

Cambodia New Vision

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Samdech Hun Sen Addressed to the Ceremony to Hand Over Land Title to the Villagers of Sre Ta Sok, Samrong District, Takeo Province (2 December, 2000)



Samdech Prime Minister Hun Sen and Madam are attending the Closing Ceremony of the Year-2000 Proficiency Course for High and Middle-Ranking Government Officials. (20 December, 2000)

Address by Samdech HUN SEN on the Occasion of the 10th An- niversary of the Cambodia De- velopment Resource Institute (Phnom Penh, 7 Dec., 2000)

It is a great honor for me to attend this celebration marking the 10th anniversary of the Cambodia Resource Development Institute (CDRI), which was established to respond to the needs of Cambodia in making the transition from the centrally planned to the market economy and normalization of relationships with the international donor community. During the last ten years, CDRI has strengthened in terms of quantity and quality. During this period Cambodia has gone through many ups and downs, but has accomplished innumerable achievements. The most outstanding ones include the full accomplishment of peace in the country for the first time in many decades and the strengthening of democracy and hu-

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It is a great pleasure for me to be here to pay respect to venerable Buddhist monks and meet the villagers during this landmark ceremony to hand over the ownership title to the people of Sre Ta Sok Village, Chumreapen Commune, Samrong District, Takeo Province. As you are well aware from direct participation with the technical staff in the preparation of the local land map from the beginning until the village map has been prepared, this map was made public so that landowners can identify their plots of land before land titles have been issued. This land title is a result of hard work, including technical preparation using state-of-the-art technology, adminis-

trative and legal process with the participation of local people. This is an important achievement of the Royal Government of Cambodia (RGC) in enhancing the rights of the people to land ownership and land tenure safety. Today's ceremony to hand over land titles is an important event in the history of land management in Cambodia, since this is the first time that we can establish a format model of accurate land registration by using new high-tech techniques and procedures of good governance applicable in other countries in the region and the world.

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Moreover, the timing is perfect. This historic ceremony is held today on 2nd December 2000 to coincide with the 22nd anniversary of the establishment of the Front for the Solidarity and Salvation of Cambodia. It was the front, established on 2nd December 1978, that formally gave birth to a nation-wide movement for the liberation of Cambodia and Cambodians from the atrocities of the genocidal regime. This movement then spread to all parts of the country until the historic victory on 7 January 1979. In this sense, the 2nd December is a historic day with great significance for the survival and the rebirth of Cambodia and Cambodians, the improvement in the living standards of our people and their enjoyment of rights and freedom, including the rights to private ownership, especially land ownership. That is why the RGC has chosen the tenure of land and other immobile assets since 1979 as a major principle in the management and recognition of the land and immobile asset ownership. This is the core principle, which ensure stability and safety for the Cambodian people in exercising their ownership of immobile assets.

I also would like to stress that the 2nd December is the 13th anniversary of the first round of peace negotiation between His Majesty Samdech Preah Norodom Sihanouk and myself in Fère-en-Tardenois of France, which was a starting point of a political settlement of the Cambodian problem, leading now to the restoration of peace and national reconciliation. Therefore, the 2nd December is the memorable calendar for the Cambodian people: the date of the overthrow of the Pol Pot genocidal regime, the date for peace and national reconciliation and the today's date for the strengthening of the legitimate rights of our people to land ownership.

I would like to take this opportunity to inform the villagers present here, as well as our people country-wide that during 1999 and 2000 utmost efforts have been deployed by the RGC to undertake reforms in all

sectors with a view to promoting rapid poverty reduction and development. Overall, we have achieved encouraging results and progress, even though in 2000 we have to face the destruction caused by a natural disaster, namely this irregular flood. Efforts will be taken by the RGC in 2001 and the years to come to overcome difficulties and obstacles to implement our political platform and reform programs in all sectors. With regard to the land sector, special attention is given by the RGC to a number of priorities: land administration, management and distribution. The government has identified specific policy areas to be addressed. Technical issues such as land registration, cadastral mapping, GIS/LIS, land valuation, and geodetic network require immediate attention. Legal issues, including regulations to implement the Land Law should be addressed in a matter of urgency. The large number of institutional issues associated with the complexity of the land sector will be given full consideration by the RGC, including training, organization of government, donor and the private sector cooperation and communication.

The objectives of improving land administration are to provide land tenure security to all eligible landowners and develop an effective, efficient and transparent land registration system. This will have the potential to strengthen public order, and to reduce, eliminate and prevent land disputes. Moreover, enhancing land administration will help develop process to manage state property effectively and transparently.

The RGC has envisaged to establish a proper land management system in order to reduce poverty and promote sustainable natural resource management. To this end, a priority will be to develop a comprehensive land use planning system, including the preparation of master plans at all levels. New data and the existing information will be integrated into a GIS to complete an inventory of all land. Another priority is to establish a legal framework for land manage-

ment, which will include zoning regulations, urban regulations, a construction code, expropriation law, and regulations for the transfer of public estate to private property.

Since these are cross-cutting issues, the RGC will establish an inter-ministerial council – Land Policy Council – with the responsibility to conduct studies and research and prepare a comprehensive land policy. This council should propose projects and an action plan for government's consideration with a view to ensuring land management, administration and distribution in an efficient manner and respond to the objectives of the RGC's political platform, especially poverty reduction and sustainable development.

On this solemn day, I would like to commend the management and staff members of the Ministry of Land Management, Urbanization and Construction for the successful completion of the pilot systemic land registration, which resulted in the issuing of land titles to landowners today. This achievement is a good precedent case for putting in place an accurate systemic land registration using high-tech in the Kingdom of Cambodia. The current and the next governments will continue this undertaking. I would like also to express our appreciation for the participation of the authorities at all levels, all relevant ministries and agencies, as well as the local people, as this is the invaluable contribution to the establishment of a land management system that ensure land tenure safety for landowners.

On behalf of the RGC, I would like to express our deep gratitude to the Republic of Finland and the Federal Republic of Germany for providing grants to finance this accurate and state-of-the-art land registration in the province. I highly appreciate the technical assistance given to this sector, considered by the RGC as a prerequisite to poverty reduction and economic progress... ■

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man rights, which have taken deeper roots in the fabrics of our society. This provides the most favorable conditions for the Royal Government of Cambodia (RGC) to implement reform programs in all sectors with a view to promoting poverty alleviation and ensuring sustainable development through the achievement of high economic growth over the longer term, equitable distribution of the fruits of this growth and sustainable management and utilization of Cambodia's natural resources.

The 10th anniversary of CDRI is therefore an auspicious day. Moreover, on behalf of the Royal Government of Cambodia (RGC), I would like to express our gratitude to CDRI with Ms. Eva as a Director for the assistance provided to the flood victims, drawing from the funds earmarked for the celebration of the anniversary. At the same time, I would like to express our condolences to Eva, who has just lost her beloved mother. She has always been with us, sharing with the people of Cambodia both joys and sorrows. Cambodia is very honored to have accepted her as a good model citizen.

An important agenda of RGC during the second term of office is poverty reduction through the implementation of reform programs in all fields. To this end, we have formulated the following policy response to poverty: promoting opportunities, creating security, strengthening capabilities and generating empowerment. It is a great pleasure to see that CDRI has responded to the Cambodian agenda in adopting its own five-year strategic plan for 2001-2005, which is

consistent to the main directions of the Second Five-Year Social-Economic Development Plan for 2001-2005. I would like to appeal to relevant government ministries and agencies to strengthen further the partnership with CDRI in order to put in place an efficient civil service system. Since CDRI has adequate expertise in research I believe that another area for cooperation is to task CDRI with various topics for research, which are relevant to the Cambodian economy or the regional economic development, for the consideration by the Cambodian decision makers in the government. This area of cooperation will push our partnership to new high.

As you are well aware, human resource development is key to reducing poverty, ameliorating the living standards of the people and enhancing the competitive advantages of each nation in the wave of globalization to promote sustainable development. I am very happy to learn that CDRI will continue to strengthen and expand its program with specific focus on long-term human resource development, particularly in economic field and further enhance its research programs, which are impartial, practical and responsive to the need of Cambodians from all walks of life. I believe that Your Excellencies, Ladies and Gentlemen have noticed that the quality, the institutional capacity and the capability of Cambodia's civil service have been significantly improved during the last few years. Some Cambodian officials can participate equally and efficiently in regional fora and on the international arena. It is my conviction that all these are partly attributable to CDRI. Indeed, we should continue to give further attention to human

resource development and strengthening of our institutional capacity in response to the needs for development, especially to sharpen our competitive edge and protect our national interests on the regional and international arena.

Human resource development is even more relevant in the age of globalization, which is pushing our world toward a "new economy", characterized by endless and unfettered movement of goods, services, capital and labor. Moreover, the revolution in information technology and telecommunications has created a new development paradigm, which gives the modern economy a new dimension, digitalized and knowledge-based. Intellectual capital has become a very important factor of production in the 21st century. In this sense, highly qualified human resources are key to gaining competitive advantages in the new, world economy. Thus, we are required to give high priority to the development of information technology (IT) and telecommunications, the use of Internet for conducting studies and research, training, and using English language to enable the people of Cambodia to properly benefit from globalization in the broadest sense of the word, especially from regional economic integration, in the narrow sense. In this context, it is obvious that human resource development and institutional capacity building are crucial for Cambodia. I believe that CDRI will have more work to do in order to continue its valuable contribution to poverty alleviation, amelioration of the people's living standards and promotion of development and prosperity in Cambodia in the future... ■

KEYNOTE ADDRESS BY SAMDECH PRIME MINISTER
HUN SEN

to the Opening Ceremony of
“International Conference on Cultural Tourism”
(Siem Reap, 11-13 December, 2000)

On behalf of the Royal Government of Cambodia (RGC), allow me, first of all, to extend my warm welcome to all Your Excellencies, distinguished guests and delegates. It is a great honor for the Kingdom of Cambodia to have been entrusted to host this International Conference on Cultural Tourism, which is being jointly organized by the World Tourism Organization (WTO) and the Ministry of Tourism of Cambodia. This is a significant landmark in the history of relations between the Kingdom of Cambodia and the World Tourism Organization since its foundation in 1975 with its leading role in the field of travel and tourism. The World Tourism Organization has considerably succeeded in promoting mutual understanding, encouraging sustainable tourism development, and thus realizing common shared value among all the nations of the world.

We pride ourselves to be a nation rich in tradition, unparalleled cultural heritage, archeological treasures, pristine tropical ecology and natural beauty when selecting the beautiful and historic venue of Siem Reap - home to Angkor Wat for the International Conference on Cultural Tourism. We are gathering here near the Ankor complex of temples consist of more than 400 square kilometers of cultural remains of the ancient Khmer civilization. Angkor Wat, which is the world's largest religious monument, is truly one of the architectural wonders of humankind.

Today, I wish to take the opportu-

nity provided by this conference to share with you, Excellencies, Ladies and Gentlemen, a number of my main concepts about the Government's long-term strategy and policy with regard to our top priority- the development of tourism industry in Cambodia. I wish to stress that I gave serious and thorough thought during my previous tenure in office to the subject of today's presentation.

Before the onset of the new millennium, Cambodia has definitely closed the recent, tragic pages of its own history and has marched into a bright future. We have closed, once and for all, the bitter history, dominated by chaos, violence, insurrection and conflicts. Cambodia is at peace and is in one integrated, self-contained territory under one government, without separatists, rebels, turmoil or internal strife for the first time in over many decades. This is the end of an era and the beginning of a new age, full of pride and hope. We will do our utmost to safeguard peace and stability in our country so that Cambodians from all walks of life can fully devote their physical, intellectual and mental energy to Cambodia's development and improve their own living standards.

The accomplishment of peace, stability and security in all corners of the country and for all our people is the most important pre-requisite to the development of tourism industry. Moreover, the restoration of Cambodia's image in the international arena and rapid integration of the Cambodian economy into the region

and the world, especially Cambodia's full membership of ASEAN, are instrumental in gaining the confidence of investors and international visitors. This has provided Cambodia with the opportunities to attract more foreign direct investment (FDI) to the tourism industry. As you are fully aware, and the Cambodia's integration into the region give further boost to this.

Cambodia has some important comparative advantages and potentials, among others, in tourism and other tourism-related services, due to its endowment in historical heritages and the beautiful scenery of its beaches, rivers, lakes and forests. The geographical characteristics of our country bestow on diversity of natural and cultural attractions that stand out at international level. The Royal Government has defined Cambodia as a “Culture and Nature Tourism Destination”. We have therefore considered that tourism offers the country a realistic and promising outlook. These potentials are awaiting investment and sustainable development. The development of these sectors will provide strong foundation for economic take-off.

Indeed, infrastructure and essential supporting facilities, such as road, water supply, electrical power and telecommunications will play a crucial role in turning these tremendous potentials and comparative advantages into reality. Given the current pace of international assistance and investment, we can hope that in the next five years we will be able to build up the earlier mentioned infrastructure network to the extent that will meet the fundamental needs of tourism development.

Cambodia has made significant progress in stabilizing the economy, in

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restoring economic growth, and also in undertaking policy reforms to transform the economy into a market oriented one. In all these endeavors, tourism and tourism-related industries are playing a crucial role. It provides the greatest sources of foreign exchange and forms the backbone of the economy. The sector is one of the factors, which has fuelled economic recovery after the onset of the Asian financial crisis. **Tourism-hotels** are expanding rapidly over the entire 1993-96 period (33.2%). In truth, this sub-sector started at a very low level, considering conditions at the time. The years 97-98 were mediocre (-10.3% and -8.0%). A healthy upturn occurred in 1999 (16.3%), and growth is expected to be sustained for 1999-02 (10.5%). The recovery, which started in 1999, can lead the country towards high, stable growth. We regard the tourism-hotel sectors as one of the key direction for poverty reduction of our populace, since it creates productive employment to absorb the surplus of rural labor. The current competitiveness of Cambodia's tourism industry has provided a solid foundation for increasing real income per capita and hence reducing poverty.

Yet tourism is not only an economic activity with a great capacity for generating employment and income. It provides an opportunity for personal growth, education tolerance and appreciation of what is different, human communication, respect for the environment, the promotion of peace and encounters between peoples. All in all, tourism affords a great opportunity for improving the well being and the quality of life. International tourism is generated by peace, and contributes to peace. In this sense, Cambodia strongly sup-

ports the activities of WTO.

It was in the middle of the regional financial crisis and domestic political uncertainty that as Prime Minister I announced the "open sky policy" to introduce direct flights to Siem Reap. Time has shown that this policy is right. We are gathering today at the crest of the new wave of the growth in tourist arrivals to Cambodia. During the first nine months of 2000, tourist arrivals to Cambodia totaled more than 334,000, a 27-percent increase compared to the same period of 1999. During the period under review, the number of tourist arrivals to Siem Reap Province increased by 100 percent to 131,988. Therefore, the government's open sky policy has tremendously benefited the people of Cambodia. I believe that the policy of opening up road and waterway network to accommodate the influx of tourists will tremendously benefit Cambodia's economy, especially this will improve the living standards of our people.

Tourism industry development will continue to be the top priority of the government policy. In the next few years, attention will be given to the development of infrastructure and essential supporting facilities, such as airport expansion, road, water supply, electrical power and telecommunications. Connecting the road network between Siem Reap and our major border checkpoints will give further boost to tourism arrivals. Thus, it is my conviction that in the next few years Siem Reap will be able to cater to 1 million of tourists per year. Against this background, I would like to urge the Ministry of Tourism, relevant ministries, the provincial authorities and our people to develop further the hospitality and entertainment sector

to underpin the continuous growth of the tourist industry.

Cambodia Tourism industry is extremely young, needing a systematic and persistent effort to meet the growing and varied levels of demand. Aware of this reality and as part of our productive development policy, it is properly and carefully planned and organized to ensure the sustainability of tourism development. To cope with rapid expansion of the sector, we need to promote training in hospitality and related-services. I would like to seek the assistance of the WTO to provide technical expertise in establishing a Hospitality Training Center in Siem Reap in order to upgrade the quality of services in Cambodia.

The conference will enable to imbue the discussion of the importance of the inter-relationship between culture and tourism and their long-standing and fruitful partnership in the sustainable development of tourism.

I am sure that the International Conference on Cultural Tourism will be a great success and I very much hope the technical presentation and case studies would benefit and come with the experience the magic of the Kingdom of Cambodia and the technical tour of the enormous Angkor Wat complex, will offer you many tokens of appreciation from our people and culture. Tell others, when you return home, that this is a country that is advancing and overcoming its problems. That we are confronting the impressive task of meeting the challenges of the new millennium with hope, confidence in our own abilities and a spirit... ■

Cambodia New Vision Readership Survey

As of December 2000, Cambodia New Vision published in all 35 issues. The Cabinet of the Prime Minister would like to find out how the periodical serves your need of information. Your responses will give the editorial board a better idea of how to improve the publication. Please take a few minutes to complete this questionnaire and return it to us before February 15, 2001 by Mail: Cambodia New Vision, Cabinet of the Prime Minister, Council of Ministers, Phnom Penh, Cambodia or by Fax: 855 23 360666 or 219869.

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Cambodia New Vision

Issue 35

A SUPPLEMENTARY PUBLICATION BY THE CABINET OF THE PRIME MINISTER

December, 2000

In view of the importance of the adoption of the Law on the Establishment of Extraordinary Chambers in the Court of Cambodia for the Prosecution of Crimes Committed during the period of Democratic Kampuchea, the Cambodia New Vision is pleased to run a supplementary copy of the presentation and comments of the Law by HE Senior Minister Sok An to the National Assembly.

PRESENTATION AND COMMENTS ON THE DRAFT LAW ON THE ESTABLISHMENT OF EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA FOR THE PROSECUTION OF CRIMES COMMITTED DURING THE PERIOD OF DEMOCRATIC KAMPUCHEA

BY HIS EXCELLENCY SOK AN, SENIOR MINISTER, MINISTER IN CHARGE OF THE OFFICE OF THE COUNCIL OF MINISTERS, PRESIDENT OF THE TASK FORCE FOR COOPERATION WITH FOREIGN LEGAL EXPERTS AND PREPARATION OF THE PROCEEDINGS FOR THE TRIAL OF SENIOR KHMER ROUGE LEADERS

**5TH SESSION OF THE 2ND LEGISLATURE, NATIONAL ASSEMBLY
29 December 2000 and 2 January 2001**

His Royal Highness the President of the National Assembly
Samdech First Deputy President and Your Excellency Second Deputy President
Honorable Members of the National Assembly
Your Excellencies Diplomatic Representatives in Attendance

Today, the 29th of December 2000, I recall that exactly two years ago on 29th December 1998, the last senior leaders of the Khmer Rouge arrived in Phnom Penh to surrender to the Royal Government of Cambodia. So, today has great significance for the history of Democratic Kampuchea.

Another point to be made as a preliminary remark is that yesterday His Excellency Sam Rainsy asked me if the contents of the Draft Law were exactly the same as the agreement reached with the United Nations. If so, he would support it. I responded by saying that this was a process of negotiation and in negotiations both sides do not hold exactly the same position. If they have 100% the same position, then it is not a negotiation but rather a carbon copy or a following of orders. This has been a real process of negotiation, and what has made us happy is that we have reached consensus on a number of important principles, which I shall outline in this introduction to the Draft Law.

In the presentation I wish to cover the following five main points:

1. to relate to the members of the National Assembly the history of international tribunals and what is known as the International Criminal Court;
2. to convey the fundamental concepts and principles of the Draft Law;
3. to review the process that has taken place from 1997 until today in realizing the Draft Law which the National Assembly now has before it;
4. to discuss the series of major compromises that have been reached between ourselves and the

United Nations on fundamental principles in giving rise to this Draft Law;
and, as the debate unfolds,

5. to comment on the important points in each of the Chapters.

Allow me to begin with the first point by describing the history of various national tribunals. The notion of “the state” was born hundreds of years ago -- and we are proud of the recent excavations in Takeo province revealing the first city of Cambodia, which researchers have found is the first state of South-east Asia. To return to the subject in hand, when there is a state one of its most fundamental principles is that of respect for national sovereignty. This is among the founding principles upheld by the Charter of the United Nations, one which must be unconditionally respected.

Therefore, respect for national sovereignty is a fundamental underpinning in organizing a tribunal -- that is, judges in any one country settle cases in that country, respecting territorial integrity. Each country is the master of trial proceedings relating to its own people, or those who violate its law. This is the implementation of law, which has gradually developed into the theory of the rule of law, which today we hold high and promote in the Kingdom of Cambodia.

Before the period of the Second World War, in respect of the principle of national sovereignty, national courts would always try people of their own country, and no problems arose regarding judges from one country trying people in another country. But historical evolution has changed this notion into a new reality. Between the First and Second World Wars, and especially since the Second World War, efforts have been made to create what is known as the International Criminal Court (ICC). Despite these efforts, made since 1937, such a permanent international criminal court has not yet come into being, due to the reluctance of certain countries to sign the necessary treaty.

After World War II, when Germany and Japan lost the war, International Military Tribunals were set up to prosecute their leaders. In Germany the first International Military Tribunal was held between 1945-46 at Nuremberg, but it was planned even before the end of the war, in the London Agreement of 8 August 1945. This tribunal was organized by the victorious Allied Powers (United States, Great Britain, the Soviet Union and the provisional government of France), and so was quite different from our tribunal. I will later expand on this point. It was held to try the German Nazi leaders for committing crimes against peace, crimes against humanity and war crimes. The Nuremberg Tribunal tried 24 people of whom three were acquitted; four were sentenced to terms of imprisonment ranging from 10 to 20 years; three were sentenced to life imprisonment; and twelve were sentenced to death.

I want to stress that this tribunal was organized by the judges of the victorious powers in order to try the leaders of the defeated country. The losers had no one to protect their interests and it was a tribunal imposed from without to bring to justice the criminal Nazi leaders of Germany who caused World War II.

A second tribunal was held soon after Nuremberg. It was the International Military Tribunal for the Far East, held in Tokyo between 1946-1949, in which 28 military and civilian leaders of Japan were charged with 55 counts relating to war crimes. This court was likewise organized by the victorious powers.

It was not until some considerable years later, in the 1990s, when two further international tribunals, also organized by foreign jurists, were established, under Chapter 7 of UN Charter – mandatory powers to preserve the peace. The International Criminal Tribunal for Former Yugoslavia (ICTY) was established in February 1993 in The Hague, and has so far resulted in the conviction of six people, with 41 people currently under trial, from a total of 94 public indictments. The International Criminal Tribunal for Former Yugoslavia now costs \$100 million a year, and has a staff of around 1,000 people.

The Rwanda tribunal has two parts – the International Criminal Tribunal for Rwanda (International Criminal Tribunal for Rwanda) established outside Rwanda in Arusha, Tanzania to bring to trial 45 senior leaders; and a separate national tribunal inside Rwanda to try the masses of lower level perpetrators, with over 120,000 people placed under detention. Bringing such numbers to trial under regular procedures is an impossible task, and so this has required a modification of procedure, for example the introduction of traditional *gacaca* justice with open village trials by local councils of elders, and payment of monetary reparations.

Another type of criminal tribunal was that organized in Cambodia in 1979 to judge the genocide crimes committed by the Khmer Rouge, in which two Khmer Rouge leaders were brought to trial by the People's Revolutionary Tribunal, in which Cambodian judges sat alongside invited foreign judges.

And finally, let me refer to the permanent international criminal court, envisaged in 1937. This was finally defined in the Statute of Rome on 17 July 1998. It will come into being after ratification by 60 states and will be a permanent International Criminal Court in The Hague, unlike ad hoc tribunals such as those in Nuremberg, Tokyo, Rwanda and the former Yugoslavia. Cambodia has already signed the statute.

To recapitulate, ad hoc tribunals have been established to try “the crime of crimes” covering crimes against humanity, genocide, and crimes against peace. These tribunals, however, are different from what we are doing. The ones we described above, with the exception of Cambodia, were imposed from without to bring to justice people or leaders of one country, while what we are creating has new characteristics, no precedent in the world and the international level, because it is a tribunal organized with agreement from the country concerned. If the National Assembly adopts the Draft Law, and it goes through the Senate and the Constitutional Council in accordance with existing procedures, it will be considered an agreement between the country concerned – Cambodia -- and the outsiders—the United Nations. The Draft Law is one with new characteristics and principles that international or foreign jurists have never seen, heard, or known—a unique case of Cambodia. According to a number of reliable sources of information, the Security Council started talking about the “Cambodia Tribunal Model”, even though our draft law has not yet finally been adopted and the court not yet organized. But, our discussions have led to agreement on fundamental principles, which are considered usable and acceptable as a model, and are already under consideration in Sierra Leone.

This is the first part of my presentation. Now, let me proceed to the second part.

Part II- here I would like to highlight the main concepts and principles of the Draft Law, which was organized on the basis of three fundamental principles.

The first is the respect for and search for justice. H.E. Senior Minister Keat Chhon [in his preceding speech] has expressed a number of views concerning the issue of “judging the past”. Judging the past sometimes leads to controversy among researchers, legal experts and politicians, and sometimes they reach consensus. But regarding the past that we are now talking about, I agree with H.E. Senior Minister Keat Chhon. We can easily understand each other, because the tragedy of our past drastically affected all of us, including young and old, men and women, politicians, legal experts, researchers and students alike. We condemn these crimes as crimes of genocide. This first fundamental principle is that our efforts should provide justice for the victims, and for the entire Cambodian people, and also should contribute to the development of international humanitarian principles, condemning genocidal crimes and seeking to prevent their reoccurrence. The establishment of this trial represents a real step towards providing justice, and also demonstrates that our memory is strong, because memory plays an important

part in preventing the renewal of genocide in Cambodia, in particular, and also in other countries of the world. Even though our contributions are not 100 per cent perfect, I think that a significant contribution is being made by the Cambodian Model, which legal experts, politicians and researchers are studying. This is the first principle, relating to providing justice and closing the black chapter of Cambodia's history.

The second principle is maintaining peace, political stability and national unity, which Cambodia has only just achieved. I think that all milieus in the Kingdom of Cambodia welcome the peace, political stability and social law and order which we are trying to realize, in stark contrast to our previous situation— even though we have not yet ensured 100% social law and order, and 100% security. That would be impossible. We however are 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. If we compare Cambodia with its neighbours 30 or 40 years ago, we note that the Kingdom of Cambodia enjoyed the same level of development as Thailand, Singapore, Malaysia, Indonesia, Taiwan and Korea. But now, we cannot be compared with them. We lag too far behind them, and we are classified as one of the Least Developed Countries (LDC). This was caused by a number of factors. But one of the most important we all know, was our civil war, lack of political stability and lack of peace. All these factors made us poorer, while our neighbours became richer. I know that we all highly value peace, stability, security, and social law and order, which we have tried our best to obtain. Therefore, maintenance of peace and security is the highest task of all Cambodian institutions, and all Cambodian people. This is considered vital. Whatever we do must not damage our peace and stability.

H.E. Chhour Leang Hout [in his preceding speech] said that some have criticized the slow pace of the process. It has indeed taken a long time because it is a difficult task that we have taken seriously in order to reach consensus, based on respect for the highest national interests. Therefore, this second point, I think, is highly appreciated and supported by the honorable members of the National Assembly and by all the people, who need political stability and peace.

The third principle is the respect for the national sovereignty. As I mentioned above, the Charter of the United Nations set forth fundamental principles of national sovereignty, alongside national independence and territorial integrity. Therefore, our raising the principle of respect for our national sovereignty is reasonable; and we have struggled hard for this principle. What part of the draft law reflects this principle of respect for the national sovereignty? I already mentioned that in the negotiation process we have had to respect a number of interests of the other side, just as they have had to respect ours. Respect for the principle of national sovereignty by the negotiators is shown in the following three points:

1. *Appointment of judges:* we dwell on national sovereignty, so you may ask why do we allow foreign judges to participate in Cambodian courts? This is a sensitive point and I would like to comment as follows. We accept foreign judges in the trial because we need the support of the United Nations. The United Nations raised the principle of credibility. In order to trust the proceedings, they say that the Khmer Rouge trial needs to embody certain ideas, principles and concepts. They preferred an international tribunal, but we wanted to proceed in our national courts. A compromise was reached— national courts with participation by foreign judges. Another point worth noting is that the foreign judges shall be appointed by the Cambodian Supreme Council of the Magistracy. The draft law stipulates that the Secretary-General of the United Nations shall nominate foreign judges to be appointed as trial judges by the Supreme Council of the Magistracy. This point, I think, reflects a respect for Cambodia's national sovereignty.
2. *Composition of the trial chambers* -- we wanted the majority of the judges to be Cambodian, while the United Nations wanted the majority to be foreign judges. How to reach a compromise? We argued that in order to ensure respect for Cambodia's national sovereignty, the trial chambers must be

composed of Cambodian judges in the majority. If there are 5 judges, 3 should be Cambodian; if 7, 4 Cambodian; and if 9, 5 Cambodian. This means that the majority of judges would rest with Cambodian side. But the United Nations stated that in order to build credibility, foreign judges needed to be in the majority. This led to a deadlock, which was later broken by a compromise—Cambodian judges in the majority, and foreign judges in the minority, but decisions would be made based on an unprecedented formula of the “Super Majority” or qualified majority, which requires, for instance, 4 votes out of 5 to make a decision.

3. *Initiation from within* – As I related above, the history of international criminal tribunals 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. This is a significant compromise between Cambodia and the United Nations. We wanted them to recognize and understand our problem, and we wanted to gain the trust of the international community. This led to a common project because we need them and they also want to work with us.

These three points – appointment of judges, composition of the chambers, and initiation of the mechanism – show respect for the principle of national sovereignty and are reflected in the title of the document you have before you “The establishment of Extraordinary Chambers in the Courts of Cambodia for the prosecution of crimes committed during the period of Democratic Kampuchea”.

Let me make some brief points on the key elements in the title. The terms “Extraordinary Chambers” and “Court of Cambodia” result from the process of compromise that I described above. For this case of trying the Khmer Rouge leaders, we use a further term “the prosecution of crimes committed during the period of Democratic Kampuchea”. We want to prosecute crimes committed during the entire period of 1975 to 1979. But research reveals that Democratic Kampuchea was not born on 17 April 1975 and did not die on 6 January 1979. 1975 was still the period of the National Front, as Democratic Kampuchea was not formed until 1976, and it continued after 1979 through the time of the Tripartite Coalition. So one may ask whether the title restricts the temporal jurisdiction of the chambers? This is spelled out clearly in Articles 1 and 2 of the Draft Law, and in other articles, which define the temporal jurisdiction to the period 17 April 1975 to 6 January 1979 and leave no cause for misinterpretation. The title gives the overview, but the precise scope of the Chambers is defined within the articles of the Draft Law.

Part III – I would like now to proceed to review the process that has taken place from 1997 until today in realizing the Draft Law which the National Assembly now has before it. What did we do in 1997? In 1998? and especially in 1999 and 2000? It has so far taken more than three years - almost four-- to organize this process for the Khmer Rouge trial.

June 1997 The request by the then Cambodian Co-Prime Ministers to the United Nations for assistance in organizing the process for Khmer Rouge trial, leading to the adoption of a resolution in the General Assembly in December and later the establishment by the Secretary-General Kofi Annan of the Group of Experts to conduct a feasibility study of this process

1998 Known as the Year of Transition

In this year, our recent national elections were held, described as the “Miracle on the Mekong” and the new legislature was organized. And, we thought that it was now time to close this black chapter of our history. A number of events occurred in this process, especially the exchange of views concerning the establishment of either an international tribunal or a pure national tribunal, which led to the compromise of “the principle of proceedings with international characteristics.” They stopped insisting on an international tribunal, and started talking about a national trial with international characteristics. The

year also saw the death of Pol Pot, and closed with the surrender of Khieu Samphan and Nuon Chea, the two remaining senior leaders of the Khmer Rouge, and the reintegration of their armed forces. Some months later two major Suspects for human rights crimes during the period of Democratic Kampuchea were arrested (Ta Mok and Duch).

April 1999 Meeting between Senator John Kerry and Samdech Prime Minister, in which were laid down the principles of a national court with participation by foreign judges.

May We requested a team of legal experts from France to help this issue, and France sent to Cambodia a team of high-level legal experts.

August The Royal Government created its "Task Force", of which I was appointed the chairman.

The Task Force commenced its work by drafting the law. The first draft law was produced in August 1999 and presented to a United Nations delegation led by H.E. Ralph Zacklin, deputy of Hans Corell who is in charge of legal affairs of the United Nations and holding the rank of Under Secretary-General. The first draft law does not belong to others, but belongs to us, to Cambodian legal experts, drafted after discussion with other experts. I also would like to inform the Assembly that there were legal and other technical contributions from experts from France, India, Russia and Australia, as well as the United States. The United States has played a critical coordinating role between us and the United Nations. There were many discussions and negotiations. I would like to reiterate that we were the one who prepared the first draft, and presented it to Zacklin's delegation for comment. The United Nations sent its delegations three times to Cambodia, all led by high-level legal experts of the United Nations. Each visit took about one week for a team of up to 7 to 8 members, who were strong legal experts. The first delegation, sent in August 1999, studied our first draft law. At that time there was no consensus. One major difference was that Zacklin wanted foreign judges to hold the majority, while we claimed that Cambodian judges must be in the majority.

September Normally, the United Nations General Assembly is held in every September, and Samdech Prime Minister Hun Sen always leads a delegation to attend the meeting. At that time, Samdech Prime Minister met H.E. Secretary-General Kofi Annan, and he submitted a memorandum of three points, offering three options:

- Firstly: the United Nations can contribute to providing judges and experts to help modify the draft law to achieve what is known as credibility, in conformity with procedures trusted by the international community, and can also provide judges to work with Cambodian judges in the court;
- Secondly: the Secretary General may choose only to provide legal experts to help establish the draft law, and let Cambodian judges work alone at the trial stage;
- Thirdly: the United Nations may withdraw from the process, and let Cambodia establish the draft law and organize the trial by itself.

At that time, the Secretary-General did not respond directly to the memorandum, but asked for the continuation of negotiations. I was assigned as the representative of the Royal Government, while the Secretary General appointed Mr. Hans Corell, who is Under Secretary- General and The Legal Counsel. H.E. Hans Corell at that time told us that the three questions had not yet been responded to, and he needed to reach further understanding before giving his comments to the Secretary-General. He then asked me what would I do regarding this process on my return to Cambodia. I told him that, in Cambodia, I would continue to improve the draft law, submit it to the Royal Government for approval, and then send it to the National Assembly and the Senate for adoption in ac-

cordance with procedure. And because this draft law is an Organic Law, it must be submitted to the Constitutional Council. And finally, it would be promulgated by His Majesty the King.

This is what I informed the Under Secretary-General, insisting on Cambodia's sovereign right to proceed unilaterally should the United Nations withdraw from the process. The Under Secretary-General said to me "Your Excellency, you may of course do as you outline, but before you present the Draft Law prepared by your Task Force to your government, please let me know, and I am now thinking what we can do."

I want to convey to you that this process of negotiation on drafting a law is not an easy one. Even high-level legal experts of the United Nations sometimes need to consult at length with other experts before responding to questions raised. We also do likewise. On some points we ourselves must have consultations before responding. The interests of all the parties -- the United Nations, the Secretary-General and the Royal Government of Cambodia -- must be respected. So you see that the process cannot be a quick one but takes considerable time. Therefore, in September 1999, we received a request for resumption of work between our Task Force and the international community, and for going into the phase of negotiations, because after we raised the three options, the process had slowed and none of these options was responded to. We accepted the request.

- October We resumed our work with a senior official of the United States' State Department who has played an arbitrating and coordinating role between us and the United Nations. In November 1999, we received legal expert delegations from India and Russia on separate days in order to get their comments on how to proceed, in conformity with the legal principles they understood. So, over a period of months, Russian, French, Indian and Australian experts made their own comments respectively. These countries were seriously concerned with the draft law, and France even set up a team of legal experts.
- 17 December The Task Force completed its second draft law, and submitted it to the cabinet meeting for approval on 24 of December 1999. The draft law was discussed for the second time and adopted by the cabinet meeting on 6th January 2000 with some modifications.
- 10 Jan 2000 Official visit of H.E. Obuchi, ex-prime minister of Japan, in which the Khmer Rouge issue was also discussed.
- 14 January The Royal Government made further modification to the draft law, by allowing for co-investigating judges, as proposed by H.E. Obuchi. In the second draft adopted by the cabinet meeting, there was only one investigating judge, because they said that in the system favoured by the United Nations, there is no investigating judge, while our system—Romano-Germanic— has it. Thus, we suggested that if their system did not have investigating judges, there is no need for them to appoint investigating judges, and they should just let Cambodia do it itself. However, this issue was settled on 14 January, and on 18 January, we presented the updated draft law to His Royal Highness the President of the National Assembly.
- 8 February The Secretary-General sent a letter making four points:
- the first asked to give guarantee for arrests and surrender of those indicted,
 - the second asked for a guarantee of no amnesties or pardons,
 - the third wanted a single autonomous foreign prosecutor and investigating judge;
 - the fourth asked for foreign judges in majority, and their appointment to be made by the Secretary-General
- These four points were really tough.

- 12 February A meeting was held between the Secretary-General and Samdech Prime Minister in Bangkok, on the sidelines of the United Nation Conference on Trade and Development (UNCTAD). The meeting in Bangkok moved forward the process, in which the Secretary-General announced that there was optimism and he would again send a delegation to Phnom Penh, this time led by H.E. Hans Corell himself. Therefore, in March 2000 week-long negotiations were held a second time with our Task Force, in order to overcome the differences between us, particularly four points raised by the Secretary-General. While a number of points were resolved, one major issue remained outstanding – how to resolve any differences that might arise between the co-prosecutors.
- April A further meeting was held between Prime Minister Hun Sen and the Secretary-General in Havana, Cuba, but the outstanding issue was not resolved, so the Prime Minister met again with Senator John Kerry, who then returned for another visit to Phnom Penh. This all led to another compromise concerning what to do in case of differences between the co-prosecutors and co-investigating judges.
- May The Prime Minister and the Secretary-General Kofi Annan exchanged letters confirming the latest compromise reached through John Kerry.
- July Under Secretary-General Hans Corell led a third and final delegation to Phnom Penh. In these negotiations various problems were settled. Although not quite 100% agreement was reached, the negotiations produced the basis of the draft you have before you today.
- September The Government Task Force resumed work with the Legislation Committee of the National Assembly.
- November Senator John Kerry made a final visit to seek confirmation of the position regarding the Draft Law: is the government still committed to moving ahead? and is the National Assembly going to debate it soon?
- 28 Nov The Legislation Committee and the Task Force concluded their discussions on the Draft Law.

Before going to my conclusion, let me recapitulate the major compromises that were reached as a result of the efforts made by both sides during the course of the negotiations. There were four significant steps along the way:

1. when we held wide differences between the notions of an international tribunal and a trial in the national courts, then we made a step forward to agree on a national trial but held in extraordinary chambers of the existing court structure with participation by foreign judges. This was an unprecedented concept in the court system, and so our country would be able to provide experience to the international courts. Your Excellencies may wonder why this draft law does not comply with our existing national laws. This is because it is a new step in evolution and a unique case. Thus, existing laws cannot be applied. Let me repeat, the first compromise was the national court with extraordinary chambers and participation by foreign judges.
2. After we agreed on foreign participation another deadlock arose concerning which side should hold the majority among the judges. They wanted foreign judges to be in the majority, while we insisted that the chambers must be composed of Cambodian judges in the majority. This deadlock was broken by the second compromise—Cambodian judges in the majority, and foreign judges in the minority, but the minority would be a “blocking minority”. Again we worked our way out of a deadlock by adopting another unprecedented formula.
3. The third compromise concerned the concept of co-prosecutors. The United Nations wanted to have an international prosecutor while we wanted the prosecutor to be a Cambodian national. So

we compromised on co-prosecutors. This formula was followed also in regard to the investigating Judges. As I mentioned before, we told them that as the United Nations did not want this element, and has only prosecutors, so there is no need for you to get involved in this – let Cambodia do it on its own. But they did not agree. So the third compromise also involved co-investigating Judges.

4. The fourth significant compromise related to the resolution of differences between the co-prosecutors regarding bringing down indictments. They wanted each prosecutor to work autonomously. We maintained that as we had agreed on the concept of “Co”-prosecutors, in principle they should cooperate in a common endeavour. But a problem arises if they cannot reach agreement. This too was settled by development of a new and unprecedented mechanism, known as the Pre-Trial Chamber, to resolve any differences between the co-prosecutors, and likewise between the co-investigating Judges.
5. The fifth compromise arose because the United Nations did not want to have any amnesty or pardon for those who may be indicted or convicted under this law. According to our 1993 Constitution the King has the right to give amnesty and pardon and we did not wish this law to contradict our constitution. As a compromise we agreed to state in the law that the Royal Government of Cambodia will not request any amnesty or pardon.

So I have related to you the course of our negotiations and the different compromises that we reached along the way. When we examine this Draft Law, we must take into account all aspects – political and historical as well as legal – that are intertwined. If we examine this law only in relation to our body of existing law, then it could not move forward. This Draft Law embodies new formulas, new concepts, and new and significant principles, as I have outlined above.

Let me here conclude my introduction to the Draft Law. ■