

PREVENTING CORRUPTION: EFFECTIVE ADMINISTRATIVE AND CRIMINAL JUSTICE MEASURES

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I. OVERVIEW

Corruption is a complex social, political and economic phenomenon that affects all countries. Corruption undermines democratic institutions, slows economic development and contributes to governmental instability. Corruption takes place in all human societies and in all walks of life.

Cambodia is also experiencing this social phenomenon. The Royal Government of Cambodia does not turn a blind eye to this problem. The Royal Government is strongly committed to fighting corruption, formulating a separate anti-corruption law and empowering an independent anti-corruption mechanism.

II. BACKGROUND

The Royal Government of Cambodia has paid much attention to combating corruption since the UN organized general elections in 1993. In 1992, Cambodia adopted a criminal law act in which three articles were related to corruption (embezzlement, bribe taking and bribe giving). In 1999, an anti-corruption mechanism was first established in Cambodia. It was called the “*Unit Against Corrupt Practices*”. In 2006, the Unit was restructured and renamed the “*Anti-Corruption Unit*”.

On 17 April 2010, the first separate anti-corruption law was promulgated by the King.

The new law requires the establishment of an Anti-Corruption Institution. The Anti-Corruption Institution is composed of the National Anti-Corruption Council and the Anti-Corruption Unit (ACU). The Royal Government has been adopting a four-pronged approach: Education, Prevention, Law Enforcement, and International Cooperation.

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In its effort to combat corruption, the Royal Government adopted the *Governance Action Plan I* and *Governance Action Plan II*, focusing on multi-sectoral reforms for the sake of social development and justice. The Royal Government continues to view fighting corruption as a priority, as mentioned in its *Rectangular Strategy* where *Good Governance* is the core element and *fighting corruption* is in the first angle.

Samdech Techo Hun Sen, Prime Minister of Cambodia, stressed that “Fighting corruption is to make each individual not want to corrupt (education), can’t corrupt (prevention), and dare not corrupt (law enforcement).”

III. PREVENTING CORRUPTION: EFFECTIVE ADMINISTRATIVE AND CRIMINAL JUSTICE MEASURES

A. Effective Institution

The characteristics of the effective institution are as follows:

- The Anti-Corruption Institution is independent of other state institutions;
- Separate and sufficient budgets are available for work performance;
- It may request intervention and cooperation from armed force authority if necessary and is allowed to use guns in operations;
- The corruption-related complaint receiving mechanism and its management are speedy;
- Special investigation power (article 27 of the Anti-Corruption Law): in the case of a clear hint of corruption offences, the Anti-Corruption Unit can:
 - Check and put under observation bank accounts or other accounts which have the same function as bank accounts;
 - Check and order the provision or copy of authentic documents or individual documents, or all bank, financial and commercial documents.
 - Monitor, oversee, eavesdrop, record sound or take photos, and engage in phone tapping.

- Check documents and documents stored in the electronic data systems.
- Instead of public prosecutors, the President or officially assigned representative of the ACU has the duty to lead, coordinate and control the mission of those officials (judicial police officers) in the investigation of corruption offences, up to the point of arresting a suspect (article 25 of Anti-Corruption Law).

B. Education Measures

The Anti-Corruption Unit (ACU) focuses mainly on educative measures. So far the ACU has done a great deal of dissemination of anti-corruption law, produced several anti-corruption education centres, and organized several other anti-corruption events. These educational activities are done on a regular basis.

Our law and regulation dissemination is aimed at the public in general and government civil servants in particular. The other target subjects are those working at border gates, finance-related sectors, airports, ports, license issuing authorities, law enforcement agencies, etc. Today the ACU is planning to produce more education centres, and organize more student debates and other anti-corruption events (such as concerts and poetry contest for students).

People are now aware of the new law and anti-corruption institution, and are actively joining hands in the fight against corruption. Their participation is reflected through the submission of several complaints each day by the general public.

C. Preventive Measures

In addition to the Anti-Corruption Unit (ACU), the Royal Government of Cambodia also created other bodies and mechanisms that contribute to combating corruption, as follows:

- A National Audit Authority;
- The Ministry of National Assembly-Senate Relation and Inspection;
- The Inspectorate of the Ministry of Economy and Finance;

- Internal Audit Departments of state institutions; and
- Other mechanisms of the Legislative Body.

The priority of the ACU, among other things, is to strengthen preventive policies and measures in order to remove opportunities for corruption. Preventive measures, unlike law enforcement, are gentler and more effective. The preventive tools are as follows:

- The Anti-Corruption Law and Criminal Code;
- The Law on Statute of Civil Servants;
- A Code of Ethics for civil servants;
- Laws in other areas; and
- Other relevant regulations.

The ACU has established its own *Internal Investigation Section*. The Section is responsible for investigating cases related to corruption within the Unit. All staff members working in this Section work undercover and are not known to other staff members. They work independently and report directly to the President of the ACU.

The ACU has taken several measures in terms of preventing corruption. The new law requires all government employees with the rank of department director or higher to declare their assets and liabilities. So far all employees have already made their asset declarations to the ACU, including the Prime Minister, President of the National Assembly and President of the Senate. Focal points of anti-corruption officials at various state ministries and institutions have also been set up in order to facilitate asset declaration at their own agencies, and to help fight corruption therein.

Meanwhile, leaders of civil society are also obliged under the anti-corruption law to make their asset declaration. The ACU is considering requiring other officials ranking below director level who work in such vulnerable areas as the financial sector to declare their assets too.

The ACU has distributed many corruption-related complaint forms to civil servants and the general public throughout the country so as to facilitate their complaint submission. The form is

indeed a tool to encourage public participation in revealing all forms of corruption. As a result, now more and more complaints are being lodged with the ACU.

The ACU is also invited to take part in several government events, especially the government employee recruitment exam process with the aim of ensuring transparency and preventing opportunities for corruption. Recently, the ACU took part in the recruitment process of tax collecting officials for the General Department of Taxation and in inspecting the bidding process for illegal timber. The participation was welcomed by the public as a whole and has built more confidence in the government.

D. Effective Administration

The Anti-Corruption Unit (ACU) facilitates the public participation in the fight against corruption by creating an effective mechanism so as to encourage corruption-related complaint submission. The public can submit their complaints in person, drop their complaints in ACU boxes, through electronic forms, post offices nearby free of charge, or sent to the ACU by other agencies. Other forms of reporting complaints can also be done through our phone, fax, email, etc.

The ACU is redesigning corruption complaint forms to further facilitate the public reporting of corruption. This complaint form enables complainants to fill in all necessary information the ACU needs. Under the anti-corruption law article 31 stipulates that, “*all corruption cases lodged with the court shall be heard quickly.*”

The ACU is setting up a *complaint analysis center* in order to speed up the complaint process lodged by the public. This center is to review and study all complaints, and finally make suggestions to the President of ACU for decision before taking any action.

E. Criminal Justice Measures

So far, the Anti-Corruption Unit (ACU) has:

- Cracked down on corruption cases committed by very senior officials in the Anti-Drug Headquarters, provincial police commissariats, the prosecutor's office, a prison etc., and all were sent to court for prosecution;
- Disciplined around 30 tax officials for their bad performance;
- Cracked down on financial irregularities committed by officials in the Ministry of Social Affairs and provincial Departments of Social Affairs throughout the country, who embezzled individual benefits and from the state budget. The ACU has already disciplined those involved.
- Reduced opportunities for corruption and brought more people, regardless of status, to trial;
- Studied and investigated many corruption cases;
- Continued to investigate more people, especially government officials.

F. UNCAC Compliance

The United Nations Convention against Corruption (UNCAC) is the only legally binding, universal anti-corruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem. The UNCAC covers five main areas: prevention, criminalization and law enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange.

Cambodia has worked hand in hand with the international community to fight corruption. Thus far, Cambodia has:

- Been a member of ADB/OECD Anti-Corruption Initiatives for Asia and the Pacific since 2003;
- Been a State Party to the UNCAC since 2007;
- Been a party to South East Asia Parties Against Corruption (SEAPAC) since 2007, and
- Regularly attended meetings of the International Association of Anti-Corruption Authorities (IAACA).

With great success, Cambodia hosted the 6th SEAPAC annual meeting in November 2010, which was attended by 9 ASEAN members.

So far Cambodia has met many provisions of the UNCAC. Cambodia has adopted a separate anti-corruption law,¹ created an independent anti-corruption institution, established easy access in terms of corruption complaints to the public, and adopted the four-pronged approach, namely education, prevention, law enforcement and international cooperation, in combating corruption.

In terms of information exchange, the ACU has done a lot to share information with SEAPAC members, both in the field of administration work and corruption related cases. ACU staff received technical training from various countries, especially SEAPAC members.

Under the new anti-corruption law of Cambodia, all acts that were not criminalized as corruption offences are now criminalized. Zero tolerance measures are also strictly implemented. Offenders are prosecuted, regardless of their social status or political alignment.

Now Cambodia and Vietnam are working towards signing a *Bilateral Memorandum on Study Tour Exchange*, planned to be made once a year in order to learn from one another in terms of new knowledge and experience of combating corruption. Recently, 20 Cambodian anti-corruption youths made a study tour to Japan in order to exchange experiences with Japanese youths.

At the moment, the ACU is cooperating with one country to investigate a foreign corrupt offender coming into Cambodia, suspected of traversing or staying in Cambodia. The case is being strictly and closely followed by the ACU.

IV. CONCLUSION

Though Cambodia has enjoyed full peace for only a short time, the Royal Government of Cambodia, under the clear-sighted leadership of Prime Minister Samdech Techo Hun Sen, has made remarkable progress in all fields, especially in enhancing Cambodian prestige in the international arena.

¹ Fifty-five articles related to corruption offences, of which 40 articles stipulated in the Criminal Code.

Cambodian progress today cannot be alienated from international cooperation and the Royal Government's strong commitment in strengthening good governance and fighting corruption. Fighting corruption is a key to ensuring equitable division of social resources and to attracting foreign investment.

Cambodia continues to cooperate closely with the international community, especially SEAPAC members, to combat corruption. Despite many challenges, the ACU continues to work untiringly to promote integrity, transparency, accountability and prosperity in Cambodian society. The ACU is strongly committed to cooperating with the regional and international communities in order to share new experiences and knowledge, and to join hands in fighting corruption for a better world.

Thanks for your kind attention!