¹⁸ Sok Hach, *"Cambodia Economic Watch"*, Economic Institute of Cambodia, October 2004.

¹⁹ ADHOC: *"Human Rights Situation in 2004"* October 2005

²⁰ UNCOHCHR, *"Land Concession for economic purpose in Cambodia: A human rights perspective"* November 2004, p. 37

²¹ Radio Free Asia, February 18, 2005.

overall status quo of this sector is still poor and the people have never been given subsidies and/or intervened with specifically sustainable measures.

The fulfilment of the above promises will benefit the farmers. Again, for this last semester, the government's activities produced little compared to what promised in the 37th point about agricultural service expansion for productivity increase by "...expanding...researches and disseminations; markets development for agricultural products; distribution of equipments, seeds and fertilizer; and provision of rural credit with low interest,..." However, it is to notice that the research and dissemination activities are not publicly interesting. It is just an on-going task from the previous governments. Related to "markets development for agricultural", the government has not yet addressed the NGOs' concerns that: "Cambodian farmers are not competitive because they have very limited access to technology, seeds, irrigation and other facilities. In addition, they are not well organized. The entry of Cambodia into the WTO will worsen this situation if no appropriate mechanisms are put in place to improve the capacity of local agriculture to cope with free trade."²² "The Royal Government must note that most of the rich countries who are members of WTO members have contributed substantial subsidies to their agriculture.

Also in the agriculture, the government has not yet targeted and extended its activities following the 38th point: "The Royal Government continues to prioritize the development at the border and remote areas in order to control migration by preparing and setting up several urban areas that have appropriate infrastructure system especially transportation network and development villages along the border to improve the livelihood of the people residing over there and to allow them to engage in economic activity." In a reverse manner, the government, instead of developing agricultural sector, is encouraging the construction of casinos along both the West and East borders which employ few labours, but create many problems.

CONCLUSION

The six-month observation report above actually showed that the government has not yet accomplished the ten points of its political platform because changes are still being made from the previous legislature. Although the report findings showed more problem than achievement, this report is not intended to criticize [the performance of] the government or any parties in the government over a short six-month period. The report is a mirror to reflect the government and the main political parties, and it is also a primary information for the voters.

Thanks for your attention.

For further information, please contact:

COMFREL Office, #138, St. 122, Teuk Laak I, Tuol Kork, Phnom Penh,

Tel: 023 884 150, Fax: 023 883 750,

E-mail: comfrel@online.com.kh , Website: www.comfrel.org

²² "Agriculture and Rural Development" in NGO Statement to the 2004 CG Meeting on Cambodia.