



**CAPACITY BUILDING OF THE PARLIAMENT OF  
THE KINGDOM OF CAMBODIA**

**Evaluation of Programme to Support Capacity  
Development of the Cambodian Parliament, and  
Options for Future Programmes**

**MARCH 2006**

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## EXECUTIVE SUMMARY

This report provides an evaluation of the UNDP programme of support to capacity development of the Cambodian Parliament. It also constitutes a case for an agreement between the Parliament of Cambodia and UNDP for the next phase of parliamentary development support.

The Kingdom of Cambodia possesses history and traditions extending back into antiquity, which even today influence the culture of the people and its citizens. Its recent past has been marked by significant conflict the extent of which very few countries have experienced. More recently, it has proceeded down the path of constitutional monarchy and parliamentary democracy, with a Constitution based on the concept of a Monarch who reigns but does not govern, and on the philosophy of the separation of sovereign powers derived from the people.

The aim of this evaluation is to review the project performance during 2002-2005, and to outline lessons learned from the experience during that period. It also identifies potential strategic entry points or areas of further intervention by UNDP, and future strategic partners. Hopefully, this will aid UNDP to assist the Parliament in further developing institutional capacities (systems and processes, skills and knowledge, attitudes and behaviours) to match its formal mandate under the Constitution.

The UNDP programme was initiated in June 2002, to terminate in December 2005. As originally conceived it was to be implemented in two phases as follows:

- Phase 1: Leading up to the July 2003 national elections, and concentrating on strengthening the administrative capacity of the secretariats of the National Assembly and the Senate; and
- Phase 2: Following up on the July 2003 national elections, directed to strengthening the capacities of Members of Parliament in their roles and responsibilities in the legislative and oversight process.

The key findings of the evaluation team concerning the project as conducted in the last three and a half years are summarized on pages 6 and 7 of the report, and elaborated at pages 12-22. In brief, the evaluation revealed that staff studies, needs assessment and training activities accounted almost entirely for Phase 1 of the programme. Minimal progress on the aims of Phase 2 had been made by the end of 2004, and reasons for this are explored. In terms of project management, strategic leadership, oversight support and management need strengthening.

However, the review of the project's performance at the end of the three and half year cycle reveals that it achieved success in several areas of intervention, particularly in enhancing MPs' capacity to fulfill their roles as constituency representatives. UNDP has developed a high level of trust and has helped foster momentum for institutional reform among key stakeholders in Parliament. UNDP achieved a clear and committed buy-in and ownership from parliamentarians and senior staff resulting in a request from these beneficiaries and stakeholders for continued UNDP support, leadership and coordination in the area of parliamentary development. Interestingly, although not a specified goal at the onset of the project, the critical area of representation evolved into a prioritized area of focus by the end of the project period, and in many ways, should be seen as one of the more important and successful interventions and results achieved by the project.

Looking forward, it is the firm view of the evaluation team that UNDP must remain engaged and should intensify its development programme with the Cambodian Parliament. The report lists the ideas and recommendations for future programming activities distilled during the evaluation team's numerous meetings with members and staff of the National Assembly and the Senate, leaders of civil society organizations and non-governmental organizations, donors and other key agents with an interest in the institutional development of Parliament (see pages 37- 45 ).

Nonetheless, institutional modernization of parliament could take upwards of 10-15 years to achieve, for reasons summarized at page 38. The report makes recommendations about attracting additional donor assistance, both financial and technical. After the initial 10-15 year period, in the possible absence of continued donor assistance, the process will need careful planning and even more careful execution. Consequently, in the best interest of capacity-building, the report also contains an exit strategy, whereby in the light of the clearly demonstrated abilities of the Cambodian people, the process can be passed on once appropriate confidence levels have been attained.

## SUMMARY OF PRINCIPAL CONCLUSIONS AND RECOMMENDATIONS

The Evaluation Team makes the principal conclusions and recommendations concerning the Programme to Support Capacity Development of the Cambodian Parliament:

- It is the firm view of the Evaluation Team that UNDP must remain and should intensify its development program in Cambodia. The next phase of implementation can learn productive lessons from the experiences of the first phase.
- The evaluation of the project as conducted in the past three and a half years is discussed more fully at **pages 12 to 22** of this report. The key findings in respect of the way in which the programme had been administered in the past have been:
  - The project was extremely successful in engaging parliamentarians and the institution of Parliament, resulting in ownership, eagerness to be fully involved in the next design phase, and expressions of clear satisfaction and appreciation of UNDP's support;
  - There has substantial success in engaging parliamentarians and laying the groundwork for greater ownership in the future; there is a growing awareness among Members of the National Assembly and Senators about the roles performed by Members of Parliament, and the need for support to enable the performance of these duties in a more effective way;
  - The National Project Director is the Secretary-General of the National Assembly; in the Assembly secretariat leadership there was a deep knowledge of and strong commitment to the principles of sound management practices, but there may have been some political constraint in effecting change;
  - In the areas of capacity building of the Senate secretariat (strongly assisted by the commitment of the Secretary-General of the Senate), the project received good results and achieved excellent results in assisting Senators to understand and fulfil their roles and responsibilities as constituency representatives;
  - Original project objectives were very ambitious and difficult to attain due to limited timeframe and funding constraints; funds are still available, albeit limited by some fixed costs;
  - Project management and oversight needs strengthening, particularly in relation to the maintaining of strategic leadership and empowerment of the implementation team;
  - The relationship between the national counterpart, the project team and UNDP would benefit from greater clarification and understanding of specific roles;
  - The national execution implementation was an appropriate strategy and was effectively executed, but staff capacity needs strengthening for the next phase;
  - Partnerships envisioned at the start did not fully materialize.
- In looking ahead to what will hopefully be the next phase of the programme, the review team has recommended the adoption of immediate, medium-term and long-term strategies, in order to satisfy the immediate development needs of the Parliament of Cambodia, as well as to provide an exit strategy on the assumption of full ownership and control by the Parliament of Cambodia. These strategies are listed at **pages 37 to 46** of the report, and are drawn from discussions with Members of the Parliament of Cambodia, their staff and the secretariats serving both Houses, leaders of civil society and non-government organizations, donors and other key stakeholders interested in the institutional development of Parliament. The report stresses that this list is not prescriptive, nor is the order in which strategies listed, if adopted at all, should

be tackled. **This will clearly be a matter for discussion between UNDP and the National Counterpart and other interested stakeholders.**

- In this regard, and in other aspects related to decision-making in the project, the Evaluation Team has concluded that the provision in the current terms of reference for the Project Co-ordinator to exercise supervision over the International Special Adviser is not practical and is conflict with other formal reporting arrangements; it recommends that in the next cycle, the international adviser should continue to report directly to the Resident Representative and work closely in conjunction with the national counterpart (**See page 39**).
- The Evaluation Team notes that the UNDP Country Office role is related to project assurance and its general mandate is to support and provide guidance, not to become involved in day to day implementation and management. However, the team believes that issues with respect to implementation and coordination, alleviating bottlenecks with regard to decision making, may have been settled at a faster pace with more involvement from the UNDP Country Office, and recommends that it have a greater presence in coordination, and / or oversight, if this is in accordance with the wishes of the National Parliament (**See page 22**).
- The concluding paragraphs of the report point to the fact that parliamentary democracy is not an inexpensive matter, whereas up until the present, the Parliament of Cambodia had not received substantial donor support. The report recommends (**at page 47**) that UNDP, as an organization recognised in Cambodia as spanning national groups and with a reputation for co-ordinating successful initiatives in capacity-building, engage in raising donor awareness of the way in which programmes conducted by donors could be augmented by programmes in which UNDP and the Parliament of Cambodia are engaging as partners.

## **1. BACKGROUND OF EVALUATION OF PROGRAMME TO SUPPORT CAPACITY DEVELOPMENT OF THE CAMBODIAN PARLIAMENT**

### ***a. Background – UNDP programme 2002-2005***

Between 20 February and 10 March 2006, a three-member team<sup>1</sup> undertook an evaluation of the 2002 UNDP programme of support for development of capacity for the Cambodian Parliament. The terms of reference for the evaluation mission are at Attachment 1. The team conducted interviews with approximately 50 groups or individuals drawn from the membership of the National Parliament and those serving it, representatives of civil society in Cambodia, international advisers and overseas missions. A schedule of the individuals and groups met is at Attachment 2.

The programme was initiated in June 2002, to terminate in December 2005. As the time of projected expiry of the original agreement was approaching, a decision was made and fully supported by the then President of the National Assembly and the Secretaries-General of both Houses to review the 2002-05 agreement with a view to entering a new agreement, if appropriate.

### ***b. Background – Political context***

The people of the Kingdom of Cambodia have inherited an ancient civilisation and culture, with traditions extending back thousands of years. However, its more recent past has been marked by conflict.

Prior to its independence in 1953, Cambodia was a French protectorate. From 1953-1970, the Kingdom of Cambodia was a Constitutional Monarchy with a market economy. Political power was held by Prince Norodom Sihanouk who served as Cambodia's Prime Minister. Its judicial and legal system was based on the French civil code. March 1970 saw a coup d'état and the outbreak of civil war exacerbated by foreign intervention. From 1970-75, Cambodia was renamed the Khmer Republic. Political power was held by Prime Minister Lol Nol, who was overthrown by the Maoist-influenced Khmer Rouge, led by Pol Pot. The Khmer Rouge destroyed the legal system and political system and replaced them with agrarian communism with a centrally planned economy. The subsequent turmoil increased further following the devastating effects of the auto-genocide and general violence during the Khmer Rouge period from 1975 to 1979. The aftermath of the Khmer Rouge period, and the obliteration of many elements of society that would normally provide the leadership and the passing on the traditions of society, is still having an impact today, and probably will for some time to come.

Vietnamese troops liberated Cambodia from the Khmer Rouge in 1979 and maintained a presence in the country until 1989. The Vietnamese-backed Cambodian People's Party (CPP) assumed political power and renamed the country the People's Republic of Kampuchea, instilled a Soviet influenced planned economy directed by the CPP's central committee. A decade later, the CPP renamed the country "the State of

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<sup>1</sup> The mission comprised the following members:

- Mr Ian Harris (Australia), Clerk of the Australian House of Representatives, immediate past President of the Association of Secretaries-General of Parliaments (team leader).

- Mr Marc W. Cassidy (USA), Country Director for Kenyan Parliamentary Strengthening Project implemented by the State University of New York.

- Mr Arusha Stanislaus, (USA), Co-ordinator, Asia Regional Governance Programme, UNDP Regional Office, Bangkok Thailand.

More complete biographical notes are contained at Attachment 3.

Cambodia” and began the process liberalizing the economy and started to grant greater personal and economic freedoms to its citizens.

The current phase of Cambodia’s history is marked by the signing of the Paris Peace Accords in October 1991 by the four main Cambodian factions, with representatives of the five permanent members of the United Nations Security Council present. In March 1992, the United Nations Transitional Authority (UNTAC) arrived in Phnom Penh and assisted in governing Cambodia until national elections were held. The election of a Constituent Assembly in May 1993, and the adoption of a Constitution on 21 September 1993 marked a new beginning for Cambodia. After forty years of independence from the French, the nation was renamed the Kingdom of Cambodia. It is now a market economy and its legal system is based on French civil code with sector-specific influence from common law.

Subsequent national elections were held in May 1993, July 1998 and July 2003. The first election of Commune/Sangkat Councils occurred in 2002 and another National Assembly election is due in 2008. Following amendment of the Constitution, an elected Senate was chosen in January 2006.

While not without attracting a degree of criticism, some from within the country, the Kingdom of Cambodia has made significant gains in a comparatively short period. As previously indicated, it has adopted and amended its Constitution on a number of occasions by peaceful means. The Constitution itself recognises the country’s rich traditions and the sufferings of the past. It:

- enshrines independence, sovereignty and national unity,
- enshrines rights recognition (including the rights of children and women – specifying that the work by housewives in the home shall have the same value as work that these women might receive when working outside the home – the right to form trade unions, the right to strike and to non-violent demonstration),
- embodies modern major principles of government and governance, including the establishment of a Constitutional Monarchy with a policy of liberal democracy and pluralism, the separation of powers (backed up with practical facilitating provisions relating to the separation doctrine such as guaranteed financial independence of the legislature), and the principle of the financial initiative of the Executive,
- provides for accountability in the form of a weekly question time (answers to be oral or written),
- makes provision for stability in the preservation of the continuity of the National Assembly (only subject to dissolution if the government is twice deposed within a period of twelve months, and not to be dissolved during a state of emergency), and there are no provisions for the dissolution of the Senate,
- endorses a market economy system,
- provides for territorial integrity,
- stipulates that while the declaration of a war shall be by the King, this can only occur after approval of the National Assembly and the Senate, and
- provides for joint meetings of both Houses to meet as a Congress to solve major problems of the country.

The Constitution as amended in 1999 provided for the election of the President of the Assembly, the Prime Minister and membership of the Commissions by a two-thirds majority of the entire assembly members.



In the period since 1993, there have been encouraging signs of political maturity. In 1997 there was the potential for serious political conflict, leading to armed conflict in Phnom Penh, but the situation was resolved by negotiation and agreement to hold the second national elections. During events following the most recent National Assembly elections and the subsequent stalemate, there were indications during negotiations that a peaceful solution was being sought. Similarly, in recent times there have been internal developments concerning the expulsion of Members of Parliament, the meeting of political criticism with threats and actions of imprisonment for criminal defamation, and these actions have led to external criticism. However, more recently, there has been a public softening of attitude on all sides and the demonstration of a politically mature, reconciliatory attitude. Parliamentary immunity has been restored to a number of Members of Parliament from whom it had been removed. The recent resumption of the major non-governmental element in the political process may have occurred as a result of interaction between civil society and the political sphere.

## **1. Overview of the Parliament of Cambodia**

From the country context, it is clear that the Parliament of Cambodia has a crucial, high-level role to play in the development of the country. In order to determine to what extent it can fill its role, the current parliamentary situation should be examined. This examination will make apparent the desirability for the UNDP to maintain its activities in Cambodia during this crucial period of the country's journey along the path of parliamentary democracy.

### **a. The current composition of the National Assembly**

Following the July 2003 elections for the National Assembly, 123 Members were elected. This was one seat more than the 122 seats in the preceding parliament. The major party break up in the current National assembly is as follows:

Cambodian People's Party (CPP)	73 seats
Funcinpec	26 seats
Sam Rainsy Party (SRP)	24 seats

Funcinpec and SRP formed an Alliance of Democrats (AD) in the period just after the election, a coalition which some observers believed was formed as a negotiating strategy. Funcinpec joined with CPP after eleven months of stalemate, and the required majority supported the appointments. Subsequently, the SRP wrote to the CPP suggesting that the two-thirds provision in the Constitution be replaced by an absolute majority (50% + 1). While initially rejected, the proposal subsequently received indications of support, and was subsequently adopted by the National Assembly on 2 March 2006. It is expected to be endorsed by the Senate soon after its first meeting on 20 March 2006.

Initially in the current National Assembly, there were no Opposition members on Commissions and no Opposition Chairs of Commissions. In the immediately previous National Assembly there were non-government commission members, and there was one Commission with an Opposition Chair. There have been press reports that, on 28 February 2006 on the initiative of the Prime Minister, two presidential posts and two

posts of deputy chairs of parliamentary commissions were allocated to the Opposition, and this provides another indication of a growing culture of liberal parliamentary democracy. With these changes, the Parliament of Cambodia will have placed itself far in advance of many parliamentary democracies established for a much longer period of time.

There has also been a commitment to implement “*The Rectangular Strategy for Growth, Employment, Equity and Efficiency in Cambodia*” issued by the Prime Minister in 2004. This document indicates that during its second term, it successfully implemented the *Triangular Strategy*. During the current Legislature the Government committed to implement good governance measures as the fourth pillar of the rectangular strategy.

These signs lead to the conclusion that Cambodia is at a crucial stage in its parliamentary and governmental development. Also, the country may in the near future experience the operation of the Khmer Rouge Tribunal. Press reports on 15 March indicated that the UN and the Cambodian government had signed two agreements on security and administrative arrangements for the Khmer Rouge tribunal. This will be another step towards reconciliation and a peaceful environment.

In this context the evaluation of the UNDP’s programme of support for capacity development of the Cambodian Parliament is taking place. As indicated in the recommendations section of this report, these developments provide compelling reasons for the extension of the programme, for a period possibly extending up to 10 years.

**b. The current composition of the Senate** The composition of the Senate of Cambodia was finalised during the course of the review. The final composition of the Senate’s is at Attachment 4.

The introduction of an elected Senate brings another element to bear in the political maturation of the nation. The Senate is elected by a process of indirect election, which had led to some criticism as to its legitimacy and its democratic basis. However, as a representative of the UNDP programme pointed out in proceedings for a new Senators’ seminar on 15 March 2006, many countries elected their Senate by a similar means, and the elections of 22 January 2006 added to the legitimacy of Senators in their quest to represent the concerns of the Cambodian people at the commune, or local, level as well as at the national level. The theme of social democratization at the national and grassroots levels was emphasised by His Majesty King Norodom Sihamoni", in a message on the occasion of celebrating the First Session of the Senate for the newly-elected Senate on 20 March 2006. His Majesty stated that through the Senate, citizens, political parties, non-government organizations and civil society would have more forums and chances to express more broadly their opinions, political stances or wishes, making the regime of pluralism in terms of speech and democracy actually progress forwards. He also emphasised the function of the Senate as a partner with the National Assembly to building law-making that better responded to the needs of the citizens of Cambodia and the nation as a whole.

### **c. Inner Organisation of the Cambodian Parliament**

Both the National Assembly and the Senate have the power to determine their own internal rules of procedure and to establish various Commissions as necessary. Each has a Chairman, two Vice-Chairmen, and the Chairmen of Commissions. The occupants of these positions form the Permanent Standing and the Permanent Standing Committee of each House, which undertake to manage the work of their respective

Chamber (and in certain circumstances, such as when the Houses are not sitting, make decisions concerning the parliamentary immunity of their Members subject to subsequent ratification by two-thirds majority of the Chamber).

A list of the Commissions of each Chamber is at Attachment 5.

#### **d. National Assembly and Senate Secretariats**

The Secretariat of each Chamber is the permanent in-house civil service of each Chamber, whose task it is to provide administrative support and advice on matters of substance to political representatives. There are a number of systems of the office of secretary-general in operation in legislatures around the world. Some are elected members of the legislature (for example, Vietnam and Ethiopia). A variation of this system is that the Secretary-General is not an elected Member, but is associated with the political group that holds the majority in the legislature, and is elected to office following general elections. This is the case in Portugal, Spain and the USA.

In the major alternative system, the secretary-general and the parliamentary service are apolitical. Occupants of positions are bound by traditions, sometimes backed up by codes of conduct, to serve Members of Parliament of all political persuasions (or, as independent Members, of no formal political persuasion) equally. The secretary-general remains in office notwithstanding national political change. This is the case in Australia, France and the UK.

In each of these major traditions, the parliamentary service is a constant in a frequently changing environment of Members joining and leaving the legislature by choice or involuntarily by death, physical or mental incapability or voter choice. As such, the bulk of the parliamentary service remains in position and preserves much of the institutional memory of the legislature. The integrity of the service is the legacy left behind in a changing political environment. This is a major area for the return of investment made by a body such as UNDP.

In Cambodia, there appears to be a tradition throughout the civil service for appointment and progression to be related to political affiliation. This also appears to be the case in the parliamentary servants working on the staff of the National Assembly. The situation appears to slightly different in respect of the Senate parliamentary service. Current official figures for the size of the respective services are 700 for the staff of the National Assembly, 280 for the Senate. The Prime Minister is reported to have made comment about the size of the National Assembly service recently. The Cambodian Press of 8 March included reported comments from the Chairman of the National Assembly's Finance and Banking Commission that an expected new Secretary-General would be selected from neutral persons. This is covered more fully in the segment of the report relating to an updated needs assessment of the secretariats' institutional capacity (*See pages 32-4*).

### **3. Overall assessment of Project Performance 2002-05**

#### **a. Context**

The assessment of performance is based on reviews of provided documentation (e.g. project document, annual workplans, annual reports of performance, audit reports, mission reports, meeting reports, project delivery reports) and face to face discussions with over 50 individuals or organizations, including parliamentarians, Heads & Deputy Heads of Commissions, Secretary-Generals of both houses, secretariat staff,

multilateral and bilateral donors, UNDP staff, and former project staff, media groups, provincial councilors, and NGOs.

Any analysis of performance must take into account that this was a Nationally Executed Project (NEX). Under National Execution, according to agreed and defined terms, implementation responsibility and accountability primarily rests with the National Executing Agency—in this particular instance, the Office of the National Assembly. Three types and levels of oversight and management responsibility are found within this project:

(a) the UNDP Country Office Governance Team provides general oversight with respect to clearance of annual budgets/mid year revisions, final approval of annual workplans, and input into recruitment and procurement if requested by the National Assembly and the Senate;

(b) a Project Management Team, that has day-to-day oversight over expenditure control, substantive technical input, and assistance in recruitment and procurement, and finally

(c) the NEX Counterpart Unit which is primarily responsible for the management of the project, and achievement of project objectives.

According to the project document [as executing agent] the ‘National Assembly will be primarily responsible for the planning, overall management of the activities of the project, including reporting, accounting, monitoring and evaluation’.

## **b. Assessment**

### **b(i). General**

The review of the project’s performance at the end of the 3 ½ year cycle reveals a project that achieved solid success in several areas of intervention, most importantly at its conclusion, managing to secure clear and committed buy-in and ownership from parliamentarians and a clear request from these beneficiaries and stakeholders for continued support, leadership and coordination in the area of parliamentary development by UNDP.

The project document was well written and conceived, conforms to the UNDP standard simplified project document format, and did a good job of outlining the rationale for intervention and the immediate goals on which focus should be directed. The segmenting and sequencing of phases, with the first phase to focus on building up the capacity of the secretariat during the first 18 months, was an excellent and practical idea. It is also clearly evident that the highly pressing needs of the institution of parliament and those of the Members of Parliament were well assessed and that fairly extensive consultations were held prior to formulation.

The introduction of a one-year preparatory assessment prior to full-scale implementation was also a good strategy as a means to build up capacity for implementation, given this was the very first initiative of development cooperation between UNDP and the National Assembly. In hindsight, the preparatory phase could have perhaps been used a little more productively particularly with regard to ensuring an efficient and capable management capacity for execution. Finally, a validation exercise involving the staff of the secretariats during the 3<sup>rd</sup> quarter of 2002, proved helpful in reinforcing earlier assessments, adjusting activities, and for fine tuning implementation strategies.

## **b. (ii) Areas of Success and Results**

The Project's ultimate expected outcome at the end of the programming cycle was '*Increased effectiveness of Parliament to perform its legislative and oversight functions*'. A review of the interventions and outputs produced reveals that in general, good results were achieved in the area of capacity building for the two chambers of parliament, and partly in the area of parliamentary oversight. The goal of enhancing legislative oversight did not fully materialize as expected. The reasons for this were varied and related to the facts that:

- in any emerging democracy there is a period of growing awareness of opportunities available to legislators,
- the political situation on occasions made achievement of goals more challenging,
- The ambitious scope of the project had an impact on results that could be achieved, and
- Staffing and administrative considerations.

Interestingly, although not a specified goal at the onset of the project, the critical area of representation evolved into a prioritized area of focus by the end of the project period, and in many ways, should be seen as one of the more important and successful interventions and results achieved by the project.

### Capacity Development of the Secretariat

The project in its first full year—2003— produced some excellent results in the comprehensive needs assessments and strategic plans crafted for both the Senate and National Assembly and their related units. They include:

- Strategic Five-Year Plan for the Senate & National Assembly (2003-2008)
- IT Master Plans for the Senate and National Assembly
- Strategic Plan for Cambodian Parliamentary Libraries and Archives
- Communications Services Development Plan for the Cambodian Parliament, and
- Legal Needs Assessment for the Senate and National Assembly.

These strategic action plans and needs assessments were comprehensive and provided the framework for the critical capacity building interventions needed to make the Parliament a viable, responsive and well-capacitated institution. Unfortunately, primarily due to a lack of resources, very little of the plans has been implemented to date. It is recommended by the Evaluation Team that these plans are reviewed for currency, and a substantial amount of resources (particularly since capital equipment such as computers, printers, servers, are part of the needs) are programmed toward supporting implementation of these strategic plans in the next cycle of programming.

Another area of good results over the project implementation period is found in the training provided to staff and MPs. The focus of training included; English, Translation, IT, Communication, Interpretation, archiving and other related functions. Some aspects of training may appear to be quite rudimentary, but in the case of the parliament (and most certainly other public institutions in Cambodia), these are in fact essential and should be continued. Library and Secretariat staff were also afforded a chance to travel to both the Singaporean and Australian parliaments on study tours to be trained on library and Hansard procedures and skills. These study tours are a very

useful component of traditional parliamentary institutional building strategies and should continue.

While these training exercises were clearly required, they appeared to lack a coherent and comprehensive strategy---no doubt, affected by the lack of resources as well to take on this large scale endeavour. The team would recommend that a clear training plan is put in place for the next phase, including, proper staff assessments of needs versus the training. In this regard, mention was made of a training/orientation package for new MPs that was drafted but not finalized. In fact, a new Senators' seminar was held on 15 March 2006 as a cooperative venture by the UNDP and the Senate secretariat. A new Members' seminar to be held following the next National Assembly elections should be prioritized in the next phase and institutionalized within the comprehensive training course suggested.

#### Capacity-building of Members of Parliament

Members of Parliament also benefited from attending regional meetings, as well as in-country issue-based meetings. Members of Parliament who met with the Evaluation Team emphasized their value-added dimension. Seminars on the role of parliamentarians with respect to the MDGs, as well as their role with respect to the WTO, are two such good examples. Other seminars participated in, include:

- Addressing domestic and transnational corruption,
- International Law and Environment,
- Parliaments and Human Rights; IPU
- Renewable Energy,
- Indigenous Peoples,
- Social Services, and
- Several ASEAN convened meetings.

The Evaluation Team supports strongly the idea of MP's attending such policy based meetings, with the added benefit of engaging in networking with other parliamentarians. Nevertheless, a more coherent strategy for travel may be useful in the next phase. The team would also recommend that the institution of parliament become more synergized with other regional networks, associations of Secretary-Generals Etc. as means for learning and exchange.

#### Areas that Require Greater Focus, Scrutiny and Remedy

The project achieved good results, but compared to the results expected at the end of the project cycle, a number of goals were not met.

There are several reasons to account for these uneven results:

- The project was quite bold in terms of goals to be reached and expected results at the end of a 3 ½ year programming cycle;
- A budget of \$1.5 million that was not sufficient to attain these goals;
- A Results and Resources Framework and related annual work plans that were far-reaching in scope in (a) terms of the high quantum of specific outputs to be produced and (b) indicative activities to be undertaken to realize those outputs;
- Unstable project management staffing, lack of effective empowerment, and lack of clarity of roles and responsibilities;
- Political contexts, particularly during 2004;
- Inadequate and at times weak management and oversight arrangements; and

- Insufficient capacity and management / implementation skills for optimum National Execution (NEX)

### A Bold Project Document and Results Framework

One immediate and tangible reason for a mixed scorecard on project achievements centres on the fairly high expectations for results reflected in the project document. This was a project that was impacted by a rather formidable agenda for action and results. The goals to be reached and strategies for intervention while undoubtedly and correctly responding to the findings of the pre-project needs assessments and consultations, were nonetheless quite far-reaching in scope, particularly in the context of time and funding.

The following excerpt from the body of the document captures this sense of over-optimism of expectations for results. It noted that [ in respect of MPs, and Permanent Staff of the NA and Senate], ‘by being exposed to continuous mentoring on administrative and management procedures; and specific training on key areas of the work of secretariats, the capacity of the secretariats will be strengthened. Thus the Secretariats will be empowered to fulfill their functions, as well as to identify the weaknesses within their structure and successfully advocate and mobilize resources.’ Other similar expectations of results included that:

- *MPs will directly benefit from a working secretariat, which will directly contribute to improve the work of the commissions and the overall communications and information flows;*
- *MP capacities will be built to deal with key challenges at stake, and have an effective oversight of the executive branch in the policy making process by having a better understanding of key development issues; e.g. Millennium Declaration;*
- *Indirectly, the line ministries will benefit from a better coordination and access to the related commissions in the parliament to improve the quality of the law by consulting with their parliament counterparts;*
- *Cambodian civil society will be able to formally and regularly engage the parliament on various key questions as to reach consensus on policy priorities.*

Many of the above expectations would have had difficulty being met even within a project time frame double that of the months allotted for this project. Given the time factor and funding for the project, this was not possible.

This disconnect between project design, expectations for results, funds and time available, is perhaps best illustrated in the project RRF. The RRF seeks progress toward only one large outcome from the duration of the project, with two intended outputs to be produced.

*Outcome 1: ‘Increased effectiveness of Parliament to perform its legislative and oversight functions’*

*Output 1.1: ‘A more efficient administration, including revised rules of procedures, staff regulations, and organizational structure of a modern parliament’, and*

*Output 1.2 ‘Increased understanding by MPs of key human rights/development issues and constitutional duties, to effectively oversee the executive branch’.*

At first glance, the above reveal fairly modest goals in terms of the quantitative number of expected outcomes and outputs. However the number of output targets and activities outlined in the RRF and in related annual work-plans (AWPs) were quite numerous. The number of distinct output targets, for example are 12, for just Output 1.1, to be achieved through the conducting of 14 distinct activities. For Output 1.2, the number of output targets is slight less at 7 but the total number of activities to take place is 19. Total targets and activities for the 3 year period, for example, were 19 and 33. The indicators assigned to assess the achievement of these output targets were also fairly numerous and could have benefited from a more realistic appraisal. Baseline data was not included, rendering assessments of progress difficult to validate.

The relative successes toward achievement of the stated outcome of the project must therefore be evaluated in the context of time and funds available, and also the staff capacity and skills required to deliver these workplans and achieve these results. The Evaluation Team notes that it would have been difficult to expect even in the best of political environments and with relatively good capacity and stable staffing in both project team and Office of the National Assembly, that in 3 years and a few months, and with a total of \$1.6 million (approximately 25% of which would be set aside for staff and related management costs), results would be as far-reaching as expected. The Evaluation Team would conclude therefore, *that the project in fact, despite clear constraints, did achieve a good measure of success and made fairly significant inroads by the end of the project period, particularly with regard to ownership, buy-in, and interest from the most critical of stakeholders—the MPs of both Senate and the National Assembly.*

### **c. Project Management and Implementation**

#### Human Resource Management

Project implementation throughout the 3 ½ years has been adversely impacted by staffing issues, particularly with regard to the project management team.

The project began implementation in mid September 2002. The project management team that would oversee implementation of the work-plan was to consist of six persons, including, a Senior Parliamentary Specialist, a Project Coordinator, two assistants to the Coordinator (including a finance officer and a translator), one assistant for the Partnership Network and one driver.

Initial recruitment in general of project team staff was slow prior to implementation and also during implementation. At the initial stage, reasons included the lack of a qualified pool of national candidates for selection. While the full team came on board in January 2003, the team unfortunately continued to experience instability. Between January 2003 and December 2004, a number of staff had resigned or had not been re-appointed. The project was without a Parliamentary Adviser for all of 2004, as well as Project Coordinator for 8 months of the same year. A new Project Coordinator was recruited in August 2004—8 months after the resignation of the first project coordinator, and a new Senior Parliamentary Adviser joined the staff only in January 2005.

Such a rapid rate of staff turnover is of course problematic and raises questions as to reasons. Relationships between the Project Team and the National Counterpart may have also contributed to this turnover, as from feedback obtained, this relationship appears to have been somewhat uncooperative, particularly during the period 2002-2004. The Evaluation Team concludes, based on feedback received, that personality



differences, as well as the relative inexperience of the national counterpart team in execution of development projects probably contributed to this relative stagnancy. Additionally, the Evaluation Team has also been briefed that related unreasonable requests made by the counterpart unit, or requests that were not generally compliant with proprietary project management processes most certainly contributed to this less than fluid management and implementation structure.

Nevertheless, this general lack of understanding and cooperation visibly impacted project delivery in terms of outputs and funds. Relationships, and as a result, project implementation and delivery vastly improved in 2005, and can be attributed to (a) the arrival of both the new Senior Parliamentary Adviser and current project coordinator, and (b) replacement of the primary focal point in the Office of the Counterpart.

Staffing profiles and numbers in general for the project team, as well as for consultants, will require more scrutiny and rationalization for the next phase. The current project document specified need for 16 long (up to 1 year) and short-term specialists (2-4 months over project period) and facilitators (ranging from gender specialists, to HIV/AIDS consultants, to MDG specialists, webmasters and others). Some were specified as national consultants, but most Terms of References (12) indicated a need for international expertise. Not all of these projected consultancies materialized. Among the possible reasons for this are, perhaps, lack of resources, change of priorities, use of locally available expertise, and other specialized agencies may have provided the support. While there is an indication of an overall problem of implementation, the important consideration is the necessity for an awareness to be exercised to minimize the possibility of a similar problem arising in the future.

A clear delineation and clarification of roles and responsibilities between the project coordinator (currently a national post) and that of the parliamentary adviser (international post) is required, including that of denoting supervisory control, budgetary / work plan management and oversight. The coordinator's role in general vis-à-vis his/her staff, the international technical advisors, and the national counterpart need to be strengthened and better clarified. More empowerment for decision-making should be vested in the project team.

Contracting of personnel and institutions (both national and international) to undertake project activities such as training, and the short-term consultancies, also appear to have been slow, with agreement between the project team and the counterpart at times as to the final pool of candidates and selection, not always easy to reach. Of course, in the procurement of goods and services, the responsibility to prepare all necessary paper trails rests with the project team, who should be fully knowledgeable of UNDP rules and regulations. In addition the UNDP procurement unit ensures that the bidding process has been conducted in a fair and transparent manner, and issues the contract. There was in this respect at least one case where questions were raised as to the propriety of process leading to the final selection, with the end result being a renewed selection process, contributing to further delays in implementation. The reasons for these delays are in part probably due to the not ideal relationship between the project and counterpart team, but, also certainly rests in the constituency of the NEX team with respect to management skills, reporting lines and perhaps a general lack of provisions for more regularized oversight from the Secretariats, of its performance. This issue needs closer evaluation and remedial action in any next phase.

In this regard, it was not clear to the Evaluation Team whether there were full-time staff assigned within the secretariats of the National Assembly or the Senate as part of a national execution team for support to the parliament, or whether responsibility for executing projects in conjunction with UNDP staff formed part of the duties of

existing staff.. In the light of recommendations made in this report, the team would also strongly recommend that any staffing of UNDP positions and the counterpart team in the Office of the National Assembly be fully re-assessed for capacity and expertise in management and budgetary skills, and in the next phase, chosen with clear regard to issues of merit and qualifications. Training on management and project execution should be a fundamental part of building the capacity of this counterpart office. Oversight over such staff should be placed as well in the office of the Secretary-Generals, and/or, Office of the Presidents of the National Assembly and the Senate.

Finally, in order to perhaps ensure a more stable staff structure, the Evaluation Team recommends that engagement of international staff be in terms of a possible 36 months, with an initial 6 months probationary contract (unless the occupant has already served for that period or longer) with conversion, in the case of satisfactory performance, to a one year contract renewable initially up to three years.

### Project Implementation

Staff turnover, lack of cooperation between project team and counterpart, and the political stalemates of 2004 all contributed in different degrees to slow delivery of the project between 2002 and 2004. Budget delivery in 2003 amounted to approximately \$265,000 and in 2004, increased to 300,000, with the rate of delivery approximately, 60%. Delivery figures improved in 2005 to approximately \$600,000 with the new Resident Adviser on board. Concern has been expressed that the 2005 delivery figures exceeded the authorized limit of the annual budget by over \$50,000, and that decisions regarding expenditure were not formally endorsed. Differing accounts are provided with regard to the facts of this issue depending on the interviewee. While prudent budgetary management is critical, including the adherence to previously agreed to annual workplans, the evaluation team does not consider this 'over-delivery' to be of fundamental importance at this point in time, given the overall context and consideration of the project's poor implementation history. What is perhaps of greater concern is the apparent general disconnect between the UNDP project team and the counterpart team with respect to decisions regarding implementation and adherence to workplans, and therefore the reasons for differing accounts. The next phase should institutionalize arrangements for regularized opportunities for interaction between all 3 parties, oversight and progress checks on implementation of the annual work plan. Project coordinators, National counterparts and technical advisers should remain cognizant that approved annual workplans cannot summarily be infused with new activities without another round of formal approval. *This is an area and relationship that needs clear strengthening in the next cycle.*

### Rules and Regulations

Of course, particularly in an area committed to conveying principles of good governance, adherence to rules and regulations is of great importance. However, from comments issuing over a number of different jurisdictions in which UNDP has an interest, there is occasionally a propensity stemming from international bureaucracy to place emphasis on process, rather than the outcome sought.

Adherence to UNDP rules, regulations and procedures by both project team and counterpart appear to be in general, appropriate and sound. Mention has been made of some concern and issues with regard to contracts, but on the whole the Evaluation Team has found little in the way of inconsistencies in this area.

### *Project Design and Annual Project Work Plans*

Clearly in relation to the project goals, the RRF and related Annual Work-Plans, delivery of project funds at these levels did not create as significant an impact as was expected.

Annual Work plans for 2002, 2003 and 2004 were prepared by the project team and then submitted to the UNDP for formal approval. Dates of approval of annual workplans were usually in the late 1<sup>st</sup> quarter and beyond, and this is not ideal for ensuring smooth implementation. Annual Reports assessing progress of the previous year were also prepared. However, it is unclear and by all indications, the answer is in the negative, as to whether these reports were discussed formally as part of annual reviews by all stakeholders (UNDP, Project Team, and National Counterpart), with decisions taken and formal recommendations for remedial actions issued. A more formal annual review mechanism must be institutionalized in the next phase. It is noted that a 2005 annual report was produced by the project team in January 2006. However, the final expenditure report is not available until 30 March 2006.

Annual Work Plans also suffered from the same bold ambitions seen in the RRF. For example the 2004 Annual Work plan sought to achieve 19 output targets through the undertaking of 51 activities—a clearly unmanageable undertaking. Work plans also at times did not conform to the original outputs and targets set out in the RRF, while language for results often confused outcome, output and activities.

The annual approved workplan for 2005 could not be obtained by the Evaluation Team, although an annual report for 2005 has been submitted to the UNDP. Inputs to obtain the outputs outlined in workplans seemed at times to be inconsistent or not feasible with regard to costing. Given that the project was a first ever venture with regard to parliamentary support, this is not considered an insurmountable problem and would benefit from more practical assessments of costs and expenditure in the next phase, based now on experience.

Mention has been made that while the initial project design in terms of needs as a whole was sound, in practice given the timing and funding, a more scaled down project would have produced better results. The Evaluation Team has also noted that strategies with regard to training appeared ad hoc, as well as those related to the study tours. Finally, again, a more realistic needs assessment is fundamental with respect to personnel needs both for the project team as well as for technical expertise in the next phase.

#### Documentation

It is the Evaluation Team's conclusion that record keeping and file management (both hard copy and electronic) in general was less than exemplary and requires a great deal more attention in the next phase. Not all requested documents for the evaluation were readily available. At times, different parties (UNDP, NEX entity and the Project Team) had access to or availability of different documentation such as workplans and project delivery reports that ideally should be common and easily accessible to all. Even during the course of the review, some documents that were available to the Evaluation Team were not current, for example, the team was provided with a superseded copy of the Constitution.

Sustaining of records or institutional knowledge of the project nevertheless is difficult in a situation where there has been high turnover of staff with no overlap of transition time between the old and new staff. In this context, the Evaluation Team would note that current project coordinator (national) has done a good job in attempting to rectify this problem.

A more mundane issue with regard to documentation is that of space. Currently, all paper filing is crammed into narrow cabinets. Archiving of old documents is also required.

### *Execution*

The project was nationally executed (NEX). UNDP is increasingly placing responsibility for execution in the hands of national counterparts, and followed this trend in the case of this project. The rationale for NEX is to build up capacities of counterparts to manage and deliver development programmes, and to increase and ensure ownership of the project with counterparts.

Under these arrangements, the National Authority is primarily responsible for the management of the project, and achievement of project objectives. According to the project document [as executing agent] the 'National Assembly will be primarily responsible for the planning, overall management of the activities of the project, including reporting, accounting, monitoring and evaluation'. It also notes that 'the National Assembly and Senate are accountable to the Government and UNDP for the production of outputs, the achievement of programme objectives and for the use of UNDP funds.'

The Evaluation Team was not given responsibility to provide an assessment on national execution per se, but a general conclusion is that NEX capacity remains weak. According to the responsibilities the Executing Partner defined above, the Offices of the Secretaries-General of the National Assembly and the Senate, did a reasonable job in the areas of reporting and accounting, but as detailed in the previous sections, programme objectives were not achieved, and many outputs targeted were not met. Therefore it is reasonable to conclude that this arrangement, at least in this first phase was not as successful as expected in terms of achieving results.

Annual audits undertaken by independent audit firms have confirmed compliance with the requisites of financial management. However, there is a particular need for the financial oversight arrangements to be strengthened. Of course, it is good management practice to be fully ware of any project's financial resources so as not to exceed the approved budget for the year. It appeared to the Evaluation Team that there was uncertainty in the immediate supervisory areas of the Country Office of the financial situation of the project. It also appeared that there was uncertainty in the project team as to the financial situation, particularly as to the impact that an increase in the delivery of outputs would have on the financial resources available for the remainder of the project as approved. There appears to be room for improvement in all concerned.

The Evaluation Team has previously noted the lack of cooperation with regard to implementation. There have been consistent reports of delays in execution with regard to procurement / contracting and approvals of activities per the work plan. While lags in delivery were also due to the high project staff turnover during the project phase, the role of and reasons (including limited knowledge of UNDP rules and procedures, and limited planning in the procurement of goods and services) for the counterparts contributing to these delays needs greater scrutiny.

The Evaluation Team recommends that NEX continue in the next phase, but with the caveat that personnel in the counterpart office should be recruited on merit basis and have clear management and budgetary skills required to execute what ostensibly will need to be a much larger programme in the future. Greater oversight is also needed of

the counterpart team vested in the higher offices of the secretariats. The project document notes that ‘there is a need to ensure full time availability of the designated senior officials for decision making at the executing level’. It would appear that this requirement was not regularized.

#### *Coordination and Partnerships*

The project document mentions a project task force to be formed and a Steering Committee established. A general annual meeting was also to be institutionalized as a body enabling MPs and key parliamentary staff to discuss progress made by the programme. This arrangement was to parallel a similar arrangement in the CIDA project. To coordinate donor assistance as well, a partnership forum was to be convened periodically.

There appears to have been little progress in institutionalizing or forming most of these bodies or partnership forums. Different reasons have been provided including the stagnant political environment of 2004. A project implementation taskforce (PIT) (consisting of the two Secretary-Generals, Deputy-Secretary Generals, Directors of Finance, and the UNDP Project Team) was institutionalized to regularly meet and assess progress in the annual work plan. This implementation was scheduled to meet once per month, with the Secretary-Generals of both chambers to report activities to their respective permanent committees. The implementation team did meet fairly regularly in the first phase of the project, but meetings slowed in the later months. The overall structure of this PIT needs re-assessing as well, as it may be too cumbersome in terms of numbers. There is also no evidence to suggest that any regular reporting of progress on activities were reported to the Permanent Committees.

The Partnership Forum was convened, but after the first meeting, convened again just once—viable reasons have not been provided to the Evaluation Team. There was not time available during the course of the review, but useful background may be able to be provided by the previous manager or manager. The forum as per the Terms of Reference in the Annex of the document, was supposed to meet at least 2-4 times per year. The annex also identified at least 9 different bilateral and multi-lateral donors/partners (including UNDP) involved in parliamentary development work. Reports of consultations, however, often only mention 2; CCLSP, and the Konrad Adenauer Foundation. The responsibility for convening the partnership forum, according to the project document, rested with the counterpart. It is critical, particularly if a much larger and stronger programme is envisioned for the next phase that all partners are consulted prior to and integrally involved in implementation.

There is an awareness of this need within the project implementation scheme. At the time of reporting, successful meetings were being held with potential donors (in cash or in kind) to support programs that were allied to the aims and objectives of the National Parliament, the relevant donors and UNDP.

The Evaluation Team strongly recommends that UNDP CO personnel, e.g. Programme Officers, and/or Assistant Resident Representatives be a part of the project implementation teams, steering committees, and other institutionalized bodies with regard to project management and coordination. In the previous project phase, UNDP Country Office involvement with project activities and oversight was not regularized and the Evaluation Team feels that this lack of regular involvement by the UNDP negatively impacted implementation. The Evaluation Team however also notes that the UNDP Country Office role is related to project assurance and its general mandate is to support and provide guidance, not to become involved in day to day implementation

and management. Nevertheless, the evaluation team has concluded that issues with respect to implementation and coordination, alleviating bottlenecks with regard to decision making, may have been settled at a faster pace with more involvement from the UNDP Country Office. In short, it is recommended to have a greater visible UNDP Country Office presence somehow in donor coordination, and / or oversight, if this is in accordance with the wishes of the National Parliament of Cambodia.

#### **d. Summary of lessons learned**

The lessons that emerged from this evaluation regarding project performance can be summarized as follows:

- Parliamentary Development, and indeed Democracy Building, is a process of long duration and commitment. It is not an inexpensive process. Donors and their funded projects should be encouraged to be realistic in their expectations and also be prepared to make long term commitments.
- Project design needs to be sensible and commensurate with the funding expected and time required for implementation.
- Workplanning similarly must also be far more practical and context minded.
- The design and implementation strategy needs greater coherence and synergies with clear sequencing of activities where required.
- Oversight by both UNDP and of the Counterpart must be more regularized and far better coordinated. This is particularly important in less experienced NEX institutions as in Cambodia.
- Management capacity in the NEX institution must be stronger and staff executing the project on a daily basis selected at a professional level with clear credentials.
- Rationalization of the type and numbers of staff needed is critical, particularly in terms of international technical advisers.
- A project of this kind needs visible and involved partners. This project suffered from the absence of a coalition of committed partners.

#### **4 Overall Assessment of Parliament's Institutional Capacity & Strategic Targets**

Given the parliament's powers, history and organization, the question is to what extent it has the *institutional capacity* to make laws, oversee public expenditure, and in general provide the people with a voice in high-level policy debate.

The term "institutional capacity" can be seen as a function of three variables: first, to what degree the institution has introduced and consolidated the necessary *systems and processes* (inner workflows); secondly, whether its human resources have developed adequate technical *skills and knowledge* (managerial, specialist, administrative) to enable them to perform; and thirdly, whether the individuals have developed or adopted appropriate work *attitudes and behaviours* (professionalism) that link the skills with the workflows.

## a. Overall Assessment

As former Commonwealth Secretary-General Chief Emeka Anyaoku said in January 2000, Democracy does not come in one universal format for progress...<sup>2</sup>. A similar sentiment was expressed by Pierre Joxe in Phnom Penh in 1993: “[l]a démocratie ne se repique pas comme le riz.”<sup>3</sup>. Comments of this nature provide a timely caution against imposing external standards on an emerging democracy.

A strict imposition of external standards might justify cause for criticism. For example, resort to sanctions involving the lifting of parliamentary immunity, and subsequent legal action on the basis of criminal defamation, following public criticism of the Executive has caused adverse comment, such as from the European Parliament, the Inter-Parliamentary Union (IPU)<sup>4</sup> and the World Bank. Similarly, there has been criticism, particularly by the IPU, of the expulsion of a number of Members of Parliament from their Party, and subsequently from the Parliament, following their criticism in Parliament of the proposed criminal Code.<sup>5</sup> However, there have been recent indications of a softening of attitudes on the criminal defamation matter. Parliamentary immunity was restored to three Members of Parliament on 28 February 2006. While the action taken on the expulsion of Members is not the IPU preferred option, it is not unusual for action of this kind to be taken in legislatures around the world, especially those in which election to the parliament occurs under the party list system. Attachment 6 provides a summary of similar outcomes in India, New Zealand and South Africa.

As indicated earlier, parliamentary democracy in the Kingdom of Cambodia has made a successful start. Observations have been made (significantly at the donor level) to the observer team that the people of Cambodia care very much about having their say and being free to do so. There have been a number of successful elections which, while not passing without some unfavourable comment, have by and large been recognised as being fair and unobstructed. The Constitution has been implemented and amended on a number of occasions. A number of crisis situations have been settled in a peaceful manner. More recently, there has been a softening of attitudes among the leading participants in the political scene, and meaningful discussions have taken place about ways in which to alter the political system (subject to endorsement by the people). Radical changes, such as the adoption of the 50% +1 rule, have occurred. There has been a greater acceptance of the valid role to be played by an effective opposition. At the level of individual parliamentarians, there has been some indication of cultural change and an increasing awareness of the responsibilities and duties of a member of parliament, largely due to UNDP-sponsored activities.

Before commenting in detail on specific elements of parliamentary function as they apply in the Cambodian environment, it is important to keep in mind what the basic functions of parliaments are generally regarded to be:

- Legislative
- Scrutiny/oversight of the Government
- Representation (sometimes including as a subset providing a national forum in which matters of concern to the country and its citizens can be discussed)

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<sup>2</sup> Quoted in *Creating a Culture of Integrity*, John Uhr, Commonwealth Secretariat 2003, p3.

<sup>3</sup> Kim-Yeat and François Beaulne *Challenges and Perspective of Adjusting Parliaments in Post-Conflict Situations to Parliamentary Culture: The Cambodian Experience* p.11.

<sup>4</sup> See for example IPU website <http://www.ipu.org/hr-e/177/Cmbd14.htm>

<sup>5</sup> <http://www.ipu.org/hr-e/177/Cmbd18.htm>

- [in countries operating under the Westminster system] providing the basis for the selection of the Executive.

However, it is useful to keep in mind that many of the functions overlap, or combine more than one function in the one activity. Consequently, in a system in which most of the legislation is introduced by the Government, whenever legislation is being debated, the function of scrutiny/oversight is being performed, as well as the legislative function. Similarly, when commissions are considering legislation, they are performing legislative and accountability functions, as well as a representative function when they “take parliament to the people”.

With this concept in mind, the various parliamentary functions are considered in the section which follows.

## **b. Assessment of Parliament’s Legislative Capacity**

Legislating, or passing laws, is an essential function of parliament. The record of the Cambodian Parliament leaves room for development in this regard. It also leaves room for future development in partnership with the UNDP.

Legislative power under the Constitution is non-transferable and is vested in the National Assembly and the Senate. Unlike some other nations, such as, for example, Timor-Leste<sup>6</sup>, the Government cannot proceed by decree law. However, it does possess the usual power to make administrative law (eg regulations and ordinances) that are made under a law already agreed by Parliament. This is a frequently-occurring provision in other jurisdictions. However, in these jurisdictions, it is also usual for parliament to have the power to disallow administrative law of this kind within a set period of time. There is a similar power of disallowance vested in the Cambodian Parliament.

One comment made to the evaluation team from a representative of commercial society was that there was a degree of impatience with the absence of a structured law system in areas important to business. For example, bankruptcy law had only recently been codified. Without such a structure of law, business would be reluctant to commit itself to Cambodian ventures. Another area of great need was transport law.

Most laws that pass through the Parliament are introduced by the Government. The most recent figures are that 10 of 63 laws were initiated by the Parliament. However, it is not unusual in a parliamentary democracy for the great majority of laws to be initiated by the Executive. The important feature is that Members have the assistance to understand the impact of the laws they are passing, and that they have the opportunity to receive a formal decision on any amendments they may wish to move.

It was a common comment of concern that Members of Parliament were not equipped with the extrinsic aids they need to interpret legislation coming before the Parliament and its Commissions. For example publications produced that could serve as training aids, on the principles of legislative drafting, available in the English and Khmer languages<sup>7</sup> do not appear to be well known nor utilized by UNDP or MPs. It is recommended that UNDP obtain a copy of such publications and have them evaluated, with a view to organising workshops with Members of the Cambodian Parliament.

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<sup>6</sup> In Timor-Leste, the Parliament can request the Executive to make a decree law. The Penal Code of Timor-Leste was enacted in this way.

<sup>7</sup>For example, the publication prepared by Ms Pat Baars, currently working in Cambodia with the Asia Development Bank.



One support initiative by UNDP was the provision of a Cambodian lawyer for assistance to a Commission during its consideration of the proposed Corporations Law. In any jurisdiction, Corporations law is an involved, complicated matter, especially for those not skilled in its application. The assistance was very much appreciated by the Commission members.

Many parliamentary jurisdictions support a system of legislative bills digests, which explain to Members the aspects of the legislation before the Parliament, and its impact on the existing law, were it to be enacted. An example of a digest of this kind is at Attachment 7. This would be a primary output of a legal research centre.

There is a strong case for the establishment of a research centre, possibly initially assisted by international legal researchers to pass on the skills to Cambodian staff so that this service can be provided on an ongoing basis. While legal advice would be desirable within the research centre, Commission Presidents also indicated that there was also a need for experts in social science, economics etc. There is also a case for UNDP to organise, in conjunction with the National Assembly and the Senate, short courses on the structure of a bill, basic statutory interpretation, etc. This is included in short and medium term UNDP strategies (*See pages 39-45*).

There is also the consideration of time. It appears that, even if there is the legislative depth to consider proposed legislation, there is insufficient time allowed for appropriate consideration, especially with technical and detailed legislation such as that relating to finances. The Government has the power to declare legislation urgent, thus limiting the time for its consideration by Parliament, especially the Senate, which has a maximum of only five days of consideration under this arrangement. Again, it is not an unusual parliamentary device for Bills to be declared urgent, as a means of limiting or curtailing debate. However, this usually follows a vote of the House concerned. The Evaluation Team was advised that it is not unusual for proposed legislation to be declared urgent on a Friday, which has a tendency to inhibit further the time available for consideration.

It is refreshing to note that the practice has been adopted for the Senate to consider Bills in their draft form before they formally come before the Senate. It would be an appropriate extension of this practice if all Bills were available to the Senate as a parliamentary document (perhaps by being tabled in the Senate) so that they received proper consideration by both Chambers.

An additional consideration in relation to legislation was the difficulty with bringing into effect laws passed by the Parliament. The evaluation team was advised that a large number of laws had been passed but not implemented. There was also a difficulty for society to be made aware of the details of legislation that had been passed.

The concept of the Executive not taking the action to bring legislation passed by the Parliament into effect is not unknown in many jurisdictions. A large amount of legislation has a commencement provision to be a date to be proclaimed by the Government, and for there not to be a subsequent proclamation. Some jurisdictions have a standing provision that if a law is not proclaimed to have commenced within a set period (for example, six months after passage), it lapses and has no legal effect.

There is also the difficulty of society becoming aware of the terms of legislation passed by the Parliament. This has been accentuated by printing difficulties and the reluctance by staff of one of the Houses to come to agree to a common printing

facility. In some parliaments around the world, responsibility for processing legislation is vested in the House in which the proposed law was first introduced. However, in other bicameral parliaments, it is not unusual for one of the Houses to take responsibility for all legislation. In the United Kingdom, for example, the House of Lords accepts this responsibility. Perhaps based on this model, the Senate of Cambodia could be vested with a similar role.

### **c. Assessment of Parliament's Oversight Capacity (political and budgetary)**

The distinction has been made in discussion on the accountability aspect of democratic governance between scrutiny and oversight. Scrutiny relates to general investigation of the '*why*' of organisational conduct, particularly when there is considerable discretion exercise by governmental officials under investigation. Scrutiny would thus involve explanations by policy makers, including elected representatives and unelected civil servants. This usually occurs in the public arena.

'Oversight', according to this distinction, relates to the '*how*' of organisational conduct, particularly when there is greater expectation of compliance with authorised policy. It is seen to be more an ongoing process, not always in full public view, and often also conducted by agencies in addition to parliament, such as an auditor-general<sup>8</sup>.

#### ***The concept of 'the loyal Opposition'***

In this context, the role and function of the Opposition is relevant, as is the work of parliamentary commissions. In all liberal, multi-party democracies it is essential that the valid function to be performed by an Opposition is recognised. It is also essential that an Opposition, to be effective, does more than criticise the actions and performance of the Executive. The Opposition must regard itself as a source of alternative policy proposals. It is not unusual for governments around the world not to openly endorse Opposition or other non-government proposals, but for them subsequently to appear in Government proposals. An active Opposition is good for a Government, as it provides the opportunity to demonstrate that the Government is discharging its responsibilities in a way that is committed to good governance. An attitudinal shift is required of all players on any political stage for this to be done in an effective way, and to the benefit of all involved. To this end it is recommended that UNDP organise all-party workshops on the role and functions of an effective opposition. This has been included as a short term UNDP strategy (see section 5, page ).

#### ***Parliamentary Commissions***

One major tool in discharging the parliamentary function of accountability is in the operation of parliamentary commissions. As discussed earlier, both the Senate and the National Assembly have a well-developed series of parliamentary commissions. However, each commission of both Houses has a heavy workload in their examination of legislation. The government has 26 ministries, two state secretariats, the Council for the Development of Cambodia (CDC) and the National Audit Authority with the concomitant administrative support. However, each Chamber has only nine commissions to cover the line ministries, and they are over-burdened with the consideration of draft laws<sup>9</sup>. Commission members repeatedly articulated the desire to perform effectively the functions assigned to them as parliamentarians, but did not feel adequately supported in their wish to examine proposed laws.

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<sup>8</sup> John Uhr, "Creating a Culture of Integrity", part of the series "Taking Democracy Seriously" Commonwealth Secretariat 2003, page 11.

<sup>9</sup> Kim-Yeat and Beaulne, op cit, page 22.

In terms of monitoring the actions of the Executive, the Cambodian system does not incorporate a commission that exists in many parliamentary jurisdictions of a Public Accounts Commission. In some parliaments, this is a joint commission comprising membership from both chambers, and occasionally designated a commission of Public Accounts and Audit. As such, it is a powerful ally to the national audit office, and together the audit office and the commission perform regulatory audits in the traditional sense and performance audits of publicly-funded programs. Some participants in the political process are aware of the existence of accountability tools of this kind, and the fact that in countries such as Canada, Germany and the UK the President of the Commission is a non-government Member of Parliament.

The National Audit Authority does report to the National Assembly. However, it does not appear that there is any real knowledge amongst members of parliament as to the uses to which the report could be put, or the extent to which the Parliament and the Audit Authority might be allies in the cause of public accountability. Possibly, UNDP could sponsor awareness-raising sessions in this regard. This should be a medium-term UNDP strategy (see page 38).

In theory, monitoring of Executive actions is possible at the commission level, as the commissions can discuss issues with the Executive. At special weekly sessions of the plenary, ministers including the Prime Minister can be asked questions. Members can submit written questions that must be answered in seven days and can be oral or in writing. In practice, the parliament does not have any effective way to force an answer, and a minister may delegate to a “personality” the responsibility to answer on the minister’s behalf (usually for technical responses, without a representative at the political level). Anecdotal evidence was provided to the evaluation team that the question period was conducted along the lines of the French model, with lengthy interrogations and long rhetorical responses.

According to the second annual issue of *Parliamentary Watch*, the report of the Committee for Free and Fair Elections in Cambodia (Comfrel), two Government members attended in the National Assembly to answer questions from Members of Parliament (both SRP) in the period October 2004 – September 2005 on the increasing price of oil and on troop deployment, tender issues, the use of military licence plates and the trade of public properties.

#### ***Comments on possible future parliamentary Petroleum Fund monitoring body***

Comment has been made about Cambodia’s large oil resource, currently untapped, and the need to monitor revenue arising from any future steps to exploit the resource. Perhaps the experience of Norway and, more recently, Timor-Leste may be relevant in this regard.

With respect to all of Cambodia’s natural resources, Parliament has an important role to play. Parliament has general authority on budget allocation and oversight. However its specific competencies could be recognised in regard to petroleum revenue. In Timor-Leste the so-called Petroleum Fund was established by legislation and it will channel petroleum taxes into a Petroleum Fund<sup>10</sup>. The legislation establishes parliamentary specific competence to examine the annual financial statements of this fund, which is the key to the country’s development in the next two decades or more. Due to the highly technical expertise required for a duty of this kind, the Petroleum

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<sup>10</sup> The Petroleum Fund is a savings instrument and fully integrated into the National Budget. Parliament will authorize the government to withdraw up to a ceiling. If government wishes to withdraw more, it must ask parliament to raise the ceiling. Political analysts anticipate that the Petroleum Fund will partly be held in reserve, and partly be spent to boost the National Budget and to compensate for fluctuations in other state revenues, thus allowing long-term planning and stable project implementation.

Fund Law creates a *Petroleum Fund Consultative Council*.<sup>11</sup> This body shall advise parliament on appropriations from the Petroleum Fund, and whether the appropriations are being used effectively to the benefit of the citizens. It is understood that this arrangement followed the Norwegian model.

The evaluation team was advised that thinking on the desirability of establishing a fund was currently divided, especially after recent events in the Republic of Chad. However, should a decision be made to proceed by way of a Reserve model, parliamentary oversight by a commission or some similar parliamentary model could be considered.

More detailed information on the Norwegian model is available at:

[http://odin.dep.no/fin/english/topics/pension\\_fund/006051-990060/dok-bn.html](http://odin.dep.no/fin/english/topics/pension_fund/006051-990060/dok-bn.html) and

[http://www.norges-bank.no/english/petroleum\\_fund/reports/2005/eng.pdf](http://www.norges-bank.no/english/petroleum_fund/reports/2005/eng.pdf).

#### **d. Assessment of Parliament's Representative Capacity**

Article 77 is the only article in the Cambodian Constitution dealing with the representative functions of legislators. Furthermore, the current electoral system encourages party and not individual legislator representation at the local level. However, the changes to the electoral system pertaining to the Senate, whereby Senators are now elected by an electoral college consisting of approximately 11,000 electors at the Commune level, has given members of the upper house a greater profile vis-à-vis their roles and responsibilities to represent their constituents.

Nonetheless, both the National Assembly and Senate are still viewed by the majority of Cambodians as servants of their party structures and not of their constituents. The Provincial Parliamentary offices are under-resourced and concomitantly under utilized by MPs, who prefer to visit their party offices or use their private houses meet with constituents

The matter of gifts in making visits to the regions is a serious consideration. Again, as a reflection of the growing political maturity of the institution, and the growing cultural awareness of Members of Parliament, on at least one occasion Members met before a commission visit to ensure that no one participant in the excursion would feel embarrassed in the light of gifts offered by other participants.

Many countries provide for elected representatives to receive an electorate allowance, or funds to service the electorate. It is not the function of UNDP to suggest the introduction of such allowances. Moreover, allowances of this kind do provide an advantage in favour of incumbency. However, included under short-term UNDP strategies is a recommendation designed to place the Cambodian National Assembly and Senate in a position to decide whether the introduction of allowances of this kind is appropriate (*See page 43*).

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<sup>11</sup> The Council comprises former Presidents of the Republic, former Speakers of the Parliament, Former Prime Ministers, Former ministers in charge of finances, former heads of the Central Bank, two members appointed by parliament, two members from civil society, one member from the private business sector and one member from religious organizations. (See section 26, Petroleum Fund Law/ 2005)

A similar move would be the strengthening of constituency offices for the Members of the National Assembly, and for Members to hold regular “clinics” where they could be interviewed by constituents. Senators could be provided with similar offices, particularly in the light of their links to local government. It is recognised that this would not be without additional expenditure implications.

The level of civic education throughout the Kingdom in regards to the role of members of parliament is also quite low. This has resulted in misunderstanding about what an MP can and cannot provide his/her constituents. In many developing countries, poverty and low education levels contribute to constituents’ expectations that their legislators should personally provide them with food, money or gifts. Others see parliamentarians as responsible for dispute resolution on matters that have not or cannot be solved locally.

Among the successes of the project under its current management has been the holding of an open day for both the National Assembly and the Senate. This can only help open up further the perceptions that the people have of their parliament. Perhaps at some future time it might be possible to assist schoolchildren from more remote areas of the country to participate in visits of this kind, possibly including some element of role play.

There had been some interaction between Members of Parliament and civil society. A complaint mechanism exists, similar to a petitioning process. Exemplary figures appeared to be similar for both Houses, with complaints in excess of 1000, mostly relating to land disputes. They were never ignored, and action was taken immediately, with the relevant ministry was involved. Approximately two thirds of the complaints were answered. In instances where they were not answered, commission members have advised that they were followed up on excursion visits. In the instances of some commission visits (eg, relating to land borders), matters were taken up with the minister subsequently.

Another success which has only just been realized is the assistance UNDP has provided to familiarize the new Senators to the roles they will be performing. This was in the form of a new Senators’ orientation seminar, held on 15 March 2006 (approximately a week before the Senate met for the first time). The current project team all took part in putting the program together, involving a huge extra commitment without seeking overtime etc.

While the Cambodian constitution does make provisions for Parliament to hold public hearings, the internal rules of procedures do not contain mechanisms to make them operational. Moreover, they appear to meet more frequently in private than normally occurs with *in camera* proceedings in other jurisdictions.

Much to the chagrin of many MPs the team interviewed during the course of the evaluation, local NGOs, supported by foreign donors, have filled much of the void by holding public consultations on an array of topics in constituencies throughout the Kingdom. This has resulted in a situation where MPs are seen as reactive to NGO-led legislative or policy agendas, rather than as proactive leaders.

For Parliament to play a more significant representative role, it together with its international assistance partners, such as UNDP and CCLSP, will need to join forces to regularize, operationalize and better finance the public consultation process. The rules of procedure will need to be amended to reflect this reality, staff and MPs will need to be trained in the practice of holding public hearing and the realization that a half day

public consultation, whether it be in the rural areas or the capital city, often takes weeks to organize and execute properly.

In the Evaluation Team's interviews with legislators, leaders of civil society organizations and donors, it emerged that the government is discussing the possibility of amending the constitution as it concerns its electoral system. The change of electoral system from the current party-list system to a mixed proportional representation or single member district electoral system will result in profound changes to Parliament's representative functions. In particular, investment at regional level offices and staff development will be essential for the political survival of legislators and essential to protect the legitimacy of the institution of Parliament as the representative of the collective will of the people of Cambodia.

A move in this direction would make essential the consideration of strengthening the capacity of parliament together with public administrative reform and decentralization. Local authorities play a crucial role in influencing the vote of their population, and the choice of members of parliament<sup>12</sup>.

Interviews with a number of Senators showed an increasing awareness of the responsibilities stemming from the relationship between the Senate and the Communes/ Sangkat Councils. However, it was also indicated that perhaps there was not a widespread appreciation of the role of Senators in this regard. One commission president expressed a strong desire to formulate ways in which the Communes and Senators might work together. A strong desire was expressed for Senators to be involved in the development of the Communes. To give effect to and build on these desires would seem to be essential with forthcoming Commune/Sangkat Council elections next year. At the moment, the extent of liaison and cooperation was an undetermined field. Perhaps this is an area in which UNDP could provide assistance, possibly drawing on the experience of those familiar of the liaison and inter-relationship that exists between the French Senate and the municipalities of France.

#### ***Agenda Notification***

One area of the parliament's operational capacity that frequently received unfavourable comment was the inability of interested individuals or groups to learn of matters that were to be considered by the parliament. In the great majority of parliaments, agenda documents are widely made known. This is frequently the responsibility of the secretariat, independent of the political elements in a legislature. A Notice Paper or document under a different name but with the primary function of advising of the daily agenda is published widely under the name of the secretary-general. Frequently a document of this kind will also contain the details of written questions seeking technical or detailed information.

Discussions the evaluation team had with various elements of civil society revealed that there is still a degree of apprehension, sometimes extending to fear, of figures of authority. To some observers, the legislature falls into this category, although in the opinion of the evaluation team, members of parliament are doing a great deal to convey a more positive perception. One small step in the same direction would be both House to widely publicize the items of business that are expected to come before them (with the usual disclaimer as to the possibility of change). More frequent Commission proceedings in public would be a positive move down the same path.

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<sup>12</sup> Kim-Yeat and François Beaulne, op.cit, page 12.

### ***Parliament's relations with the media***

In most vibrant parliamentary democracies with which the evaluation team is familiar, the element sometimes described as “The 4th Estate” in the system of separation of powers, is an essential component. It is vital that the media feel free to comment on the operations of the Executive, the Legislature and the Judiciary without fear of retribution. In the area of scrutiny and accountability, the media is a very important player in its own right and is also a valuable ally of the Legislature. It constitutes an important avenue by which the various arms of good governance can inform interested groups and society in general, of initiatives and programmes they are undertaking.

In Cambodia, there appears to be a vibrant print media free to make comment on the participants in the political process. Presumably, this freedom will be heightened with the revised attitude to the criminal libel laws. However, the Evaluation Team was advised during interviews that the reach of the print media was extremely limited, both geographically and demographically. The important mass media elements were radio and television. There are plans to utilize the reach of radio and television, as discussed as one of the short-term strategies in the context of spreading the outreach of the parliament.

### **e. Assessment of the Secretariats' Institutional Capacity**

#### ***Quality of the parliamentary service***

The secretariats of the National Assembly and the Senate of Cambodia have enjoyed some successes in the short period of their existence. The Constitution prescribes the financial independence and autonomy of the National Parliament, and its personnel are guaranteed separation of from the civil service. In this respect it is at the forefront of organizational arrangements for parliaments of the world. Many legislatures have struggled for many years in achieving the statutory independence enjoyed by the parliamentary service of Cambodia.

In many situations of establishing post-conflict democracies, the availability of experienced, effective staff is a challenge. In a country that has experienced such ravages as has Cambodia, the challenge is especially heightened. This has a particular impact on parliamentary service, as parliamentary procedure places a great emphasis on precedent and past practice. The staff usually provide the institutional memory and are the custodians of the traditions of the legislature. Locating staff with the experience and intuition is one consideration. There is also the consideration of on-the-job development of more junior staff, with the absence of experienced staff to provide guidance and counsel. This is a common feature of parliamentary services in a post-conflict situation.

As mentioned earlier, there appears to be throughout the Cambodian civil service a tradition of appointment and progression according to political affiliation. An early 2005 study indicates that continual efforts are under way by the Government of Cambodia and others to enhance the functioning of Parliament. The study discusses the existence of political and administrative personnel possessed by each political party in Cambodia, resulting in needless and detrimental competition between the two chains of command within each public structure. The article indicates that the Parliament and the National Assembly in particular, has been affected by this situation, and states that while the National Assembly is experiencing positive change, there are still challenges to overcome, in particular the neutrality of its civil servants<sup>13</sup>. Particular attention is paid to this aspect:

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<sup>13</sup> Ibid.

The client-patron relationship system and the politically motivated appointment of the civil servants according to the successive political deals, do not favour the neutrality of the public administration, as required by the law. Ultimately, this situation hampers the efficiency of the public administration and generates distrust amongst the electorate. The effectiveness of the public administration depends heavily on its neutrality.

Thus, strengthening the capacity of the Parliament has to be considered in conjunction with, and in the broader context of, the public administrative reform and decentralisation. This is because the local authorities play a crucial role in influencing the vote of their population, thus the choice of the members of the parliament, despite the official calls of strict neutrality by the central government.

The most recent press reports indicate a questioning of the previous practice of the scale of adviser appointment and discussion of a new National Assembly-Secretary-General appointed from neutral sources. However, it is possible that a person with previous or current political association may be appointed as National Assembly secretary-general, despite the expressed desire by a leading Commission President for a secretary-general from neutral sources. It must be remembered that in Cambodia's immediate past, progression has frequently been on the basis of talent and political affiliation. The most appropriate person to be appointed secretary-general may be someone with political affiliation. If so, a "political" secretary-general may be in an even better position to demonstrate that it is possible to establish an apolitical parliamentary service in the National Assembly. It may also prove impossible to resist overtures for co-operation with the Senate that the Evaluation Team was advised had been made from time to time but had been rejected by the National Assembly staff. In the light of comments by the Prime Minister, the Leader of the major non-government party and a highly-regarded President of a Parliamentary Commission, it would seem highly improbable that the same levels of staff would be retained as was reported to exist under the previous administration.

#### *Quality of delivery of performance of parliamentary service*

The evaluation team was advised on a number of occasions of the perception among commission members that the services delivered were not what they perceived as desirable or necessary. There have been recent reports of approximately 450 additional staff being appointed to serve the National Assembly, bringing the total to 700 staff. The Prime Minister was quoted in the Press on 1 March 2006 that the National Assembly employed excessive staff numbers and expressed doubt about the effectiveness of the institution. A leading SRP member is reported to have made similar comments during that discussion. Reports have also indicated that recent recruitment has not been directed to the specific needs of Members of Parliament.

At the same time as reports of the appointment of large numbers of staff, there has been feedback that the Parliament does not have sufficient funds to provide for essential parliamentary work, such as field excursions to keep in touch with regional constituents. It is, of course, a matter for the Chambers of the Parliament to decide where they allocate their resources. In most legislatures around the world, where there are not sufficient resources to fund basic parliamentary functions, expenditure on staff is among the first area to be reduced. With staff somewhere in the vicinity of between 700 and 1000, it is possible that a number of staff may no longer be actually in the service of the Parliament. In an environment where the UNDP is being asked to continue the funding of areas normal outside its normal field of expenditure, UNDP may prefer to consider assisting the administration to conduct a staff audit of the actual numbers employed, any savings being directed to funding such core functions as field excursions. Among the



recommendations for future UNDP action is a recommendation that further staff training be suspended until the actual position has become clear following a staffing audit conducted by the current parliamentary service.

The corporate image of the Senate is much more improved than that of the National Assembly. The Senate service enjoys a reputation of attempting to provide parliamentary support in a more traditional parliamentary way. There may be greater continuity of service in Senate staff, all the way through to the Secretary-General and the Deputy Secretary-General. The Evaluation Team also found that there was a deep knowledge of, and a strong commitment to, principles of sound management practices in the staff leadership of the National Assembly, but there may have been political constraint in effecting change.

While the evaluation team met some obviously highly performing commission staff, there was also feedback that many members are less than satisfied with the service that they are receiving. There is an urgent need for the size of the parliamentary service to be accurately assessed, and for management/leadership training to be extended to those who remain, subject to ongoing evaluation of results and retention of staff.

However, it should also be recognised that there are other providers involved in the process. The Konrad Adenauer Institute and the Cambodia –Canada Legislative Support Project of CIDA are also active in this area. The CIDA project indicated, for example, that it had developed job profiles for commission staff. However, there was no indication in the interviews the evaluation team experienced that this documentation was being used.

In the view of the Evaluation Team, UNDP has the highest profile among Members in this regard, and it is well-respected by them. In the light of the fact that it is not representing any specific national group, UNDP could use its profile to attempt to co-ordinate the activities of the participants, and seek to avoid duplication of effort.

#### *Regional staff activities*

During the course of the evaluation, the suggestion was raised of attempting regional meetings of parliamentary staff from Cambodia, Laos, Thailand, Vietnam etc to discuss matters of common parliamentary concern. Possibly, the Inter-Parliamentary Union and the body formed under it, the Association of Secretaries-General of Parliaments might become involved as part of its encouragement of co-operation at the regional level. The Secretary-General of the House of Representatives of Thailand who is a member of the ASGP Executive Committee, could assist in arrangements. Perhaps a regional meeting could be arranged, initially at the level of Secretaries-General and their deputies with the assistance of UNDP Regional Office, Thailand, on a theme of the roles and responsibilities of secretaries-general of parliaments.

#### **f. Assessment of Parliament's Infrastructure (library and information centre)**

Both Houses of Parliament have library and information centre strategic plans. However, it was pointed out to the evaluation team that the current thinking in Cambodia was for parliamentary libraries in the form of monographs, hard copy publications etc when the rest of the world was going down the path to electronic information.

At Attachment 8 is a summary of a UNDP programme conducted in the Pacific for the library needs of the nations in the Pacific. Importantly, it includes reference to important websites that are available to parliamentary libraries around the world at no cost.

The concept seems to be embedded of the desirability of two separate libraries serving both institutions. Despite the geographical difference of location of both chambers, it should be possible to exercise economies of scale by providing joint services wherever necessary. One possible model would be for a joint management board comprising the secretary-general of each House on all occasion and the head of the operational area concerned, for example, a parliamentary librarian to consider library matters. Similar there could be one diplomatic and international liaison area, and despite the recommendation to the contrary by Solaris International in conjunction with UNDP on Communication Services Development for the Cambodian Parliament, one printing/communications area.

This matter of a library and information centres is discussed further below under medium-term UNDP strategies.

#### **g. Assessment of Information Technology (IT) Resources and Facilities**

The Parliament is currently operating on very antiquated electronic equipment, and Members are not familiar with e-mail. If an arrangement is entered into to obtain funding for IT resources and facilities, UNDP might give priority to familiarising members with the use of the internet, e-mail etc. More detailed recommendations in this regard are contained in the discussion below on strategies for short-term support to the legislature.

As it has become a world-wide phenomenon for the media to have material supplied to them, it may also be possible to institute e-mail alerts such as the one attached at Attachment 9. This alert bulletin also demonstrates the way in which the parliament might attract the attention of a very busy media.

#### **h. Assessment of role of Parliament in attaining Millennium Development Goals**

##### **Cambodia Millennium Development Goals**

The Cambodia Millennium Development Goals (CMDGs) are 9 goals, 25 overall targets and 106 specific targets covering, (a) extreme poverty and hunger, (b) universal nine-year basic education( c) gender equality and women's empowerment, (d) child mortality, (e) maternal health, (f) HIV/AIDS malaria and other diseases, (g) environmental sustainability, (h) global partnerships for development, and (i) demining, unexploded ordnance and victim assistance. The last goal is unique to Cambodia.

Cambodia's first MDG report was produced in 2003. The report noted that of the 25 targets, 11 were probably in reach or had the potential to be reached by 2015. The 2003 report notes that an enabling environment of good governance is critical to achieving the goals. In particular it notes, 'the legislature and judiciary remain weak relative to the executive branch. As a result the horizontal checks and balances are limited. These pillars of accountability must be strengthened to ensure they are able to perform their proper role in policy formulation and in the exercise of monitoring and implementation oversight. Functioning, effective and accountable government institutions and vibrant civil society are critical to the achievement of development outcomes as reflected in the CMDGs. It is also relevant that the Government has committed to implement *The Rectangular strategy for Growth, Employment, Equity and Efficiency in Cambodia*", issued by the Prime Minister in 2004. Of the 71 indicators, 49 are related to the MDGs, and this has implications for inter alia the

Executive, the legislature, budget expenditure, allocations, and the laws that are to be passed.

The UNDP Parliament Project has begun the process of engaging parliamentarians on the MDGs and discussing their potential roles with respect to oversight, implementation and monitoring. Parliamentarians have attended regional / international meetings on the MDGs and the Millennium Declaration, and the project has facilitated discussion of the role of women parliamentarians in particular, with respect to CMDG attainment, through the holding of several roundtables and supporting 3 field visits of the Women's Caucus of Parliament.

In discussions with counterparts during this evaluation mission, it was evident that while MPs were generally and genuinely interested in the topic of the CMDGs, their knowledge of the subject as well as understanding of their roles indicated that there was still the need for substantial and sustained future support. The understanding of Members of Parliament in general on their role with respect to oversight needs greater focus in the next phase of parliamentary support.

The legislature has a very important function to discharge in this process. Members of Parliament play a vital role in providing the link between the executive and the general population (where the system is working appropriately, a two-way link). This could extend to parliamentarians in their movement in the general community, in their activities on parliamentary commissions and less formal parliamentary forms of association such as their party organizations, and in their relationships with Non-Government Organizations. Members of Parliament also have a role to play in adjusting by way of legislative amendment where necessary and ultimately endorsing proposed legislation where this is required to advance or implement the goals. Support to parliamentary development relates to the achievement of the MDGs in the following ways, and through these lenses, should be looked at in the next phase:

- Through the process of reinforcing the role of the parliament in holding government accountable for policy commitments and the use of budget resources for poverty reduction goals. In particular, the budget analysis capacity of the parliament's budget committee can be strengthened to help it ensure that national allocations match MDG plans and commitments.
- The same capacity can be reinforced in Women's caucuses; health and education committees of parliament to ensure that progress toward MDG achievements are on course and appropriately resourced. These interventions can strengthen the national democratic process of oversight and accountability for MDG's.
- MDG country reports which when submitted to strong, functioning parliaments for scrutiny mean that governments will be held better accountable for their poverty reduction commitments.
- Parliaments can also engage civil society with respect to Shadow reports, and have hearings on the subject matter.

Of course, as with any generalization, there are exceptions to the extent of awareness of MDG goals and their inter-related nature. Female commission members, in particular, seemed better aware of this matter and had committed to major developments in advancing towards the goals. Cambodia's position in relation to gender mainstreaming appears to be well advanced, both in Member representation and staffing. The position in relation to female representation in the legislature is summarized in the following table:

HOUSE	Date of elections	IPU ranking*	Seats held by Women	Total No. of Members	Women Members (%)	World average Women Members (%)	Asian Average Women Members (%)
National Assembly	July 2003	99	12	123	9.8	16.5**	16.1
Senate	January 2006	99	8	57	14.0	15.1***.	14.5

\* Of a total ranking of 138 as at January 2006. Where a number of legislatures are ranked equally, the subsequent rankings are not adjusted for the previous equal rankings.

\*\* For single chamber or lower house legislatures.

\*\*\* For upper houses.

Source: IPU website

There has been a huge increase in the numbers of women elected at the local level (approx 1000). Hopefully, strategies will be developed to ensure that these levels are maintained and improved.

## 5. Recommended UNDP future action

### a. Recommended UNDP future action – general

It is the firm view of the evaluation team that UNDP must remain and should intensify its development programme in Cambodia. In 2004, the Executive issued *The Rectangular Strategy for Growth, Employment, Equity and Efficiency in Cambodia*. The fourth pillar in the Government's rectangular strategy is in essence good governance. An effectively functioning Parliament is essential to good governance.

There is every indication that there is, in Cambodia, an increasing commitment to the principles of good governance. The Evaluation Team received many expressions from elected representatives and the staffs that serve them, from international organisations with an interest in the area, and from representatives of civil society that the time had arrived for the next steps to be taken towards the realisation of enhanced parliamentary democracy in Cambodia. Members of the National Assembly and the Senate, in particular, indicated a sound understanding of the doctrine of the separation of powers

and a desire to play their part in ensuring that the doctrine worked effectively in Cambodia.

There is also the realisation that effective parliamentary government requires a greater commitment of official funding, and that particularly in a post-conflict environment, it is important to proceed at a pace that is acceptable to existing institutions. Developments must keep pace with the expectations deriving from a complex array of sources, not the least of which is the people themselves. Subject to endorsement of this strategy by the National Parliament, this means that a long-term process is envisaged, but that there are immediate necessities to be attended to as a matter of some urgency. The Parliament is in the best position to identify needs and priorities, assisted by the international parliamentary expertise available within the UNDP project team. By providing a long-term strategy with an agreed sunset schedule and an agreed exit strategy, the groundwork is laid for a progressive handover to the Cambodian legislature and the acceptance of complete ownership and responsibility by it, so that in the light of the clearly demonstrated abilities of the Cambodian people, the process can be passed on once appropriate confidence levels have been attained.

The evaluation team has organized the ideas and recommendations learned during numerous meetings with members and staff of the National Assembly and the Senate, leaders of civil society organizations and non-governmental organizations, donors and other key stakeholders interested in the institutional development of Parliament.

UNDP has developed a high level of trust and has helped foster momentum for institutional reform among key actors in Parliament. Nonetheless, institutional modernization of parliament could take upwards of 10-15 years to achieve. Moreover, if this process is to be sustained without (or with less) donor assistance after this period, it will have to be carefully planned and even more carefully executed.

Given the current fluid state of Cambodian politics and the likelihood that the process of greater democratic consolidation will also take a decade or more, the Evaluation Team recommends a series of programming options to be implemented over the short, medium and longer terms. Short term assistance implies activities that should take place from 2006 through 2008—before the next scheduled parliamentary elections. Medium term programming assumes the period of 2008-2013; while long term programming suggests activities that can be realized by 2018.

The following suggested programming options takes into consideration the Evaluation Team's understanding of the interventions already undertaken by UNDP, CIDA-CCLSP, The Asia Foundation, the Konrad Adenauer Institute and other organizations who have worked with the National Assembly since its inception in 1993 and the Senate in 1999 respectively. The recommendations also reflect our understanding of the strategic plans of the National Assembly and the Senate and, to a lesser extent, the planned assistance of external parliamentary assistance organizations and their sponsors.

Each of the initiatives mentioned below will have to be thoroughly discussed with the leadership of the National Assembly and Senate and receive their written endorsement and ownership before proceeding with funding the activities. The way in which members of the evaluation team have proceeded with other evaluation or review exercises has been to hold a meeting or meeting with interested stakeholders before a final report was produced, to obtain feedback and guidance on preliminary conclusions. This was not possible on this occasion, due to the fragmented nature of the evaluation review, the fact that the team were only all together during the first week of the review, and difficulty in achieving a focus on draft recommendations. A

meeting of this kind is still seen to be very valuable from the point of view of report acceptability and acceptance of ownership by the local parliamentary authorities. Following submission of the report, the Co-ordinator, Asia Regional Governance Programme, UNDP, who is a team member and is based in Bangkok, could travel to Phnom Penh and participate in meetings of this kind on behalf of the team.

The evaluation team is aware that a large number of activities have been placed amongst the short-term strategies. However, it is also aware that the number of activities recommended for immediate action may be too numerous to allow appropriate attention to be extended to all in the short term. Some readjustment of priorities may be necessary, and this would most appropriately be decided after discussion with the secretaries-general of the National Assembly and the Senate.

It is also recommended by the Evaluation Team that in any next phase, more empowerment for decision-making is placed in the hands of the project management team, in particular, the project coordinator viz. his/her responsibilities. The Terms of Reference for the Project Coordinator (National post) specifies that s/he will have supervision over the International Special Adviser. The evaluation team would conclude that this arrangement is not practical, and during this project phase, there was no evidence to suggest that the international advisers ever reported directly to the project coordinator. By the same token the terms of reference for the senior parliamentary adviser contain the provision for post supervision that “the Senior Parliamentary Development Adviser will be under the supervision and overall guidance of the UNDP Resident Representative”. While the Project Coordinator should be kept informed of developments in the area, it should be understood that the specialist adviser is in charge of implementing the program, subject to direction by the Resident Representative. The Evaluation Team recommends that, in the next project cycle, international advisers should continue to report directly to both UNDP & the Counterpart Unit. The allocation of priorities to be advocated could be discussed at this level.

#### ***Importance of recognition of Khmer language in all phases of assistance***

One feature that the evaluation team feels should be maintained during each phase of programming assistance is emphasis on delivery assistance and programmes in the Khmer language. As mentioned in the beginning, Khmer civilization extends over thousands of years. The official language and script are recognised as Khmer in Article 5 of the Constitution. This provision of the Constitution should be recognised to the same degree as the recognition of human rights and the separation of powers in the delivery of programs.

The Cambodian people are justifiably proud of their language and culture. The evaluation team believes that UNDP should do everything possible to ensure that presentations and associated documentation are available in the Khmer language.

#### ***b. Recommendations for short-term programming assistance to the National Assembly and Senate (2006-2008)***

**Strategy.** *In the short term period, UNDP should focus on enhancing legislators’ representative functions by continuing with programming, which worked effectively in the last year of the project. In addition, UNDP should use the recent political developments to introduce activities that enhance legislators’ capacity to perform their oversight role. However, to do either of these functions efficiently, UNDP needs to consider investment in human resource management (especially in the National*

*Assembly) and in helping to create greater demand for IT services. Therefore, the evaluation team's recommended programming options include:*

**Management Review and Staff Audit.** For the office of the Secretary General to improve its services to members, and in turn the people of Cambodia, an external review of management and administration practices and staffing levels and capacities is a necessary initial step in reforming the National Assembly's bureaucracy. While the Senate is widely considered to be much better managed in terms of human resources, it could also benefit from this exercise. UNDP could fund a team of external management consultants to work collaboratively with the leadership of the National Assembly to develop a strategy for reforming the administration of parliament. This plan could form the basis for future UNDP and other donor or donor group assistance for human resource development.

Recent public discussion by the Prime Minister and other leaders suggests that there is recognition that some reform of the parliamentary service is necessary. It would seem advisable to ensure that, before UNDP assists with the training of parliamentary staff, positions have been filled on a basis of merit by staff who with some degree of certainty can be expected to return to the legislature the investment that has been made in them.

**Implementing IT Plan.** The Senate and National Assembly elaborated a five year comprehensive IT Master Plan in December 2003 with an estimated cost of over \$1 million. Before committing to any funding, UNDP could undertake a quick study to ascertain the extent to which the plan has been implemented. The quick study could also serve to up-date the IT plan taking into consideration the changes in technology and price. Rather than committing to full scale implementation of the IT plan, UNDP (and other donors) could commit to a phased approach. The first investment could be in phase one of the plan and based on the outcome of the implementation, their absorption capacity to maintain and upgrade the investment, consideration of phase two could be discussed.

In the short term though, UNDP could work with staff to upgrade the National Assembly's website and to help further develop the Senate's web site. UNDP could hire local IT experts to enhance the design, functionality and documentation available to the public. To ensure the sustainability of the investment, UNDP should enter into a written agreement with the National Assembly and Senate stipulating that any future investment hinges on the evidence of Parliament's efforts to regularly maintain and upgrade their sites.

Another short term investment, under similar terms, could focus on creating an IT training room consisting of 15-20 PCs attached to a LAN for the purposes of training MPs and staff on basic computer applications and internet browsing. A training program will need to be designed and implemented for members and staff with the goal of creating user-demand.

The Senate may be able to absorb additional IT investment in enhancing Internet Access for its members and key staff. Commission-based Web Sites to enable their commune-level electors to stay abreast of the Senators activities could also be supported by UNDP if there is demand from the Senators or their constituents

**Consultative Dialogue with Executive.** Given that the UNDP, CCLSP and Konrad Adenauer projects have all contributed to training Commission members and staff on best practices in a variety of topics, and that CCLSP is likely to continue training staff and members on committee management and, report writing, etc, we recommend that

UNDP focus its funding on developing a practice of Commission-led forums on bills and policies emanating from the executive. UNDP could hire external expert consultants to help Commissions take the lead on organizing consultative forums on key legislation and policies, and to use its good offices to ensure key actors in the executive branch are present at the meetings. Parliament, with UNDP assistance could use such forums to discuss the implementation status of laws it passed, but the executive has failed to actualize. UNDP could underwrite a number of these dialogues in the short term and medium term while actively providing on the job training staff and members in attempt to inculcate this practice into the work of the Commissions.

**Workshops on the concept of a loyal Opposition:** It would be beneficial for all involved in the political process in Cambodia to explore concepts associated with the role of an Opposition, or the role of non-government parties in a parliamentary democracy. It is recommended that UNDP facilitate a workshop of this kind, perhaps also including members of the Press.

**Provincial Level Public Hearings.** Many of the members we met with felt that CSOs and NGOs were usurping their role as elected officials by holding public hearings on contentious policy matters at the Provincial level. UNDP could assist commissions to organize and carry out public hearings outside of Parliament on bills that have landed in their dockets. By inviting CSOs/NGOs to participate and contribute their thoughts at such meetings UNDP will also lay the ground work for a medium term activity to build formal linkages between parliament and NGOs/CSOs in turn enhancing the quality of legislation and capacity to provide oversight of the executive branch. UNDP could collaborate with CCLSP who have already developed written guidelines on how to carry out public consultations with the National Assembly in the provinces.

**Budget Process.** Our interviews revealed that members felt that parliament had little time and expertise, and in effect were rubber stamps for an executive run budget process. One Commission president with whom the evaluation team met suggested that Parliament play a greater role in the preparation of the national budget and in monitoring of how public funds are spent. In the short term, UNDP, in conjunction with a think tank such as the Economic Institute of Cambodia and other relevant NGOs, could hold a series of workshops on the role of other more developed parliaments on the formulation and oversight of the national budget with the objective of drafting legislation on the democratization of the budget making process and enhancing public sector financial management.

It is recommended that UNDP facilitate courses on the way in which Members of both Houses might use the reports of the National Audit Authority.

**Constituent Services.** As previously mentioned in this report UNDP-sponsored constituency visits succeeded in building members' awareness of issues impacting their constituents, as well as their confidence to redress constituent grievances on policy matters requiring their attention. UNDP should continue to fund Commission field trips to study particular public policy problems. However, we suggest that UNDP assist the Parliament go a few steps further in developing its constituent relations capacity. Rather than just studying the problem at the field level, UNDP could combine these visits with organized public hearings mentioned above. UNDP could also develop pilot enhancement projects with a limited number of provincial parliamentary offices. A number of provincial offices could be properly equipped with office equipment, supplies and a small operating budget to accommodate any transportation and communication costs. UNDP could also hire an international expert (former staff member) from a more developed legislature to provide on the job training



for provincial level office staff in best practices in constituent relations/services. UNDP could undertake a study to assess its pilot project vis-à-vis provincial offices that did not benefit from its assistance before expansion of the program is considered.

**Build Formal Linkages between Civil Society and Parliament.** In spite of its mandate to serve Government (or better said to work with the concurrence of the executive branch), UNDP is seen as one of the most neutral of international organizations to build formal and sustainable linkages between organized civil society and parliament. Building on the programming to hold public hearings in the provinces, UNDP could, in the latter part of the short term and early part of the medium term, start the process of linking credible CSOs and NGOs with the Commissions in both houses. Workshops for CSOs, whereby parliamentary staff explain how the legislative process works, followed by a UNDP sponsored conference on the role of CSO and NGOs in legislative process. Simultaneously, nearby or outside of the conference area, a trade CSO/NGO exhibition could take place. CSO/NGOs could set up booths staffed by their representatives prepared to disseminate information on the services offered or the advocacy issues they represent so that elected officials could have a chance to learn more about them in order to begin the process of reducing mutual suspicion.

**Support for Women's Caucus.** The work of the Women's Caucus was one of the great success stories of the current project. Largely due to the efforts of the UNDP senior parliamentary adviser, cross-party groups (including, after the first excursion, female representatives of the non-government party) of female members of both Houses banded together to plan for and participate in field trips. The success of the venture over many indicators stimulated similar exercises by other groups.

The success of the ventures can also be measured by the fact that the Parliament made a final contribution. More frequent and wider contributions could be sought to this end in the future.

**Public Information and Communication Departments.** Supporting the National Assembly's and Senate's efforts to reach out and educate Cambodians on its roles and responsibilities in the governance process is a very important activity. Work has begun on updating the communication plan. In the short term, UNDP could consider working with the secretary generals to develop a comprehensive communications strategy for parliament. UNDP has already taken steps to work with a local communication consultancy to develop an assessment report, which could serve as the basis for discussion with the secretary generals.

**Expand public communication efforts.** Based on the status of the roll of the parliamentary communication and IT strategies, UNDP's could support parliament's efforts to reach out to the public through expansion of the number of communication products (newsletters, web sites, journals, blogs, TV and radio programs, etc). There is an extensive degree of expertise amongst various parliaments in this regard, and they should be prepared to co-operate with UNDP to make their expertise available at minimal expense to UNDP and the Parliament of Cambodia.

**Public Information and Communication Departments.** Enhancing the National Assembly's and Senate's capacities to explain to the public its roles, responsibilities and actions in the governance process is an essential activity of any legislature. UNDP could build on the outcome of its work with the secretary generals on the development of a communications strategy. UNDP could consider funding a set of initiatives detailed in the communication strategic plan working with the secretary generals to implement additional aspects of the communications strategy for parliament.

There have been suggestions that each Chamber establish a television channel to telecast its proceedings. It is, of course, a matter for each Chamber to decide if it wishes to go down this path if it is prepared to self-fund the operation. However, it is not recommended that this be funded by international assistance. A much better course to follow is the one included in the UNDP's project of monthly summary programmes, directed at specific audiences.

Depending on the outcome of the communication strategy discussions with the secretaries-general, one high profile activity that UNDP could consider underwriting in the short term is regular TV and Radio programs. Rather than the monthly productions outlined in the forward plan, perhaps they could be more regular, even weekly, at least insofar as radio production is involved. Assistance in kind could be sought from Parliaments participating in this kind of activity.

**International Parliamentary Forums.** The UNDP gained the appreciation of a number of legislators who were able to increase understanding of regional issues affecting Cambodia. UNDP support also assisted Cambodian legislators to represent Cambodia at regional and international conference events where there would have been no parliamentary representation. UNDP could create a limited fund to support reformers (both members and staff) in both houses to attend these events over the short and medium terms. However, UNDP must increasingly cost-share sponsorship of these visits with the parliament with the goal of total phase-out of UNDP financial support by 2013.

**Information on electorate allowances.** The Association of Secretaries-General of Parliaments (of which Cambodia is a member), could be requested by UNDP to conduct a survey among all member parliaments to provide information to the Cambodian National Assembly and Senate on the extent to which electorate allowances are paid to Members of Parliaments in other jurisdictions, the quantum of the allowance and the uses to which it is put.

### **c. Recommendations for medium-term programming assistance to the National Assembly and Senate (2008--2013)**

**Strategy:** *During this period both houses of Parliament will have elections. UNDP will need to focus on equipping new parliamentarians to perform their duties as well as to continue expanding and deepening successful activities started during the 2006-2008. By the end of this period a number of the initiatives UNDP funded should be partly or fully funded by the Parliament. UNDP needs to also begin refining its exit strategy. Therefore, our recommended programming options include:*

**Commission-level strategic plans.** Many MPs in both house mentioned that they were unsure of what they were supposed to achieve in the Commissions. The fact that there are many inexperienced staff and first time legislators has lent to the lack of direction in the commission system. Even though nearly all legislation emanates from the executive branch and must pass through the National Assembly before it reaches the Senate, UNDP could assist the recently elected Senate to develop Commission-level strategic plans to help chart out their role and responsibilities and their key priorities during their tenure. After the 2008 elections, UNDP experts could undertake a similar exercise for the newly elected National Assembly.

**Student Internship Program.** Many modern legislatures have highly developed student internship programs. Internship program serves two main purposes—they

provide legislatures with bright, motivated, young college educated students to work for short periods of time (usually between 3 and 9 months) for little or no remuneration, and they provide legislatures with a pool of potential employees who have had on-the-job training. Internships at Parliament provide students with much needed work experience making them more attractive to potential employers after graduation. An added benefit is that student interns become informal ambassadors of the Parliament to the general public, and can demystify the legislative process for the average citizen. UNDP could help initiate a student internship program and work with the Secretary Generals in both houses to properly select and place students. UNDP could serve as the neutral arbiter to ensure that selection of the interns avoids as much political influence as possible.

**Review and Update Strategic Plans.** In order to take stock of what has and has not been achieved since the drafting of the plans, UNDP could hold a retreat under the auspices of the Secretary Generals' Offices or the office of the Presidents of the National Assembly and Senate. Members of the Permanent Commissions should participate in the retreat and commit to attaining the institutional development targets within the time frame of the strategic plan. The retreat can serve a dual purpose in that UNDP could utilize the time to prepare the leadership of the National Assembly and Senate for a meeting with current and potential donor representatives.

**Implementation of IT plan.** The second Phase of IT assistance—assuming National Assembly has moved to the new building--expansion of IT services to include: procurement of additional servers and PCs, email addresses for legislators and staff, creation of an intranet between the two houses of parliament.

UNDP could also consider continued financial support for implementation of additional portions of the Senate's IT master plan.

**Media Training.** UNDP could fund media training for MPs and key staff. Just as essential though, is for UNDP to consider helping parliament to develop an in-house training program for journalists who cover parliament. By creating an in-house training program, journalists who are assigned to cover parliament, will go through a mini-certification program in parliamentary procedures and practice. Parliament may consider requiring certification before being officially accredited to cover parliament. However, as there is a mutual need in this area, this may be asking too much

A copy of a UNDP program for the media and Members that has been conducted in Bahrain and Timor-Leste in late 2005 and early 2006 is attached as Attachment 8.

**Budget Process.** Depending on the outcome of its earlier joint efforts with the National Assembly and Senate to democratize the budget process by giving Parliament a greater stake in budget formulation and oversight through passage of a budget reform law, UNDP could consider assisting in the development of a parliamentary budget office, staffed by a team of highly trained economists, who could serve a specialized 'budget commission' and other pertinent commissions in both houses.

**Orientation Training for New MPs.** As an immediate measure, the current project has planned and produced material for a seminar for new senators a week before the Senate is to meet for the first time. After the 2008 National Assembly elections and 2012 Senate election, UNDP and other organizations assisting parliament could play an important role in preparing newly elected members to understand their roles and responsibilities in a week-long orientation program prepared in collaboration and under the leadership of the Secretary Generals of both houses. However, rather than

develop a one-off training for new members, UNDP could hire experts to draft a orientation training module to be used as the basis for future orientation programs.

**Review of Rules of Procedure.** After the elections for the National Assembly in 2008 and Senate in 2012, the rules of procedure should be revisited to ensure they meet international best practices for efficiency and democratic values. UNDP could identify an international expert to spend a month working with the rules commissions to prepare amendments and training.

**Targeted Staff Training.** Assuming management reform has significantly improved the human resources of both houses, UNDP, in collaboration with other donors, could select a number of highly motivated and qualified staffs who are likely to make a career in the Cambodian Parliament with six month attachments in more highly developed parliaments with similar legislative traditions.

**Legislative Research Office and e-Library (joint initiative with the Senate)**

Again, assuming both houses continue with human resource management reform and agree to hire at least 10 researchers with a variety of substantive academic and research background (Master's level education or higher), UNDP could consider providing the research team with intensive training in doing research for legislators. Since this skill does not exist in Cambodia, UNDP could arrange for an expert from a more developed parliament to work with the researcher for six months to provide on the job-training.

However, for the researchers to be effective they will need access to a high speed internet a small budget to subscribe to e-libraries and professional e-journals and a traditional paper library as well as a budget to enable them to communicate and transport them effectively around Cambodia. UNDP could consider helping to launch the library by procuring IT equipment and specified books and journals.

*The desirability of tapping in to existing parliamentary library databases has been discussed at pages 34 -35: **Assessment of Parliament's Infrastructure (library and information centre).***

In addition, UNDP could consider providing an archiving systems expert and sufficient funds to reorganize and archive all essential parliamentary documentation.

**d. Recommendations for long-term programming assistance to the National Assembly and Senate (2013--2018)**

**Strategy:** *Continue to support key activities which enhance parliament's institutional profile vis-à-vis its lawmaking and oversight roles. By this junction parliament should have assumed financial responsibilities for most all representative functions, staff development and IT development. UNDP will need to focus on its exit strategy and work to ensure that its best initiatives are sustained. Therefore, our recommended programming options include:*

**Expansion of Budget Office.** UNDP could work with parliament to fine tune and further entrench the culture of parliamentary participation in the budget preparation and oversight processes by continuing to provide technical and limited financial assistance to the office and its attendant parliamentary commissions.

**Creation of an in-house Capacity Building Unit to provide training for legislators and parliamentary staff.** UNDP could co-fund and provide technical guidance to support this joint initiative with the Senate to create an office of continuous

parliamentary professional development. The office could serve as the clearinghouse for all capacity building activities for parliamentary staff and members.

**Installation of electronic voting system and electronic bill tracking system.** As Cambodia economically and politically develops the volume and complexity of bills, resolutions, amendments, etc will grow. An electronic voting system and a separate electronic bill tracking system are two tools commonly found in legislatures around the world. UNDP can contribute to the cost and assist in the sourcing of appropriate state of the arts systems. As with communication techniques, parliaments operating systems of this kind could also be expected to make a contribution of their intellectual property and their operating skills to assist an emerging democracy.

### **Implications of Recommendation for UNDP Project Management**

In order for UNDP to successfully implement the recommendations contained in this report, it will have to increase its own program and administrative staff.

The program has benefited considerably from the skill set of the current senior parliamentary adviser, Dr. Francois Beaulne. Dr Beaulne brings over 14 years of experience as a Parliamentarian in Canada to the program. His emphasis on building the trust and confidence of the leadership of both chambers as well as with the senior parliamentary staff was evident in all interviews undertaken with the parties in question. A large part of the successes achieved by the project in the recent past has been due to Dr Beaulne's energy, drive and personal commitment. As discussed in the section of this report on evaluation of the current UNDP project (2002-05), the Evaluation Team is recommending immediate, short-term and long-term strategies extending over a period of up to 10 years. It is noted that the current terms of reference provide for duration of 1 year (with possibility of extension). Staffing continuity is vital in this context, and it is recommended that engagement of international staff be in terms of 36 months, with an initial 6 months probationary contract (unless the occupant has already served for that period or longer) with conversion, in the case of satisfactory performance, to a one year contract renewable to a maximum three years.

However, if the program is to be expanded and Dr Beaulne is offered the opportunity to extend his contract, he will need the assistance of two additional senior program officers (preferably Cambodians) who are qualified to ensure implementation of two core areas of future programming: executive - parliamentary relations and civil society – parliamentary relations. UNDP may wish to consider extremely competent and well-qualified staff already employed in the office to assist Dr Beaulne, or if not Dr Beaulne, his successor, to take the project forward.

For the position of senior civil society – parliament program officer, UNDP will need to identify a professional who is generally regarded by both civil society leaders and members of parliament as even handed and intellectually sober. It is possible that a person fitting these requirements may be available in the near future. In addition, the project will need an office manager who is expert in UNDP administrative procedures and budgetary matters.

The current project coordination assistant and project interpreter, who also performs interpretation services and the driver /administrative assistant, should be retained as they both performing their duties to the complete satisfaction of their supervisors.

### ***e. Donor Support (i). Identification of future potential donors***

Parliamentary democracy is not an inexpensive exercise. The annual budget for the Australian Parliament is \$US120 000 000, and for the Quebec National Assembly is \$US80 000 000. It is understood that the budget for the National Assembly and the Senate of Cambodia is \$US 12 000 000 (\$8M for the National Assembly, \$4M for the Senate).. The evaluation team was advised on a number of occasions from a variety of sources (including principal donors themselves) that the Executive and to a lesser extent the Judiciary had been favoured at the expenses of the legislature. Minimal donor support had been directed to the Parliament.

This suggests that there is a need to raise donor awareness of the opportunities that exist in support of the legislature. The parliamentary adviser is already proceeding down this path. At a meeting at which the evaluation team was present with observer status, a projected two-day workshop into financial scrutiny and budgetary oversight was discussed by other leading organisations with parallel interests in the field. To the extent that their charters allowed, other participants indicated their willingness to enter into a partnership in a program co-ordinated by UNDP in conjunction with the Parliament of Cambodia either in financial or other resource support. Of course, it was of assistance to the exercise that provision was made for special recognition of the features that a particular donor might wish to see emphasised at the workshop. There was also recognition of the need to acknowledge the contribution made by the sponsors.

It appears that donors may wish to be made aware of the way in which programmes they are sponsoring could be augmented by initiatives that UNDP was sponsoring in conjunction with the Parliament of Cambodia. For example, one donor nation was encouraging the establishment of talk-back radio programs in Cambodia. This would be appropriately supplemented by the UNDP/Cambodian Parliament desire to take the Parliament to the people, by means of short programmes on radio and television about the work of the National Assembly and the Senate.

The Evaluation Team concluded following a wide range of discussions across a number of groups that UNDP was well regarded, had a high profile and a reputation for achieving results, and was well-positioned to provide the parliament with multilateral development support and offer a conduit for multilateral and bilateral partnerships under the following possible modalities:

- Direct Grants

*“Third-Party Cost-Sharing Agreements”* with UNDP are direct contributions by donor countries or organisations to the project budget. Direct contributions can be made as a *general* grant, allowing the Parliamentary Capacity development Support Project the flexibility to prioritise the use of the funds, or the agreement could  *earmark* the contribution for specific outcomes, outputs or activities selected by the donor from the short-term, medium-term or longer-term strategies outlined in this report, or others negotiated between the donor and UNDP.

- Parallel Financing

Under this modality, a bilateral donor may undertake activities contained in this evaluation report but administer its resources separately.

This may be a possibility for the provision of IT and information services. For example, it is understood that the American Congress may be assisting with the provision of an appropriately equipped library for the National Parliament of Timor-Leste.

- In-kind Support and inter-parliamentary Cooperation

For strategic partners who prefer to provide in-kind support, the next phase of the Parliament Support Project may offer administrative or research support. Some partners might be interested in secondment of human resources for advisory positions.

In the opinion of the evaluation team, while not ruling out other options, this could be the preferred option for most of the strategies outlined in this report. The French National Assembly is understood to have a permanent attachment to the German Reichstag. Given the similarities between the French Senate and French municipalities, perhaps the French Senate could be persuaded to provide a resource, as well as providing it with an opportunity to make a contribution to a former francophone protectorate.

## **(ii). Donors' Forum - Coordination of External Assistance and Future Support**

As mentioned earlier in the evaluation of the parliamentary support programme 2002-05, to coordinate donor assistance, a partnership forum was to be convened periodically. The Partnership Forum was convened, but after the first meeting, convened again just once. The forum as per the Terms of Reference in the Annex of the document, was supposed to meet at least 2-4 times per year.

The Evaluation Team feel that it is essential that donor forums meet regularly and that at them donors receive full information as to the way in which the money of their nation's taxpayers is being expended.

A comment was made to members of the evaluation team that there was not a great incentive to enter into a donor partnership with UNDP, because the donor nation usually ended up as being a footnote to UNDP's efforts. The evaluation team feels that every landmark on the way to success should be an opportunity for celebration, with full exposure of any donor nation, including UNDP's Cambodian-born staff and providing full photographic and other media opportunities.

## **6 Conclusion and expression of gratitude**

The evaluation team is very grateful to the Members of the National Assembly and Senate of the Kingdom of Cambodia and their staff who gave so freely of their time and shared their sincere reflections. The experiences they shared with the evaluation team provide the best testimony to the appreciation of UNDP's efforts in Cambodia.

Of course, it is impossible for a project team to enter into an area in which they are only academically familiar (and that frequently only recently so) and to cover all the areas to the same extent as staff working in the area. The evaluation team is extremely grateful to Mr Douglas Gardner, UNDP Resident Representative, Ms Sara Ferrer

Olivella, Ms Anne-Isabelle Degryse-Blateau, Dr François Beaulne, Mr Narin Sok, Dr Sau Sisovanna, Mr Socheata Touch, Mr Keo Rathana and the team's general helper, transport facilitator and photographer Phailly. The support and the depth of knowledge they brought to the evaluation team's understanding cannot be adequately described to the extent that it was appreciated by the evaluation team. The team was also greatly impressed by the commitment to the enhancement of parliamentary democracy in Cambodia demonstrated by the in-country team, and their dedication to the task of capacity-building in the country. Any misunderstandings or errors in description in the evaluation team's assessment are in no way attributable to information imparted by them.

Finally, the evaluation team wishes to express its gratitude for the opportunity to be present and learn more about the Kingdom of Cambodia at this exciting time so full of promise on the country's path to full parliamentary democracy. The team wishes Cambodia and the UNDP well in their partnership on this journey.



## **ATTACHMENTS**

## **ATTACHMENT 1**

### **TERMS OF REFERENCE**

#### ***EVALUATION OF A PROJECT TO SUPPORT CAPACITY BUILDING OF THE CAMBODIAN PARLIAMENT (00011825)***

<b>Project Number:</b>	<b>Support to Capacity Development of Cambodian Parliament (00011825)</b>
<b>Executing Agency:</b>	<b>National Assembly</b>
<b>Duration:</b>	<b>3 week mission in Phnom Penh, Cambodia (with possible mission to a few provinces)</b>
<b>Duration of assignment:</b>	<b>February 20, 2006- March 10, 2006</b>

#### **Background**

Following the first national elections in 1993, peace and stability have been progressively reestablished throughout Cambodia and economic growth has averaged over 6 percent during the last decade. Cambodia has also opened new doors for regional and global trade opportunities with membership in ASEAN and WTO. In contrast, however, the establishment of democratic institutions functioning under the rule of law has been slow.

The legislative branch in Cambodia comprises two houses, the National Assembly and the Senate, which are constitutionally vested with the legislative power, and oversight power. The two houses are strongly influenced by party lines. Strong sense of partisanship and loyalty to each political party is evident in the distribution and allocation of seats, repartition of chairmanships, arguing in the floor debates and voting patterns. This pervading partisan influence, combined with modest financial resources allocated to Parliament and lack of adequate equipment and trained staff, limited in past years the legislative branch's capacity to effectively perform its oversight functions of government policy and act as an independent and co-equal branch of government as per the constitutional mandate.

Assessments carried out by several external missions including, CIDA, World Bank, and IPU/UNDP highlighted a number of capacity development needs for

Parliament to effectively perform its mandate of overseeing the government policy-making process. These included: weak capacity of the Secretariat general of the National Assembly; lack of financial and human resources to provide adequate support to the institution, lack of understanding of the legislative process; weak capacities to analyze and review draft laws; limited knowledge of MPs of key aspects of the development process. If a vibrant democracy was to be established, capacity of the legislative branch to carry out its constitutional responsibilities effectively had, therefore, to be increased. Against this backdrop, UNDP developed a programme of support to Capacity Development of the Cambodian Parliament.

This programme, initiated in June 2002, and expected to terminate in December 2005, was conceived to be implemented in two phases, the first phase leading up to the July 2003 national elections, the second one following up on that election:

- Phase 1: strengthening the administrative capacity of the Secretariat of the National Assembly and the Senate;
- Phase 2: strengthening the capacities of MPs in their roles and responsibilities in the legislative and oversight processes.

Essentially, the first two entire years of the programme (2003-2004) were focused on building the administrative capacity of the Secretariat generals through staff training activities, studies, and needs assessments. For various reasons, including the political standoff in the National Assembly following the 2003 elections, which paralyzed the Assembly for almost one year, and staff turnover in the project, very few activities related to follow-up on the needs assessments and reinforcement of parliamentarians in their legislative and oversight roles had been initiated by the end of 2004. As of March 2005, the pace of the delivery rate of the project was accelerated to take advantage of a more favorable context within the National Assembly and in preparation for the January 22, 2006 Senate elections.

Over that nine months period, parliamentarians were made increasingly aware of their roles as legislators, overseers of government action, counsels to government, and intermediaries with their constituents. The government's recent back-off in its intended introduction of new taxes to finance a 20% increase in the 2006 budget, is a clear indication that Parliament cannot anymore be perceived exclusively as a "rubber stamp" of the executive branch. Commissions were also provided financial and technical resources to undertake more effective analysis of draft laws, such as for example the Domestic Violence Law, and support was provided to them to undertake consultation and fact-finding field trips in various provinces, including remote areas where no parliamentarian presence had ever been organized. As a result of this accelerated pace in project delivery, a momentum was created in 2005, which presidents and vice-presidents of the 18 Senate and National Assembly commissions officially requested the UNDP to continue supporting.

It is against this backdrop that the Senior Parliamentary advisor appointed in January 2005 to oversee the programme recommended, with the support of the President of the National Assembly and the Secretary generals of both houses, that a new agreement of Capacity Support to the Cambodian Parliament be drafted to continue building on this momentum and complete the non-achieved activities and objectives set out in the present agreement.

## **Rationale for a new agreement**

On 16 July, 2004, the Royal government of Cambodia developed for the third legislature of the National Assembly its "Rectangular Strategy for Growth, Employment, Equity and Efficiency". Good governance and the promotion/protection of Human Rights were placed at the centre of this "Rectangular Strategy", since success in this area would impact all others. Institutions that function with integrity, include citizens in decisions and work within the rule of law were deemed essential to ensure adequate delivery of public services, attract investment and provide for a positive environment to unleash Cambodian talent and entrepreneurship. It was generally agreed by senior government officials, representatives of civil society, local and foreign political observers, that an effective legislative branch, properly equipped to match the influence of the executive branch and effectively carry out its legislative and oversight responsibilities would be essential to the establishment and development of good governance practices advocated in the "Rectangular Strategy".

At present, Cambodia is at a cross-road in its development as it moves away from a post-conflict situation towards a more stable development paradigm. Several decades of isolation and conflict devastated much of the country's physical, social and human capital. Much has been achieved since the signing of the 1991 Paris Peace Accords, and Cambodia has made important progress in ensuring peace and security, rebuilding institutions, establishing a stable macroeconomic environment, and a liberal investment climate. With peace and macroeconomic stability more firmly entrenched, the country has the opportunity to make far-reaching reforms to achieve sustained socio-economic development. These will seriously be hampered without a strong forum, which is Parliament, to reconcile diverging social and political interests in a democratic manner, particularly in a country which had gone through 30 years of civil war, instability, terror and genocide.

As of January 22, senators will be elected through an indirect suffrage system inspired from the French model, thus providing the Senate with a new democratic legitimacy.

Since the first 1993 UN supervised elections, there has been a gradual maturing of the political styles, old-fashioned politicians, who were rewarded for past services, are being slowly replaced by more educated and competent young politicians and technocrats. These young leaders are able to address complex challenges and relate equally well to the increasing numbers of potentially troublesome issues facing this country. Unfortunately, this evolving change in the political party scene has gone largely unnoticed as all focuses have been on the main players: Prime Minister Hun Sen, President of National Assembly Prince Norodom Ranariddh, and Opposition leader Sam Rainsy. Not surprisingly, despite the infusion of the new blood and increased parliamentary activity and initiatives, the infighting, factionalism and the one-upmanship of Cambodian politics continue and still tend to captivate most of the observers' attention.

Despite this political maturity, civil society organizations and Cambodian citizens continue to face significant challenges. For example, accessing to information, establishing dialogue and developing participatory processes. The government's capacity to engage in policy dialogue with civil society is growing, but participatory mechanisms have yet to be regularized and mainstreamed into

policy development, public planning or monitoring processes. Of which its implementation in any parliamentary democracy is the responsibility of Parliament.

In 1999 the IMF noted that Cambodia would enjoy robust economic expansion once its public administration is improved, in particular public expenditure management. In 2006 and subsequent years, the economic expansion will bring varied and complex challenges of which the major ones being the need to further strengthen its democratic institutions and to ensure that good governance is firmly rooted in the country. This calls especially for a determined and comprehensive attempt to curb corruption, dismantle the equally deeply entrenched patronage system, and reinforce Parliament's capacity to participate in the budget process and monitor government expenditures, as the international donors community is increasingly demanding for its continued support of Cambodia's development at the present level.

To continue in its modernization strategy and efforts, Cambodia will increasingly need to integrate in the regional and global economy to support its social and economic development, and to achieve, by 2015, the MDGs set out for the country. This will require further and sustained assistance from the international community, international organizations, and donors from industrialized countries. The transition from a centrally planned economy to an open market system, which Cambodia is experiencing, requires a fully functioning and effective legal framework attuned to the needs of private enterprise. Without strong institutional reforms to undergrid economic governance, prospects for significant improvement appear meager. During the last ten years, the role of legislators in assessing and monitoring economic policy has been relatively weak. Restricted expertise and capacity on government economic policy and the national budgetary process has been one of the main constraints. Removing those constraints will certainly be welcome by the international community. It will undoubtedly contribute significantly to building up confidence, both nationally and internationally, on Cambodia's determination to proceed on the road to development in an orderly and democratic way.

***With the equal value, continued reinforcement of Parliament's capacity is therefore a central and key element in the new agreement.***

#### **Objective of the evaluation:**

As a bridge between the current and a potential new agreement on support to capacity development of the Cambodian parliament, the evaluation should serve ultimately to enable the UNDP and the National Assembly as Executing Agent, to agree on a mutually acceptable, evidence-based, rationale and framework for continued programme funding, by providing an indicator-based analysis of the range, importance and sustainability of results realized in the first phase, and the factors that enabled or impeded them.

Specifically, the evaluation team will:

- Analyze the relevance and appropriateness of the current programme with respect to the governance goals of the Royal Government of Cambodia as these relate to strengthening the institutional and human resources capacities of Parliament, within the wider frameworks of Cambodia's MDG and UNDP development policy;

- Assess the types and level of results achieved by the current programme, especially at the level of programme outcomes;
- Analyze the implementation factors influencing the results realized and, from this analysis, generate lessons and guidance for further capacity interventions in the sector; and
- Make recommendations with respect to critical issues and strategic directions to be addressed by UNDP and the National Assembly in the design of a next phase, including suggesting key indicators for continued results monitoring

Because this is a capacity development project, within a specific content and skills area (parliamentary reform), it is important that the evaluation look at both the substance and the process of interventions with respect to results planned/realized and factors influencing these.

The team should base its evaluation assignment on the following points but not limited to:

- What types of capacities was the project aiming to create or improve (knowledge, attitudes or skills) and were these described in results-oriented terms as to what they would look like?
- At what level of complexity were these capacities expected to be acquired e.g. basic technical skills versus capacity for independent initiative?
- Who were the targeted learners-those expected to learn/change as a result of or through the capacity interventions? How wide or narrow, generic or specific, was its delivery "net" in terms of individuals, groups or institutions to be reached?
- How important were the capacity development goals and activities seen to be vis-à-vis more direct project inputs of infrastructure?
- What indicators can be used to make this determination (e.g. resource allocations? time allowed?)
- What kind and how comprehensive were the capacity results realized in terms of depth of learning/change in new knowledge, attitudes or behaviors and what appears to be sustainability of these in terms of reach and degree of people or institutions changed?
- How much confidence can be put in the capacity results reported in terms of quality and validity of indicators and measures, details of documentation, merits of the "claim" (what the programme actually did versus other causal factors)? In other words, how much of the results can be attributed to the programme.
- What data support claims for changes in claims of knowledge, decision-making, practice and the link between these results and the capacity development activities of the project?

### **Methodology:**

A team of two external consultants is expected to:

- Conduct desk review of relevant documents related to Cambodia's socio and political context prior to coming to the country;
- Consult and review all available documents related to Cambodian parliament.
- Consult extensively with national authorities, UN personnel, strategic partners, relevant national and international organizations and individuals.
- Validate findings with key partners.

- If necessary, provincial travels may be arranged to visit a few provincial parliamentary offices.

#### **Mission Team and schedule:**

The team will consist of two external consultants: a member and team leader. A governance officer based in the Regional Center in Bangkok might be invited to be part of this evaluation so he could share with external consultants on UNDP's corporate mandate, vision, approaches in this area and more broadly in democratic governance, and provide the overall big picture of UNDP's global parliamentary projects/activities. Furthermore, he could participate in the discussion and provide inputs for the recommendations for the new phase of UNDP support to parliament in Cambodia.

Briefing and debriefing meeting will be arranged with the Resident Representative and Programme Director of UNDP. The consultants will work under the overall guidance of the Assistant Resident Representative and a team leader of the Governance Cluster of UNDP Cambodia. The project team of UNDP including senior parliamentary advisor will provide day to day coordination of this consultancy.

Prior to arrival in Cambodia, the team will need to study any relevant document provided to them by UNDP Country Office and its project team.

The Parliamentary Support Project team will facilitate the work of the Mission before and during its stay in Cambodia including preparing a schedule of meetings with stakeholders and producing necessary background information for the evaluation process.

This evaluation mission shall be for a period of approximately three weeks starting from February 20, 2006 and concluded on March 10, 2006.

#### **Schedule of activities in Cambodia:**

a) Information gathering, consultation and discussions	February	20-24, 2006
b) Consultation/Write-up/reflection	February	27- March 1, 2006
b) Briefing on preliminary findings with UNDP CO	March 3, 2006	
c) Continue Write-up/Consultation	March 6-8, 2006	
d) Exit Briefing with UNDP CO and national partners	March 10, 2006	
e) Final evaluation report due	March 17, 2006	

#### **Expected outputs:**

The key product from this outcome evaluation is a comprehensive report in English that should include the following contents: project performance, lessons learned, strategic entry points/areas of future UNDP's intervention, and potential strategic partners. The final report should be delivered to Ms. Sara Ferrer Olivella and copy to Dr. Francois Beaulne as well as Mr. Sok Narin.

#### **1) Project performance along dimensions of effectiveness and quality:**

a. Goal/Results Clarity and Agreement: the extent to which key actors understood and shared the same expectations of change from the project interventions and therefore could jointly manage for quality, relevance and results.

- Was sufficient priority (time, resources) given to ensuring everyone was on the same page at the outset of the project with respect to results and strategies?
- How effective was the project in terms of making conscious and consistent efforts to work toward clarity on capacity and other goal definitions, and to finding realistic levels of agreement on these as internal and external circumstances required adaptations?
- How did the project conceptualize and prepare its capacity development elements?
- What types and sources of analysis did it draw on or undertake to frame these activities? What planning was done to link the analysis to project mechanisms and resources?

b. Relevance: the degree to which the project has been consistent with/sufficiently focused in terms of the priorities of those involved with, or affected by, it.

- Were the capacity strengthening dimensions of the project, both content and process, conceived, designed and implemented with reference to the stated and implicit institutional development and governance policy goals of the RGOC, the National Assembly and the Senate, and the UNDP
- Did the objectives or methods of the project conflict with other development or governance priorities of the affected partners and beneficiaries?
- Was it clear and agreed whose capacities were to be developed/changed, in what areas of parliamentary, governance or other work to be done and with what indicators/ evidence of results?
- Were the capacity development aspects of the project based on a realistic assessment of capacity and capacity goals within the organizations of Parliament with which the project was working?

c. Appropriateness: the extent to which the project strategies, resources and partners were the optimal for realizing the capacity change/development results sought.

- Were capacity activities set within some particular conceptual or explanatory framework of learning or Capacity development "best" practice?
- In terms of context, were the right things done given the prevailing social, political, economic, and institutional or policy conditions and risks?
- Were specific risks to the effective implementation of the programme identified at the outset?
- Was a specific risk-management strategy in place
- Did any of the major risks to the programme actually occur, and if so, was the risk management strategies actually implemented? How effective was this implementation?
- In terms of technical and process inputs, was there a good match between the means and inputs provided (modalities, mechanisms, and content) and the ends/objectives (the new policy or practice knowledge, attitudes, skills) expected to be seen at the end of the project? In other words, was there means-ends congruence?
- In terms of sufficiency, was it realistic to expect the kinds of changes aimed at given the capacity starting base, the time and resources available, other demands on those involved?



- In terms of mandate, approach and capacity of the facilitating agents, were those delivering/managing the interventions the best choice for the goals sought and nature of the policy and institutional environment?

d. Cost-Effectiveness: the extent to which those participating in the project, as managers, partners and beneficiaries saw the outcomes achieved worth the effort involved.

- What were the perceived costs and benefits of the intervention activities from the perspectives of those who benefited and those who paid (in money, effort and opportunity costs) and were they well balanced against each other?
- What was not done or who was not served because of the type of interventions used and was this loss considered acceptable?
- Was the project sufficiently transparent about the costs and expected effects, including its emphasis on capacity development relative to other infrastructure inputs?

## **2. Lessons learned:**

As results of project implementation through the last 3 years, what are the lessons learned that could be used to improve programme activity in support of parliamentary development in Cambodia.

## **3. Strategic entry points/areas of future UNDP intervention:**

Based on the lessons learned, recommendation on potential areas of intervention which contribute to building up and enhancing democratic parliament in Cambodia, should be provided for UNDP to consider in its future programme.

## **4. Potential Strategic Partners:**

The Evaluation team is also expected to provide an overall view on potential strategic partners that UNDP could mobilize their support to strengthen legislative branch in Cambodia.

### **Profiles of consultants:**

The selected consultant (s) should have demonstrated the following capacities, characteristics and/ or experience:

Team Leader: S/he is expected to be in the country two weeks (February 20-24, 2006 and March 6-10, 2006)

The Team leader of this mission guides and instructs his/her member with regard to their roles and responsibilities. S/he will be responsible for coordinating the writing and producing the final evaluation report. The team leader is responsible for the quality and timely submission of the evaluation reports to the UNDP Country Office. Below are the required qualification/experiences of Team Leader:

- An advanced degree in a relevant social science area, preferably related to governance and/or capacity development.
- Strong background in social policy and social change analysis, particularly in the use of qualitative data and ethnographic methods (observation, interview, documentary content analysis)

- Thorough knowledge and proven capacities in the application of an internationally accepted results-based management and monitoring framework.
- At least 15 years of relevant field-based analytical, monitoring or evaluation experience in areas relevant to the project (governance, implementation of reform, institutional development, social change)
- Proven ability to work in sensitive political, professional and cultural environments and to establish rapport with a broad range of actors and agencies-government, donors, and parliamentarians.
- Good report writing skills, with particular strength in producing reader-friendly, plain English documents suitable for non-native and non-academic English speakers.
- Specific work experience related to monitoring or evaluation of governance projects in general, and parliamentary development activities in particular, in Cambodia would be a strong desire.
- Preference will be given to those familiar with democratic development, institutional and capacity development issues facing Cambodia, and Parliament in particular, and a thorough understanding of the particular challenges of capacity strengthening interventions in the developing/ transition country context.
- Strong experience in assessing an institutional change/capacity focused project in terms of core project implementation issues.
- Good English and/or French language skills and, preferably, ability to speak Khmer.

Member of the team: work closely with team leader to undertake this evaluation. Deliver assigned tasks on timely manner. Member of the team is expected to be in the country for duration of assignment which is [from February 20-March 6, 2006](#).

- University degree in political science, public administration or relevant field.
- Strong experience in assessing an institutional change/capacity focused project in terms of core project implementation issues.
- Extensive Experiences in conducting evaluation of development project, especially parliamentary development programme.
- Strong experience in assessing an institutional change/capacity focused project in terms of core project implementation issues.
- Good English and/or French language skills and, preferably, ability to speak Khmer.

#### **Reference materials:**

1. Cambodian constitution
2. Needs assessment of Cambodian Parliament
3. CCSLP- Strategic Paper
4. Project Document and relevant reports
5. Country Programme Action Plan
6. Report of Cambodian MDGs
7. Rectangular Strategy

8. Summary of 5-year strategic plan for the General Secretariat of National Assembly and Senate
9. Needs assessment of the legal capacity of the National Assembly and senate and recommendations
10. Communication services department for the Cambodian parliament
11. Cambodian Parliamentary Libraries and Archives-Strategic Plan
12. Project Proposal for Capacity Building and development of Cambodian parliamentary libraries and archives.
13. IT master plan for the Senate
14. IT Master plan for the National Assembly
15. Challenges and perspective of adjusting parliaments in the post conflict situations to parliamentary culture: the Cambodian experiences.
16. Annual reports of project to support capacity development of Cambodia (2002-2005).

## ATTACHMENT 2

### Evaluation Team Interviews (Feb 20-March 9, 2006)

Douglas Gardner, UNDP Resident Representative

Anne Isabelle. B

Sok Narin, Program Manager

Dr. Francois Beaulne, UNDP Senior Parliamentary Advisor

Sau Sisovanna, Project Coordinator

Dr. Francois Beaulne, UNDP Senior Parliamentary Advisor

H.E. Mr. Oum Sarith, Secretary-General of the Senate and

H.E. Mr. KIM Ly, Chairman of Council of legislative body, Directors of legislative procedure; legislative procedure; Library; communication & Information; Provincial & Regional Territory Departments.

H.E. Mr. KIM San, Secretary-General of the National Assembly (NA)

H.E. Mr. Ly Thuch, Chairperson of 3<sup>rd</sup> Commission

H.E. Try Chheang Huot, Vice -chairperson of 3<sup>rd</sup> Commission

H.E. Mr. SABU Bacha, Ex-chairman of 9<sup>th</sup> commission of the senate

Mr. Bunleng MEN, CCLSP Country Manager

KONRAD-Adenauer\_Stiftung: Mr. Wolfgang Meyer

H.E. Mrs KY Lum Ang, Chairperson of 9<sup>th</sup> Commission of the NA

H.E. Mrs NIN Saphon, Vice-chairperson of 9<sup>th</sup> Commission of the NA

H.E. Than Sina, Vice-chairman of 2 <sup>nd</sup> Commission
H.E. Mr. CHEA Cheth, Ex-Chairman of 4 <sup>th</sup> Commission of the Senate H.E. Mrs. PUM Sichan, Ex-Vice chairperson of 2 <sup>nd</sup> Commission of the Senate  H.E. Mr. OUK Bun Chhoeun, Chairman of 6 <sup>th</sup> Commission of the Senate Mr. Henrik, Deputy director of UN Cambodian Human Right  H.E. Mrs. Bo CHUM SIN, Member of NEC  H.E. Mr. SAM Rainsy and H.E. Mr. SON Chhay, MPs  H.E. Mrs TY Borasy, Ex-chairperson of 5 <sup>th</sup> commission of the Senate
H.E. Mrs MEN Maly, Ex- Chairperson of 1 <sup>st</sup> Commission of the Senate H.E. Mr. CHAN Phin, chairman of 3 <sup>rd</sup> Commission of the Senate  ME Ms Donica Pottie, Canadian Ambassador  Dr. Jorg MENZEL, Senior Legal Advisor  Dr. Gero FRIEDEL, EC Expert  HE Ms Lisa Filipetto Australian Ambassador
H.E. Mr. PEN Pannha, Chairman of 1 <sup>st</sup> Commission of the NA       Mme CHEA Vannath, Director of CSD   H.E. Mrs HO Naun, Chairperson of 8 <sup>th</sup> Commission of the NA COMFREL, Mr. KOL Panha, Director
ASIA Foundation, Cambodia office (Mr. KHUTH Inserey, senior program officer)
EIC: Mr. SOK Hach  NDI: Mr. Mark WALLEM, Senior Resident Director of NDI

Brett Sciaroni ; American Business Council
Mission Trip to Provincial Constituency office ( Kampong Chhnang)
Report preparing Reaksmei Kampuchea Newspaper (RKN) Piere Olivieri, SOLARIS ( communication & Information) Reed Aeschilman, USAID
Mr. OK Serei Sopheak; Political Analyst
Germany Ambassador HE Mr Pius Fischer
<i><u>ADB: Shyam Bajpai, Director of the Asian Development Bank, Cambodia</u></i>

## ATTACHMENT 3

1. **Team leader: Ian Harris.** Mr. Harris is the General Secretariat of the Australian House of Representatives. He has been in that position since 1997. Before, he served as Deputy-Secretariat since 1991; although he joined the parliamentary staff since 1972. From April 2003, Mr. Harris has been appointed as President of the International Association of Secretaries-General of Parliaments (ASGP). Also, he is Member of Society of Clerks-at-the-Table (UK) since 1981. Ian Harris has conducted training for Members in Kiribati, Kenya, Vietnam, and for staff in Burkina Faso, the Economic Community of West African States and was part of the UNDP project revision team in Timor-Leste in November 2005. He has provided advice on the meeting rules for the first representative body in Afghanistan following the fall of the Saddam Hussein regime. His staff has worked in Kosovo for projects organised by him. Mr Harris is author of several articles in legal, historical and parliamentary journals.
2. **Team member: Marc Cassidy.** Mr. Cassidy is the Country Director of the Kenyan Parliamentary Support Project, implemented by the State University of New York's Center for International Development. He has spent the last decade managing and consulting for parliamentary development and anticorruption projects in Africa, Asia, Eastern Europe and Latin America. Prior to working with in parliamentary development, Mr. Cassidy worked for UNDP and UNHCR on in post conflict relief and rehabilitation programs in Kenya and Sri Lanka.
3. **Team member: Arusha Stanislaus.** Mr Stanislaus is Co-ordinator, Asia Regional Governance Programme, UNDP Regional Office, Bangkok Thailand

## ATTACHMENT 4

### Senate of the Kingdom of Cambodia

#### Name-list of the Senator of the Kingdom of Cambodia with Position, Phone Number, and Party

##### The Leader

No.	<i>Name</i>	<i>Position</i>	
1	Samdech CHEA Sim	<b>President of the Senate</b>	
2	<i>H.R.H. Samdech SISOWATH Chivan Monirak</i>	First Vice-President of the Senate	
3	H.E.Mr. POR Bun Sroeu	Second Vice-President of the Senate	

##### I. The Commission of Human Rights and Reception of Complaints

1	<b><i>H.E.Mrs. MEN Maly</i></b>	<b><i>Chairperson</i></b>	
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	*		
2	H.E.Mr. UNG Ty	<b><u>Vice Chairman</u></b>	
3	H.E.Mr. LAY Chhun Sareth	Secretary	
4	H.E.Mr. KANG Chan	Member	
5	H.E.Mr. OUK Moeurn	Member	

## **II. The Commission of finance and Banking**

1	<b><i>Samdech Reach Botrei Preah Ream Norodom Bupphadevi</i></b>	<b><i>Chairperson</i></b>	
2	H.E.Mrs. PUM Sichan *	<b><u>Vice Chairperson</u></b>	
3	H.E.Mr. CHHAY Bornlay	Secretary	
4	H.E.Mr. VANN Math	Member	
5	H.E.Mr. UNG Bun Ang	Member	

## **III. The Commission of Economics, Planning Agriculture, Rural Development and Environment**

1	<b><i>H.E.Mr. CHAN Phin</i></b>	<b><i>Chairman</i></b>	
2	H.E.Mr. HUOT Pong Ly	<b><u>Vice Chairman</u></b>	
3	H.E.Mr. YANG Sem	Secretary	
4	H.E.Mr. PRAK Vanny	<i>Member</i>	
5	H.E.Mr. HUTH Try	Member	

## **IV. The Commission of Interior, National Defense, Investigation and Anti-Corruption**

1	<b><i>H.E.Mr. CHEA Cheth</i></b>	<b><i>Chairman</i></b>	
2	H.E.Mr. TEA Chamrath	<b><u>Vice Chairman</u></b>	
3	H.E.Mr. SEK Sam Iet	Secretary	
4	H.E.Mr. UNG Sim	Member	
5	H.E.Mr. CHAO Phally	<i>Member</i>	

## **V. The Commission of Foreign Affairs, International Cooperation, Media and Information**

1	<b><i>H.E.Mrs. TY Borasy</i></b> *	<b><i>Chairman</i></b>	
2	H.R.H. SISOWATH Sirirath	<b><u>Vice Chairman</u></b>	
3	H.E.Mr. TITH Ream	Secretary	
4	<b><u>H.E.Mrs. CHHOUK Chhim</u></b> *	Member	
5	H.E.Mr. CHEA Kim	Member	

**VI . The Commission of Legislation**

1	<b><i>H.E.Mr. OUK Boun Chhoeun</i></b>	<b><i>Chairman</i></b>		
2	H.E.Mr. ROS Chheng	<b><u>Vice Chairman</u></b>		
3	H.E.Mr. THONG Chonn	Secretary		
4	H.E.Mrs. MECH Somaly *	Member		

**VII . The Commission of Education , Religious Affairs, Culture and Tourism**

1	<b><i>H.E.Mr. KONG Korm</i></b>	<b><i>Chairperman</i></b>		
2	H.E.Mr. TOCH Sak	<b><u>Vice Chairman</u></b>		
3	Neakmoneang NORODOM Diyath *	Secretary		
4	H.E.Mr. KONG Sareach	Member		
5	H.E.Mr. THOAM Bunsron	Member		

**VIII . The Commission on Health, Social Affairs, Labours and Women Affairs**

1	<b><i>H.E.Mr. SENG Oeurm</i></b>	<b><i>Chairman</i></b>		
2	H.E.Mr. CHHEA Thang	<b><u>Vice Chairman</u></b>		
3	H.E.Mrs. SAM Kanitha *	Secretary		
4	H.E.Mrs. MEAN Som An *	Member		
5	H.E.Mr. MENG Rita	<i>Member</i>		

**IX . The Commission of Public works, Transportation, Communications, Post-Office Industry, Energy and Commerce**

1	<b><i>H.E.Mr. SABU Bacha</i></b>	<b><i>Chairman</i></b>		
2	<b><u>H.E.Mr. CHHIT Kim Yeat</u></b>	<b><u>Vice Chairman</u></b>		
3	<b><u>H.E.Mr. HAS Saren</u></b>	Secretary		
4	<b><u>H.E.Mr. BOEUY Koeuk</u></b>	Member		
5	<b><u>H.E.Mr. KHIEU Suon</u></b>	Member		

**Member not working on commission**

1	<b><i>H.E.Mr. OUM Manorine</i></b>	<b><i>Senator</i></b>		
2	<b><u>H.E.Mr. IEU Pannakar</u></b>	<b><u>Senator</u></b>		
3	H.E.Mr. TEP Ngorn	<b><u>Senator</u></b>		
4	H.E.Mr. MEN Sarun	<b><u>Senator</u></b>		
5	H.E.Mr. SOEY Keo	<b><i>Senator</i></b>		
6	<b><i>H.E.Mr. ROS Sreng</i></b>	<b><u>Senator</u></b>		
7	H.E.Mr. SIM Ka	<b><u>Senator</u></b>		
8	H.E.Mr. PENG Phath	<b><u>Senator</u></b>		
9	H.E.Mr. UM Sarith	<b><i>Senator</i></b>		
10	H.E.Mr. SOM Sopha	<b><u>Senator</u></b>		
11	<b><i>H.E.Mrs. LAK Aun *</i></b>	<b><u>Senator</u></b>		
12	H.E.Mr. CHEA Son	<b><i>Senator</i></b>		
13	H.E.Mr. CHEY Saphon	<b><u>Senator</u></b>		

## **ATTACHMENT 5**

### **COMMISSIONS OF THE SENATE AND THE NATIONAL ASSEMBLY OF THE KINGDOM OF CAMBODIA**

#### **Senate**

1<sup>st</sup> Commission/human rights and reception of complaints:

2<sup>nd</sup> Commission/Finance and Banking:

3<sup>rd</sup> Commission/Economy, Planning, Investment Agriculture, Rural Development & Environment

4<sup>th</sup> Commission/Home Affairs, National Defense, Interior, Investigation & Anti-corruption

5<sup>th</sup> Commission/Foreign Affairs, Information and Propaganda:

6<sup>th</sup> Commission/Legislation:

7<sup>th</sup> Commission/ Education, Religious Affairs, culture and Tourism:

8<sup>th</sup> Commission/Public Health, Social Actions, Labor and women's affairs:

9<sup>th</sup> Commission/Public Works, Transport, Post & Telecommunications, Industry & Commerce

#### **National Assembly**

1<sup>st</sup> Commission/human rights and litigation

2<sup>nd</sup> Commission/Finance and Bank:

3<sup>rd</sup> Commission/Planning Economy, Investment, Agriculture and rural development

4<sup>th</sup> Commission/Interior, National Defense, Investigation and cleaning:

5<sup>th</sup> Commission/ Foreign Affairs and Cooperation:

6<sup>th</sup> Commission/Legislation:

7<sup>th</sup> Commission/Education, Cult affairs, culture and tourism:

8<sup>th</sup> Commission/ Health, social and women affairs:

9<sup>th</sup> Commission: Public Works, transports, telecommunications:

## ATTACHMENT 6

### ‘PARTY-HOPPING’ LEGISLATION: INDIA, SOUTH AFRICA AND NEW ZEALAND

Legislation exists in a number of jurisdictions imposing sanctions on what is known as ‘party-hopping’, or exchanging allegiance from one party to another. In New Zealand, the practice of changing political parties is known as ‘wokka-jumping’ (‘wokka’ is a Maori term for canoe).

India (federal and provincial) has had party-hopping for two decades, even making a distinction between party-splits (where a significant number of members leave a party without invoking the legislation) and defections. A case in the Indian Supreme Court in 1993 upheld the validity of the law, holding that it did not subvert democratic rights or violate freedom of speech. The provisions were, it said “salutary and are intended to strengthen the fabric of Indian parliamentary democracy by curbing unprincipled and unethical political defections”.

South Africa had a party-hopping law for the first decade or so after apartheid. More recently, South Africa has dropped the practice.

New Zealand had “party-hopping” legislation which expired in September 2005 with the end of the parliament. Under the legislation a member who resigned from the party or who acted in a way that “distorted” party proportionality, lost his or her seat. In regard to distorting party proportionality, the leader of the party was made the judge of whether to activate the legislation after following a process of consultation with the member.

The legislation was activated against a member in 2004 and her expulsion was upheld by the Supreme Court. However, her defence in the case was that she had not voted against her party in Parliament; rather the party felt that by her conduct outside Parliament she had estranged herself from her party colleagues and become a political embarrassment. The court held that the legislation could still be utilized in these circumstances.

Although it expired last year, legislation has recently been reintroduced to make it permanent and the bill is now before a select committee for study.

## ATTACHMENT 7

Parliament of Australia  
Department of Parliamentary Services  
Parliamentary Library **BILLS DIGEST**  
Information analysis and advice for the Parliament  
16 February 2006, no. 97, 2005–06, ISSN 1328-8091  
**Appropriation Bill (No. 3) 2005-06**  
Richard Webb  
Economics, Commerce and Industrial Relations Section

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2 *Appropriation Bill (No. 3) 2005-06*

## **Appropriation Bill (No. 3) 2005-06**

**Date introduced:** 8 February 2006

**House:** House of Representatives

**Portfolio:** Finance and Administration

**Commencement:** On the day it receives Royal Assent

### **Purpose**

To appropriate sums, additional to those sought through Appropriation Act (No. 1) 2005-

06, for the ordinary annual services of the Government.

### **Background**

Section 83 of the [Constitution](#) states:

No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

There are two broad categories of appropriations:

- annual appropriations, and
- special (or standing) appropriations.

There are usually six annual appropriation Bills. They authorise about 25 per cent of

annual Commonwealth spending.

Special (or standing) appropriations—the terms are often used interchangeably—authorise



about 75 per cent of spending. An example is the *Social Security (Administration) Act*

1999 under which age pensions and other social security payments are made.

### Annual Appropriation Bills

Three annual Appropriations Bills are introduced when the Budget is brought down. They

are:

- Appropriation Bill (No. 1)
- Appropriation Bill (No. 2 ), and
- Appropriation (Parliamentary Departments) Bill (No. 1).

#### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

#### *Appropriation Bill (No. 3) 2005-06 3*

These Bills are reproduced in Budget Paper No. 4.

The Bills authorise the payment of specified amounts for particular purposes.

Appropriation Bill (No.1) provides for the appropriation of money from the Consolidated

Revenue Fund for the ‘ordinary annual services’ of government. Appropriation Bill (No.

2) provides for the appropriation of money from the Consolidated Revenue Fund for

purposes other than the ordinary services of government. The division of items between

the two Bills accords with the 1965 ‘compact’ between the House of Representatives and

the Senate.

Appropriation Bill (No. 1) appropriates amounts according to whether they are departmental or administered expenses. Departmental expenses are those that agencies

control.<sup>1</sup> Examples are salaries, other cash expenses, and non-cash expenses such as

accruing employee entitlements and depreciation. Administered expenses are those that

agencies administer on behalf of the government. [While some administered expenses are

paid under Appropriation Bill (No. 1), most are paid under special appropriations].

Appropriation Bill (No. 2) provides appropriations for:

- administered expenses, and
- non-operating costs.

Administered expenses include:

- grants to the States and Territories (sometimes called section 96 grants because the

grants are made under section 96 of the Constitution), and

- new administered outcomes.

Non-operating costs—sometimes called ‘capital costs’—comprise:

- ‘equity injections’ which are provided to agencies to enable investment in new capacity when normal cash flows are insufficient

- ‘loans’ which are provided to agencies and used when an investment is expected to result in a direct return such as an efficiency saving
- previous years outputs appropriations: these provide funding for outputs that were delivered in a previous year. This can occur, for example, when a decision is made to implement a new activity after the date for inclusion in the additional appropriation

Bills. Such activities are funded initially from cash balances, which are then replenished by the previous years outputs appropriation, and

- ‘administered assets and liabilities’ appropriations: they provide funding for acquiring new assets, extending existing assets, and discharging administered liabilities relating to activities administered by agencies in their fiduciary capacity on behalf of the Government.<sup>2</sup>

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**4 Appropriation Bill (No. 3) 2005-06**

New policy proposals should not be included in Appropriation Bill (No. 1) because they do not fall with the classification of ordinary annual services. New policy measures are funded either through Appropriation Bill (No. 2) or special appropriations. The Parliamentary Departments have a separate Appropriation Bill because Parliament is constitutionally separate and independent of the Executive.

**The Senate’s powers and ‘money’ bills**

Section 53 of the Constitution states:

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government. The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

In short, the Senate cannot amend any laws for appropriating monies for the ordinary

annual services of the government such as this Bill. The Senate can, however, amend any appropriations for other purposes.

### **Additional estimates**

Funding requirements often change after the Budget is brought down.

Governments make

new policy commitments which have to be funded. Agencies reassess their requirements

and, if necessary, submit requests for additional funding. The Government may agree to

additional funding if the amounts in the Appropriation Acts are inadequate. The process

whereby additional funds are provided is called [additional estimates](#), and begins around

November. The approved additional estimates are incorporated into

Appropriation Bill

(No. 3), Appropriation Bill (No. 4), and Appropriations (Parliamentary Departments) Bill

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*Appropriation Bill (No. 3) 2005-06 5*

(No. 2). These Bills are the counterparts of Appropriation Bill (No. 1), Appropriation Bill

(No. 2), and Appropriations (Parliamentary Departments) Bill (No. 1) respectively.

Portfolio Additional Estimates Statements are the additional estimates counterparts of

Portfolio Budget Statements, and contain explanations of Appropriation Bill (No. 3),

Appropriation Bill (No. 4), and Appropriation (Parliamentary Departments) Bill (No. 2).

New policy proposals should not be included in Appropriation Bill (No. 3) because they

do not fall with the classification of ordinary annual services. New policy measures are

funded either through Appropriation Bill (No. 4) or special appropriations.

Further annual appropriation bills can be introduced during the year if required.

They are

called ‘supplementary’ additional estimates.

### **Advance to the Finance Minister**

The [Advance to the Finance Minister](#) (AFM) provides flexibility to the system of

appropriating funds. The AFM is a contingency fund from which the Minister for Finance

can spend for emergency or unforeseen circumstances. Authority for payments derives

from the annual Appropriation Acts. According to Department of Finance and Administration guidelines, funding is available only if agencies meet two tests:

- the need for funding must be urgent, and

- the need was unforeseen or arose because of erroneous omission or understatement.

The Appropriation Acts also require the Finance Minister to account to Parliament for spending from the AFM, which the Minister does by tabling monthly and annual statements.

### Net appropriations

In addition to the amount sought as a ‘basic’ appropriation and the AFM, the Bill provides for agencies to spend income received under ‘net appropriations’ agreements (also known as section 31 agreements, a reference to section 31 of the *Financial Management and Accountability Act 1997*).

In January 2006, the Australian National Audit Office released a report titled [Management of Net Appropriation Agreements](#). The report describes net appropriations as follows:

2. ... net appropriation arrangements are a longstanding feature of the Commonwealth’s financial framework. They provide a means by which an agency’s appropriation item in the annual Appropriation Acts can be increased by amounts received from non-appropriation sources. This provides the agency with the appropriation authority to retain and spend those amounts ...

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### 6 Appropriation Bill (No. 3) 2005-06

4. Under the Commonwealth’s current financial framework, Section 31 of the Financial Management and Accountability Act 1997 (FMA Act) allows the Finance Minister to enter into net appropriation agreements (known as Section 31 agreements) for the purposes of appropriation items in Appropriation Acts that are marked “net appropriation”. The FMA Act requires that an agreement be made with the Minister responsible for the appropriation item or, in the case of items for which the Finance Minister is responsible, with the Chief Executive of the agency for which the appropriation is made.

5. A Section 31 agreement specifies the types of departmental and/or administered receipts that will be eligible to be retained by the relevant agency, and the terms on which the relevant appropriation item will be increased for those receipts by operation of the agreement. For example, the agreement may require certain receipts to be shared with the Budget in nominated proportions. The annual Appropriation Acts provide that, if a Section 31 agreement applies to an appropriation item, the amount specified in the item is taken to be increased in accordance with the agreement, on the conditions set out in the agreement. The increase cannot be more than the relevant receipts covered by the agreement.<sup>3</sup>

### Special Accounts

The Bill refers to Special Accounts. In essence, they are ledgers in the Consolidated

Revenue Fund that are used to record all spending and revenue relevant to a particular

activity. Special accounts are thus a means of simplifying the recording and keeping track of amounts of money associated with that activity. Special Accounts can be established in two ways: by the Finance Minister under the *Financial Management and Accountability Act* 1997 or by another Act.

## **Financial implications**

The amount sought as basic appropriations is \$1,258,101,000, that is, almost \$1.3 billion.

Basic appropriations can be supplemented by net appropriations, adjustments to departmental items, and by spending from the AFM. Adjustments are subject to a maximum of \$20 million for all of financial year 2005-06. Similarly, spending under the

AFM is limited to \$175 million for all of financial year 2005-06.

## **Major items of expenditure**

According to the Minister's second reading speech, some of the items for which funds are

sought appear in the [Mid-year Economic and Fiscal Outlook 2005-06](#) (MYEFO). The

following lists the items mentioned in the second reading speech.

**Note:** the numbers in brackets below are references (where possible) to the relevant page numbers in the MYEFO.

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*Appropriation Bill (No. 3) 2005-06 7*

## **Agriculture, Fisheries and Forestry**

\$124 million to the Department of Agriculture, Fisheries and Forestry to provide:

- \$104 million in business exit assistance as part of the fishing structural adjustment package to support the sustainability of Australian government managed fisheries (90),
- and
- \$20 million support for the hardwood timber industry as part of the Tasmanian Community Forest Agreement (96).

## **Attorney-General**

An additional \$29.2 million to the Attorney-General's Department, which includes:

- \$18.1 million for security costs associated with the APEC Leaders Week 2007 (97)
- \$10.5 million for enhancement of the national urban search and rescue capability (107)
- a total of \$54.6 million to the Australian Federal Police for airport policing measures, in particular:

- \$27.2 million for phase 1 of community policing at airports
  - \$18.2 million to provide a first response counter-terrorism capability at relevant airports, and
  - \$9.2 million to establish joint airport investigation teams with the Australian Customs Service, who will also receive an additional \$1 million for this initiative
- (98)
- an additional \$16.5 million to increase the apprehension, detention and prosecution of illegal foreign fishers operating in Australia's northern waters. As part of this measure the Australian Customs Service will receive \$13.7 million (102), and
  - \$10.6 million has been allocated to the Australian Customs Service to increase air-side patrols at airports (99).

### **Defence**

The Bill proposes an increase of \$155.8 million to the Department of Defence, which includes:

- \$40.9 million to provide a Special Forces Task Group to Afghanistan (117)
- \$16 million to fund the deployment of helicopters and support elements in Afghanistan
- \$25.1 million in indexation adjustments, and
- a net increase of \$73.8 million, consisting substantially of a reclassification of appropriation to revise Defence's depreciation and inventory related estimates.

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8 Appropriation Bill (No. 3) 2005-06

### **Employment and Workplace Relations**

A net increase of \$167.1 million to the Employment and Workplace Relations portfolio, the major components of which are:

- \$110.7 million to fund the Workplace Relations Reform Package (130-135), and
- \$52.4 million in additional funding to meet the increased demand for the highly disadvantaged stream of Job Network services.

### **Environment and Heritage**

\$28.5 million is to be provided to the Department of the Environment and Heritage as additional supplementation for the Great Barrier Reef structural adjustment package.

### **Foreign Affairs**

A net increase of \$42 million to the Department of Foreign Affairs, including:

- a \$10 million contribution to the American Red Cross as part of Australia's response to the devastation caused by Hurricane Katrina in the United States (153), and
- supplementation of \$19.8 million for increased passport volumes.

### **Immigration and Multicultural Affairs**

A net increase of \$41.2 million to the Department of Immigration and Multicultural

Affairs, including:

- \$16.2 million to implement the government's response to the Palmer and Comrie

Reports (179)

- \$9.3 million to implement more flexible and timely immigration detention arrangements arising from amendments to the migration legislation (177), and
- \$8.3 million to introduce a visa requirement for all maritime crew arriving in Australia

(178).

### **Transport and Regional Services**

\$11.9 million has been provided to the Department of Transport and Regional Services to

improve security of international passenger aircraft through increased inspection of air cargo (100).

### **Cross portfolio**

A total of \$22.1 million has been provided to the Australian Taxation Office, the

Australian Crime Commission, the Australian Securities and Investments Commission and

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*Appropriation Bill (No. 3) 2005-06 9*

the Australian Federal Police to conduct investigations and prosecutions arising from

Operation Wickenby.

### **Statement of savings**

An useful innovation is the tabling with the Bill of a document titled *Statement of Savings*

*Expected in Annual Appropriations made by Act No. 72 of 2004 –*

*Appropriation Act (No.*

*1) 2005-06 and Act No. 73 of 2004 – Appropriation Act (No. 2) 2005-06. The footnote on*

the front page states that the savings are from underspending.

The document is useful in that it identifies the areas of expected underspending by agency,

outcome, and type of expense (departmental or administered). The benefit of the document

would, however, be enhanced by some explanation of the reasons for the underspending.

### **Basis of policy commitment**

The bulk of additional spending promised during the 2004 election was introduced in the

2005-06 Budget. The proposed spending in the Bill is for subsequent policy measures.

### **Main provisions**

The provisions in the Bill are identical to those in *Appropriation Act (No. 3) 2004-05*

except for several minor changes. The changes include:

- dropping ‘for the purposes of the *Legislative Instruments Act 2003*’ from the subclauses dealing with whether an item is a legislative instrument, and editorial

changes that simplify the English expression [**subclauses 8(3), 9(9), 9(10), 11(3) and 12(5)**]

- under **subclauses 9(9), 11(3) and 12(5)**, the Finance Minister’s determinations are

legislative instruments but are not disallowable and not subject to sunset requirements

- inserting under ‘definitions’ in **clause 3**, the definition of Portfolio Supplementary Estimates Statements

- this is necessary because the Government introduced as a supplementary estimate

the *Appropriation (Regional Telecommunications Services) Act 2005-06*

- **clause 4(1)** consequently includes a reference to Portfolio Supplementary Estimates Statements

- dropping the Australian National Training Authority from the definition of ‘entity’ in

**clause 3**

- **clause 10(4)** recognises as net appropriations certain administered items for the

Department of Families, Community Services and Indigenous Affairs

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*10 Appropriation Bill (No. 3) 2005-06*

- in 2004-05, the comparable clause applied to the Attorney-General’s Department,

the Department of Family and Community Services, the Department of Foreign Affairs and Trade, and the Department of Immigration and Multicultural and Indigenous Affairs

- with respect to adjustments to departmental items (see below), **subclause 11(1)** inserts

‘during the current year’ when referring to when the Finance Minister may make a

determination increasing the amount for a departmental item

- **clause 12** deals with the Advance to the Finance Minister. **Paragraph 12(1)(a)** inserts

‘in the current year’

- this amendment has the effect of limiting to the 2005-06 financial year the ability

of the Finance Minister to issue funds made available under clause 12. Were it not

for this amendment, the Finance Minister could issue the funds made available under clause 12 in other financial years



**Clause 6** provides that the basic appropriation is \$1,258,101,000. The amounts allocated to each agency, and the breakdown between departmental and administered items, are set out in **Schedule 1**.

**Subclause 7(1)** empowers the Finance Minister to issue money from the Consolidated Revenue Fund for departmental items for an entity but restricts the total to that specified in Schedule 1.

**Clause 8** deals with administered items in the basic appropriation. **Subclause 8(1)** limits the amount of money the Finance Minister can issue from the Consolidated Revenue Fund to the amount specified (in Schedule 1), and the amount that the Finance Minister includes in a determination. The general procedure with respect to the latter is as follows:

Appropriations for administered expenses are subject to a determination by the Finance Minister on the amounts to be issued. The effect of that determination is to prevent any part of the appropriation that has not been expensed in the year from being issued from the Consolidated Revenue Fund. By convention the Finance Minister issues determinations in relation to administered expenses appropriations following the completion of each financial year. ... the determinations for administered expenses do not reduce the appropriation. Rather, they are a declaration by the Finance Minister of the maximum amount that may be issued for the respective items.<sup>4</sup>

**Clause 9** deal with reductions of appropriations. The general process for reductions is as follows:

Amounts appropriated for departmental expenses and for non-operating costs can be subject to a reduction process first introduced in the additional estimates appropriations acts for 2003-2004. Under this process, on request in writing from a responsible minister for an agency, the Finance Minister may issue a determination to reduce the agency's departmental expense or non-operating costs appropriation.

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**Appropriation Bill (No. 3) 2005-06 11**

Requests for amounts to be lapsed may arise, for example, because the appropriation is no longer required. Until the Finance Minister issues a determination under this process, moneys appropriated for departmental expenses and non-operating costs may be issued from the CRF.<sup>5</sup>

**Clause 11** deals with the power of the Finance Minister to increase the amount allocated to a departmental item up to a maximum of \$20 million. As noted, departmental expenses are essentially the costs of running agencies such as salaries and rent. Clause 11 provides flexibility in that when situations arise where an agency finds that it does not have enough

funds for departmental expenses and the shortfall cannot be met through the normal additional estimates processes, it may request additional funds by means of a determination that the Finance Minister issues. **Subclause 11(3)** provides that such as determination is a legislative instrument. This provides some accountability for the Finance Minister's actions.

**Clause 12** deals with the AFM. **Subclause 12(3)** limits the combined total the Finance Minister can issue under *Appropriation Act (No. 1) 2005-06* and the Bill to \$175 million.

## Endnotes

1. Agency Resourcing 2005-06, Budget Paper No. 4, p. 4.
2. For a more comprehensive discussion, see, *ibid.*, p. 5.
3. Australian National Audit Office, *Management of Net Appropriation Agreements*, Audit Report no. 28, 2005-06, p. 13.
4. Budget Paper No. 4, *op. cit.*, p. 6.
5. *ibid.*, p. 6.

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### **12 Appropriation Bill (No. 3) 2005-06**

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## ATTACHMENT 8

#####  
**House of Representatives - Email alert service**  
#####

*Issued by: House of Representatives Liaison & Projects Office, Thursday 23 March 2006*

### **Australia's defence force regional air superiority - *Public Hearing***

**9:30 am Friday, 31 March 2006 Committee Room 2R1, Parliament House, Canberra**

Parliament's Defence Sub Committee is conducting a public hearing into Australia's defence force regional air superiority on the morning of Friday 31 March 2006 in Canberra.

The Committee will be reviewing issues relating to the maintenance of Australia's regional air superiority.

Announcing the public hearings, the Sub Committee Chair, the Hon Bruce Scott MP said, "Australia's decision to participate in the Joint Strike Fighter program, upgrade its F/A-18 Hornets and retire the F-111 fleet by 2010 has raised the issue of ensuring that Australia maintains regional air superiority in the future."

The Committee will take evidence from the Commonwealth Department of Defence as well as a range of private individuals.

#### **Hearing Program**

- |            |                                 |
|------------|---------------------------------|
| • 9:30 am  | Mr Peter Goon and Dr Carlo Kopp |
| • 10:10 am | Dr Alan Stephens                |
| • 11:00 am | Kokoda Foundation               |
| • 11:40 am | Department of Defence           |
| • 12:30 pm | Dr Dennis Jensen MP             |

**For media inquiries**, contact the Sub-Committee Chairman, the Hon Bruce Scott MP on (02) 6277 4949 or (07) 4662 2715.

**For all other inquiries**, contact the Committee Secretary, Margo Kerley, on (02) 6277 4629 or visit the committee website at <http://www.aph.gov.au/house/committee/ifadt/reports.htm>

*Issued by:*

Andrew Dawson, media adviser, Liaison & Projects Office, House of Representatives  
Tel: (02) 6277 2063 wk, 0401 143 724 mob.

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## ATTACHMENT 9

### Parliament and the Media Workshop

**15-16 February 2006**

#### Program

**Wednesday, 15 February 2006**

#### Session 1

**9.00-9.45am**

#### **Parliament and the media: Why they need each other**

This session will explore the relationship between the parliament, the media and the community. The aim is to increase workshop participants' understanding of how an effective relationship between the parliament and the media can enhance the democratic process.

**9.45-10.30am**

#### **Understanding the media: How the media operates**

This session will look at the various types of media and how each has its own methods of operation and requirements. The aim is to increase awareness of the different types of media and what they are seeking.

**10.30-10.45am**

#### **Break**

**10.45-11.30am**

**Experiences with the media:  
What have been your dealings with the media?**

This session will question workshop participants about their experiences in dealing with the media. The aim is to examine what workshop participants feel about the media and respond to issues they may have with the media.

**11.30am-12noon**

**Session 1 Wrap Up**

Questions and answers from Session 1

**12noon-2.00pm**

**Lunch**

**Session 2**

**2.00pm-2.45pm**

**Communicating with the media:  
Tools you can use**

This session will explore the practical ways in which parliament can let the media know about its work. The aim is to give practical advice about how to communicate effectively with the media.

**2.45-3.30pm**

**Handling the media:  
Media interviews**

This session will examine how best to deal with the media in an interview situation. The aim is to give practical advice in handling media interviews.

**3.30-3.45pm**

**Break**

**3.45-4.30pm**

**Session 2 Wrap Up**

Questions and answers from Session 2

## **Parliament and the Media Workshop**

**15-16 February 2006**

### **Program**

**Thursday, 16 February 2006**

#### **Session 3**

**9.00-9.45am**

#### **Getting media attention: What's the story?**

This session will explore the need to provide interesting material which the media can use in its reporting of parliament. The aim is to increase understanding of how best to promote the work of parliament to the media.

**9.45-10.30am**

#### **Writing for the media: Presenting the story**

This session will examine how to write for the media so that a story captures media attention. The aim is to increase understanding of how best to present a story to the media.

**10.30-10.45am**

#### **Break**

**10.45-11.30am**

#### **Communicating with the community: Going direct to the people**

This session will look at ways in which parliament can communicate directly with people. The aim is to examine options for developing and enhancing parliament's contact with the community.

**11.30am-12noon**

#### **Session 3 Wrap Up**

Questions and answers from Session 3

**12noon-2.00pm**

#### **Lunch**

## **Session 4**

**2.00pm-2.45pm**

### **Media exercises Part 1**

This session will involve practical media exercises that workshop participants can undertake. The aim is to get workshop participants involved in dealing with issues raised in the workshop.

**2.45-3.30pm**

### **Media exercises Part 2**

This session will provide further media exercises for workshop participants. The aim is to provide further opportunities for workshop participants to deal with issues raised in the workshop.

**3.30-3.45pm**

### **Break**

**3.45-4.30pm**

### **Workshop Wrap Up**

Questions and answers from Session 4 and overall wrap up for the workshop











