

- DRAFT -

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## **Cambodian-German Development Cooperation**

### **Strategic Framework**

#### **For cross-sectional assignment**

#### **"Democracy, Civil Society and Public Administration"**

**- Good Governance -**

#### **1. General setting and aims**

#### **2. Development bottleneck 'Governance'**

#### **3. Aims, tasks and fields of action**

##### 3.1 Aims and tasks in the cross-sectional assignment

##### 3.2 Cooperation fields of action

#### **4. Instruments and procedures**

##### 4.1 Instruments of German development cooperation

##### 4.2 The twin-track concept

##### 4.3 Partnership and aid effectiveness

**"Good Governance is perhaps the single most important factor  
in eradicating poverty and promoting development"**

**Kofi Annan, former UN Secretary General**

## **1. General setting and aims**

Good governance in the sense of an enhancing political environment, the rule of law and a responsible management of political power and public resources by the state is a key prerequisite for sustainable development and poverty reduction. In Cambodia, whose structures have been almost totally destroyed through civil war and the terror regime of the Khmer Rouge, democratisation, the respect of human rights, enhancing civil society and the establishment of a public administration pose a particular challenge. A further task of decisive importance is to re-establish social standards and create a new balance between society and state bodies so that the people can exercise their democratic rights as sovereigns.

Enhancing democracy, civil society and public administration is a cross-sectional task in Cambodian-German development cooperation, agreed upon between the two governments. The present paper is meant to identify the strategic starting points for German support on the basis of existing deficits and in the context of the work of other development partners. It is to improve coordination with other development partners and serve as value-based orientation for new cooperation activities.

Cambodia's reform agenda has been put on a broad basis and is poverty-directed. The government explicitly acknowledges the need for comprehensive reforms even though their implementation is rather sluggish in many areas. Both the government's basic strategy document, the "Rectangular Strategy", and the new National Strategic Development Plan (NSDP 2006-2010) building on this document, explicitly place the development of the law (reform of the law, judicature and administration) in the centre of reform efforts. The cross-sectional assignment is to ensure "Good Governance" with the help of a more intensive corruption control, quality increase in legislation, the judicature and public administration, and a comprehensive decentralisation.

Cambodia is highly dependent upon international development aid (ODA). In June 2007 the government obtained further significant donor commitments to the tune of approx. US \$ 690 million within the scope of the Consultative Group (CG) meeting; this amount accounts for more than half of the Cambodian budget. At the same time, open criticism regarding the lack of reform speed was expressed in view of the fact that the greater part of the progress indicators (benchmarks) agreed upon at the CG meetings 2004, 2005 and 2006 - to be used to measure the speed and quality of the reform process - had not been achieved. The high ODA dependence may be reduced in the medium term if the revenue expected from the extraction of resources (esp. oil) will in fact be secured (annual revenue of about US \$ 1 billion expected from 2008 onwards). Additional political and administrative reforms are needed to ensure an efficient and socially balanced utilisation of envisaged additional revenue.

Cambodia is a pilot country of the DAC Harmonisation Initiative. The government actively promotes donor harmonisation: since 2005 there has been a distinct improvement in coordination in terms of substance and intensity.

## **2. Development bottleneck 'Governance'**

As post-conflict country where, during the Indochina and civil war and the Khmer Rouge regime, state institutions had been almost completely destroyed and a large part of the population, especially those well educated, had been killed, Cambodia faced the task of a total reconstruction of state institutions after the end of the UNTAC<sup>1</sup> mission and the first free elections in 1993. Against this background the progress achieved to date is remarkable. Nonetheless, the process of state formation has not yet been concluded. Public institutions still suffer from inadequate institutional and staff capacities, a lack of division of powers and rule of law as well as endemic and systemic corruption at all levels.

### **2.2.1 Parliamentary system**

With its parliamentary bicameralism - the Senate and the National Assembly - Cambodia links up to the constitutional tradition and at the same time accommodates the traditional understanding of democracy. However, both chambers do not yet sufficiently exercise either their control function vis-a-vis the government or their critical role and debate in terms of legislation. This is caused by performance deficits of parliamentarism - the country's public is rather sceptical in this context - and also ability deficiencies in individual institutions. One bottleneck is the malfunction of cooperation processes between Parliament and the ministerial bureaucracy. The Parliamentary institutions and also other control bodies such as the Constitutional Council and Audit Office must be given greater independence from government to enable them to play their roles as laid down in the constitution. The democratic principle of division of powers has been realised only very moderately. The legislative process is often based on parameters established by the executive authorities and is characterised by a discrepancy between the willingness to reform and reform reality. The goals agreed upon between the government and the donor community have not been reached during the last years. The adoption of a penal code and the correlating procedural rules and laws governing the administrative structure (organic laws on decentralisation and deconcentration) are only some of the most prominent legislative tasks.

### **2.2.2 Government and administrative structure**

The government and administration apparatus of Cambodia's constitutional monarchy presents a broadly diversified and fragmented institutional landscape with nominally rather strong staffing. Central deficits are weak technical competence, an overboarding executive, underpayment and, as a result, an inbuilt corruption also at the lower administrative levels (cf. para 2.2.6). Women are underrepresented on all levels of government and administration. In most areas Cambodia is centrally organised, politically as well as administratively. Decentralisation is part of the political agenda; given a spreading of responsibilities over a number of institutions, this process is progressing in small steps only.

### **2.2.3 Legal and judiciary system**

The annihilation and displacement of the educated elite during the Khmer Rouge system is particularly noticeable in the judiciary. This situation requires a complete reconstruction of legal training. The current qualification level of judges, public prosecutors and investigating bodies is inadequate even at higher echelons. Nor is independence of the judicative branch from the government guaranteed. Like in other state institutions, corruption is a determining factor leading to a far-reaching impunity of the rich and influential population strata. Lack of legal certainty, attributable to inadequate law enforcement or lack of bylaws, poses a severe development obstacle. Although gender equality is anchored in the constitution, it does not play a corresponding role in the real life of men and women.

### **2.2.4 Human rights**

Cambodia has ratified the key human rights agreements, the constitution comprises the major international acknowledgments regarding the respect of human rights. Nonetheless, legal certainty is called into question. In particular, freedom of opinion and a critical public debate between civil society and the governments are curbed by the existing legal situation on libel/slander and court practises in this context. Hence, self-censorship is widespread among the media. Compared with other countries in South-East Asia, however, freedom of the press must be considered positively. The management of natural resources, especially illegal land seizure and the accompanying forced resettlements as well as logging, poses a major problem in Cambodia, impinging upon the human rights especially of the poor rural population and indigenous population groups and having a severely adverse effect on their living conditions and perspectives. In the Cambodian society women do not enjoy equal rights, domestic violence against them and also children is wide-spread and socially accepted. Economic and social rights can hardly be considered as guaranteed since wide-spread poverty is a barrier to gaining access to social spheres like health care or education.

### **2.2.5 Public finance**

Public finance management in Cambodia suffers from a range of inadequacies. On the revenue side the country registers one of the lowest rates of taxation in the region. Development efforts suffer from an allocation of official funding through the national government, which is only insufficiently geared to priorities and targets and is not transparent. Disbursement of funds is rather slow. These factors have led to public services (e.g. in the field of education and health) being only inadequately financed from own funds. However, the government has started a comprehensive reform programme (Public Financial Management Reform Program, PFMRP) with the support of several donors, which is to help create a clear link between the targets of the NSDP and the national budget, and improve the management of funds. Utilisation of the revenue expected from the extraction of raw materials (esp. oil) will present a special challenge for Cambodia's political and finance system.

### **2.2.6 Corruption**

Corruption in Cambodia is inbuilt. It is found in all areas and at all levels of public life. It has been an issue for years in the dialogue between the development partners and the government which proclaims a rigorous fight against corruption. Corruption results in the state losing substantial revenue. The society is governed by a historically grown acceptance of corruption. Corruption is increased further, especially, by the low incomes of civil servants, which are totally insufficient for them to make ends meet. All this contributes to a system of patrimonialism where individual progress is not the result of performance, but is linked rather to personal connections and material favours. With regard to the development of democracy this means that there is no legal or procedural certainty, given the endemic/systemic corruption in justice and administration. This affects the poor rural population who do not dispose of the necessary networks and funds to ensure their public services. Corruption control in Cambodia cannot be achieved solely through better control mechanisms and rigid inspection systems; rather, political reforms are needed to dissolve the asymmetrical division of power, enhance transparency and establish a system of responsibilities and accountability. The creation of a legal basis for corruption control - a step that has been urged by the country's development partners for quite some time - has been pending for more than 10 years now.

## **3. Aims, tasks and fields of action**

### **3.1 Aims and tasks in the cross-sectional fields of action**

The interpretation of 'Good Governance' in Germany's development cooperation is based on the European system of values: liberty, democracy and human rights. Furthermore, good governance is not only a task for German development cooperation but the basis of the five promotion criteria<sup>2</sup>. Moreover, good governance is a priority of the BMZ's Asia strategy, together with other issues like democratisation and human rights, good governance and conflict mitigation.<sup>3</sup>

Requests from the partners form the basis of cooperation priorities and key areas, taking into account also the general setting in the partner country and the specific experience and priorities of the German government. The guidelines of Germany's development cooperation are founded on international agreements and concepts drawn

up by the BMZ.<sup>4</sup>

The overarching target is to contribute to reducing poverty and putting into place a just social structure. To achieve this end, democratic principles are to be embedded in the Cambodian society, and the performance and responsibility of public administration improved by respecting human rights principles like non-discrimination, participation and transparency, as well as civil society's ability to act.

The **two tasks** for German development cooperation are therefore defined as follows:

1. Support of the reform process in public administration and interaction with the people so as to establish an efficient environment conducive to enhancing comprehensive poverty reduction and sustainable growth.
2. Support in establishing a social balance where all players - people, civil society, executive, legislative and judicative branch - exercise their rights and discharge their duties in accordance with the principles of human rights.

### **3.2 Cooperation fields of action**

In its "Rectangular Strategy" of July 2004 the Cambodian government defines "Good Governance" as centrepiece of, and precondition for, achieving the development goals. Focus is being placed on (1) corruption control, reform of the (2) legislation and justice, the (3) public administration and decentralisation and on the (4) reform of the military and demobilisation. The "Cambodian Millennium Development Goals" adapted at the local level where gender equality and the promotion of women are defined as third out of nine goals, constitute the umbrella for the development strategy.<sup>5</sup>

Germany pursues the principle of division of labour among the development partners engaged in Cambodia, based on the Paris Declaration.

Against this background German support focuses on **three areas of action**:

#### **1. Administration Reform and Decentralisation**

Decentralisation and communal development are meant to establish greater proximity between the people and the state, raise the legitimacy and responsibility of state action, and provide local public services in a more efficient manner. At the level of the central government, German development cooperation supports the pertinent institutions in the legal and organisational formation of the decentralisation process. At the decentralised level, the administration units either reformed or newly established at the level of provinces, districts and municipalities receive advisory services to help them in discharging their new tasks. Communal development measures are to support the administrations in reforming organisations and administrative procedures, and in the further training of staff. This capacity development is expected to contribute to improving the performance of the administration and its proximity to the citizens as executive instrument of the state.

#### **2. Transparency and Public Accountability**

Because of inadequate legal certainty, deficits in the division of powers and the functioning of the control institutions, and also because of the endemic corruption, government activities cannot be predicted reliably. Quite often responsibilities are not clearly defined and cannot therefore be kept track of sufficiently by the institutions responsible or by the citizens. German development cooperation measures in this field of action are designed to contribute to strengthening the role and the mandate of selected democratic supervisory institutions so that these are autonomous in discharging their function in a system of checks and balances. These include the Parliament, the Audit Office, the Ministry of Planning responsible for the NSDP and, in future, the anti-corruption authority. Here is the interface with field of action No. 1 whose aim is to improve the efficiency of vertically and horizontally accountable institutions (institution building).

### **3. Civil society and the Rule of Law**

This field of action addresses first and foremost the demand side of government action, the Cambodian citizens and their representatives. It is composed of three pillars, (A) strengthening legal certainty, especially for the households of the rural poor people who are at a particular disadvantage, (B) strengthening the ability of civil society to make their political concerns heard, and (C) promoting the rights of women, children and youth.

Strengthening legal certainty (pillar A) is to focus on issues of land use and access rights. Civil society organisations (pillar B) are to be enabled to call in corruption control, legal certainty and the respect and guarantee of human rights, within the meaning of the government's accountability. Besides government bodies, German development cooperation supports selected non-governmental organisations and independent media. By promoting the rights of women, children and youth their equality of status, personal freedom and self-determination (pillar C) are to be embedded in the - up to now - strongly patriarchal Cambodian society. This approach is a precondition for poverty reduction, a socially accepted sustainable development and democratic structures.

"Administrative reform" and "decentralisation" as well as the issue of land rights attributable to the field of action "civil society and the rule of law" are also key areas of bilateral cooperation in rural development.<sup>6</sup>

## **4. Instruments and procedures**

### **4.1 Instruments of German development cooperation**

Regarding the cross-sectional task "democracy, civil society and public administration" in Cambodia, German development cooperation is confined to technical cooperation. The establishment of democratic structures and an efficient state system can be achieved only through complex and structure-changing processes. This requires long-term support by partner organisations and the training of counterparts.

The Deutsche Gesellschaft for Technische Zusammenarbeit (GTZ), the Deutscher Entwicklungsdienst (DED - German Development Service) and the Centrum for internationale Migration and Entwicklung (CIM - Centre for International Migration and Development) are active on behalf of the German government. GTZ is engaged with long-term advisory projects mostly at the level of the national government and the provinces. DED cooperates mainly with community administrations and local non-governmental organisations at the local level. One special priority area is the reconciliation work connected with the Khmer Rouge Tribunal. Furthermore, CIM places experts as employees in public and private institutions of the partner country.

Non-governmental institutions like political foundations are active in the field of enhancing democracy, improving the human rights situation and the political participation of the people. As a rule, partners of the foundations mostly come from the non-governmental sector, although there is no clear-cut delineation; rather, partner structures at the governmental and non-governmental level interlock in their activities. Political foundations are not bound to directives, but act on their own mandate. Nevertheless, there is a close coordination, politically and content-wise, between the German Ministry for Economic Cooperation and Development (BMZ) and the aforementioned state players.

Finally, private executing bodies (non-governmental organisations) are also active in the democratization process. Thus, the Deutsche Welthungerhilfe (DWHH - German Agro Action) supports the participation of Cambodia's civil society in political processes.

Support of the cross-sectional task "Democracy, civil society, public administration" in Cambodia is based on various governmental and non-governmental institutions cooperating closely in the three fields of action by dovetailing their activities.

### **4.2 The twin-track concept**

The tasks to be discharged in the cross-sectional area - support of the reform process in public administration and establishment of a democratic social balance - are pursued in the form of a combined approach:

- I. They are the object of autonomous programmes, i.e. the development programmes and the selection of the partner structures are aimed explicitly at one of the fields of action (examples: programme to enhance women's rights at the Ministry for Women, employment of experts in Parliament).
- II. They form an integral part of all projects supported in the priority sectors 'rural development' and 'health' in Cambodian-German cooperation. Hence, all projects promoted must contribute to strengthening the legal and institutional framework, democratic development and corruption control.

#### **4.3 Partnership and aid effectiveness**

Cambodia has institutionalised the coordination process among the development partners in implementation of the Paris Declaration. The NSDP 2006-2010, together with the "Rectangular Strategy", is a binding and accepted frame of action for all donors. German development cooperation works complementary to that of other multi- and bilateral donors. In the case of financial investments in an institution or policy field being needed, selective programme partnerships are to be formed and intensified with other development partners under technical cooperation. Moreover, German technical cooperation can accompany the investments made by other donors in the form of counselling, thereby ensuring their effectiveness.

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<sup>1</sup> United Nations Transitional Authority in Cambodia [back](#)

<sup>2</sup> Poverty-oriented and sustainable policy formation; 2. Respect, protection and guarantee of all human rights; 3. democracy and the rule of law; 4. Efficiency and transparency of the state; 5. Cooperative behaviour in the community of states [back](#)

<sup>3</sup> Priorities of the Asia Paper 2007: 1. socially balanced economic development, 2. ecologically acceptable development, 3. democratisation and human rights, good governance, mitigation of conflicts [back](#)

<sup>4</sup> i.a. "DAC Orientations on Participatory Development and Good Governance", OECD (1995), "Good Governance in German development cooperation", BMZ (2002); "Administrative reform in German development cooperation", BMZ (2002); "Corruption control in German development cooperation", BMZ (2002); "Decentralisation and strengthening of local self-administration", BMZ (2002), "Concept for equal promotion of women and men", BMZ (2001) [back](#)

<sup>5</sup> The nine CMDG are: (1) Eradicate extreme poverty and hunger, (2) Achieve universal nine-year basic education, (3) Promote gender equality and empower women, (4) Reduce child mortality, (5) Improve maternal health, (6) Combat HIV/AIDS, Malaria and other diseases, (7) Ensure environmental sustainability, (8) Forge a global partnership for development, (9) Demining, UXO and victim assistance. [back](#)

<sup>6</sup> Key areas of the rural development strategy agreed upon between the Cambodian and German governments are: 1., and 5. decentralisation development and diversification of agricultural production systems, 2. private sector economy in rural areas, 3. land reform, 4. rural infrastructure [back](#)

# Overview on issues of ongoing German development cooperation in the three fields of action, as of May 2007

## 1. Administrative reform and decentralisation

GTZ: Decentralisation at central government level

DED: Regional planning, communal administration

KAS: Communal administration, district and provincial reform (Battambang, Siem Reap)

## 2. Transparency and public accounting

GTZ: National Audit Office

CIM: National Assembly, Senate, Audit Office, Ministry of Planning

DED, DAAD, Voice of Germany Academy, KAS: promotion of media

KAS: National Assembly, Senate, promotion of parties

## 3. Civil society and the rule of law

GTZ, CIM: Women's rights/domestic violence, land conflicts

DED, DWHH, KAS: Civil society organisations

HBS: Land conflicts, women's rights

KAS: Arbitration procedure, protection of witnesses/defendants

### The Fields of action of the cross-sectional assignment

Democratisation, Civil Society, Public Administration		
Administration Reform and Decentralisation	Civil Society and the Rule of Law	Transparency and Public Accountability
<p>Accompany and enhance the process of decentralisation (government level)</p> <p>Administrative efficiency at the communal level (capacity development)</p>	<p>Strengthening of legal certainty (Land use and access rights)</p> <p>Strengthening of political articulation ability (legal certainty, human rights)</p> <p>Promotion of the rights of women and children (equality of status)</p>	<p>Strengthening of democratic institutions and government control bodies (institution building)</p> <p>Enhancing the division of powers (checks and balances)</p>

