

## Evaluation Summary

### 1. Outline of the Project

- Country: Kingdom of Cambodia
- Project Title: Legal and Judicial Cooperation Project (Phase II)
- Issue/Sector: Legal and judicial development
- Cooperation Scheme: Technical Cooperation Project
- Division in Charge: Social System & Peace Building Team, Group I, Social Development Department
- Total Cost (at the time of evaluation): 140,376,000 yen
- Period of Cooperation:  
(Date of R/D signed): 9 April 2004  
3 years (9 April 2004 - 8 April 2007)
- Partner Country's Implementing Organization(s): Ministry of Justice (MOJ); Council of Legal and Judicial Reform
- Supporting Organization(s) in Japan: Ministry of Justice; Supreme Court; Japan Federation of Bar Associations
- Related Cooperation: Project for Improvement of Training on Civil Matters at the Royal School for Judges and Prosecutors of the Royal Academy for Judicial Professions

#### 1-1 Background to the Project

Following the end of the civil war in 1991, Cambodia placed the highest priority on legal development and judicial reform for establishing the rule of law on the national agenda. However, the national legal system, including basic laws, remained inadequate. In addition, judicial experts and the related officials were insufficient and incompetent to manage legal and judicial development.

In response to the request from the government of Cambodia for assistance, JICA launched the Legal and Judicial Development Project in March 1999. This project aimed to support the Government of Cambodia in drafting the Civil Code and the Code of Civil Procedures, developing law implementing procedures and improving judicial institutions, seeking to develop the legal framework that would accommodate the country's transition to a market economy. Due to delay in the drafting process by a Japan-Cambodia joint working group for drafting, the project period was extended for

one year. The project was completed by handing over the final draft Codes to the Ministry of Justice (MOJ). in March 2003.

In 2003, the Government of Cambodia requested the Government of Japan to extend the further co-operation in establishing the Civil Code, the Code of Civil Procedures and the laws and regulations which were related to the two Codes. In response to this request, the Phase II of the Legal and Judicial Cooperation Project was launched in April 2004 by signing and exchanging the Record of Discussions (R/D).

## 1-2 Project Overview

### (1) Overall Goal

Laws and regulations with respect to civil affairs and their applications are reliable and useful for Cambodian people.

### (2) Project Purpose

Conditions for promoting legislation of the Civil Code and the Code of Civil Procedure are prepared.

### (3) Outputs

- 1) Knowledge and capacity of the personnel involved in the various stages of legislation, in addition to the Members of the Defending Committee of the Codes in MOJ, are enhanced enough to manage and advance the legislation process appropriately.
- 2) Level of understanding of legal and judicial experts in Cambodia with respect to technical details of the Codes is improved.
- 3) Draft provisions of transitional measures, etc., regarding application of the Code of Civil Procedure are prepared.
- 4) Draft provisions of transitional measures, etc., regarding application of the Civil Code, and draft laws and bylaws to enforce the Civil Code are prepared.
- 5) Draft laws related to the Code of Civil Procedure are prepared.
- 6) Draft laws related to the Civil Code are prepared.

#### (4) Inputs (until the time of evaluation)

Japan: 118,834,000 yen in total

- Long-term Experts: 2 experts  
(One expert for about nine months between 8 April 2004 and 3 January 2005)
- Short-term Experts: 4 experts
- Trainees received: 14 persons
- Equipment: Personal computers, printers, and other official automation equipment
- Local activity expenses: 26,592,000 yen

Cambodia:

- Counterparts: 12 persons in the Committee of the Civil Code and Civil Procedure Code (in which two counterparts in the Project for Improvement of Training on Civil Matters at the Royal School for Judges and Prosecutors of the Royal Academy for Judicial Professions also participated)
- Supporting staff: 2 persons (MOJ officials)
- Offices and places for meetings
- Electric utility expenses for the offices

## 2. Evaluation Team

Team Members

Team Leader: Kyoko KUWAJIMA, Director, Group I, Social Development Department, JICA

Aid Approaches to Legal System Development: Kazuo INABA, Director, International Cooperation Department, Research and Training Institute, Ministry of Justice

Aid Approaches to Legal and Judicial Development: Naoshi SATO, JICA Senior Advisor

Planning Evaluation: Ken INOUE, Social System & Peace Building Team, Group I, Social Development Department, JICA

Evaluation Analysis: Fumio ITO, CDC International

Interpreter: Leng SVEY, Japan International Cooperation Center

Observer: Hidetaka NISHIBAYASHI, Administrative Staff, International Cooperation Department, Research and Training Institute, Ministry of Justice

Period of Evaluation:

18 - 28 October 2006

Type of Evaluation:

Terminal Evaluation

### 3. Results of Evaluation

#### 3-1 Achievement Level

##### (1) Project Performance

###### 1) Achievement of the Project Purpose

The purpose of the project has been generally achieved. Conditions were established for promoting the legislation of the Civil Code and the Code of Civil Procedure, which was agreed in the R/D and the Minutes of the Meeting (M/M) in 2004 and also referred to in the PDM. The legislation of the two Codes was given a high priority in the policies of the Government of Cambodia: it was placed as a priority issue in the “National Strategic Development Plan (NSDP) for 2006-2010” which was adopted in June 2006. In the process of deliberating on the Codes, the Committee of the Civil Code and Civil Procedure Code (hereinafter referred to as “the Committee”) has provided a series of explanations on this matter with the members of the Council of Jurists of the Council of Ministers, Inter-Ministerial Meeting, the National Assembly, and the Senate and appropriately responded to the questions from them. This helped them to have deeper understanding of the Codes and created cooperative environment for the legislation. As a result, the Code of Civil Procedure was enacted in July 2006 and legislation of the Civil Code was in progress: the Inter-Ministerial Meeting completed deliberating on the Civil Code in September 2006.

###### 2) Achievement of the Outputs

The members of the Committee have comprehended and acquired knowledge on the Codes and extended their capacity through such activities as (i) studying the Codes through training in Japan and seminars in Cambodia; (ii) acquiring knowledge on the related laws/regulations; (iii) establishing terminology to work for the Codes; (iv) managing the process of deliberating on the Codes, such as providing explanations to the officers of the related ministries as necessary; and (v) ensuring consistency between the draft Codes and related laws being drafted by other ministries [Output 1]. The Committee has compiled a lexicon and a manual on the first instance procedure, laying the groundwork for developing teaching materials for disseminating the Codes in the future [Output 2]. Progress has been made in the process of drafting the related laws/regulations and transitional provisions for the Civil Code and the Code of Civil Procedure [Outputs 3, 4, 5].

On the other hand, as other ministries were drafting the land law, the commercial court law and other laws with assistance from other donors, more efforts than what had been initially expected was needed to secure consistency between these laws and the two Codes, posing a heavy burden on the project stakeholders, including the members of the Committee and the working groups in Japan, and JICA long-term experts. Due to this, progress of the Project was behind the schedule in some aspects, which hindered some Outputs from being achieved. As for the Output 2, for example, the seminar activities to help judges, prosecutors and lawyers to have better understanding of the new Codes have not been conducted as planned. The project to annotate each article of the Civil Code was still in progress, even though the completed set of annotations was an important means for disseminating the Code. Publication of Khmer version of the annotations on the Code of Civil Procedure had to be waited until the early 2008. As per of the status of the textbooks, which were important to conduct dissemination activities, even though they were scheduled to be completed within the project period, the textbook on the Civil Code has started only recently, while Khmer version of the textbook on the Code of Civil Procedure would not be published until the first half of 2007. As for Output 6, as the drafting process has not yet started for some parts of the related laws/regulations for the Civil Code, it was assumed to be difficult to complete the draft Code to establish the Code by the completion of the Project.

Due to the delays on the works mentioned, which made the Outputs and the Project Purpose difficult to be completely achieved by March 2007, the scheduled date of completion of the Project, it was assumed to be necessary to extend the Project term for

one year, especially to complete the activities for the Output 2, that were designed for legal and judicial experts to increase their understanding and knowledge of the Civil Code and the Code of Civil Procedure. It was also necessary to take measures to complete the activities concerning the Output 6 (drafting the related laws and regulations). However, as the Evaluation Team could not review the Activity Plan in detail, it is suggested that both Japan and Cambodia sides should have an opportunity to review this matter.

## (2) Implementation Process

### 1) Project Management Structure

#### (i) Japan's Management Structure

Two working groups on the Civil Code and the Code of Civil Procedure were organized in Japan. They held a monthly meeting to analyze the current situation and discuss the course of action. However, since the working groups were comprised of busy practitioners and researchers whose participation was voluntary, their activities tended to be delayed in some aspects. A liaison council for work supervision set up a forum where the Japanese project stakeholders shared information and made decisions. This council could not meet quarterly as initially scheduled for various reasons, which made the council impossible to conduct the duties as planned..

On the other hand, liaison and coordination were appropriate between JICA long-term expert in Cambodia, JICA Cambodia Office and JICA Headquarters. The International Civil and Commercial Law Centre Foundation, which was the Japan's Secretariat Office of the Project, conducted appropriate work management.

For various reasons, the Project did not receive a mid-term evaluation, which was designed to provide an opportunity to review project performance in the middle of the project period and make necessary changes to the course of action.

#### (ii) Management structure of Cambodia

H.E. Y Dan, Secretary of State, Ministry of Justice held consultation with Japanese side about the Project. The Committee held a meeting every two weeks to discuss the course of action and the division of duties in Cambodia. This meeting served as a forum where JICA long-term expert and the Cambodian side Cambodia shared information and made necessary decisions.

## 2) Ownership by the implementing agencies of the Government of Cambodia

The Ministry of Justice (MOJ), an implementing agency of the Government of Cambodia, took the lead in distributing human resources to support the project implementation structure. H.E. Y Dan, and H.E. HY Sophea, also Secretary of State, Ministry of Justice, participated in the Committee. H.E. Y Dan was responsible for the management of the Committee, while H.E. HY Sophea for the technical aspect of drafting the Codes. In addition to this, The MOJ strengthened the Project Management Structure by appointing high level MOJ officials and the most important judges to the members of the Committee and placing MOJ officials to secretaries to the Committee.

In the process of legislating the two Codes, the MOJ elaborated on the two draft Codes at occasions such as the Inter-Ministerial Meetings and took measures to ensure consistency between the draft Codes and the related laws. Consequently, it was widely perceived in the Government of Cambodia that coordination between the draft Codes and the related laws was necessary and the MOJ officials were worth consulting with. Officials from other ministries and members of the Council of Ministers in charge of legislation have increasingly requested the MOJ officials to have consultation, which indicated that the MOJ had established ownership in the activities for legal and judicial development.

## 3) Contributing and Inhibiting factors to the Project

That the establishing the Codes was put on a priority of the Government of Cambodia and that this was recognized by other donor countries and organizations contributed to the effective implementation of the Project. Inhibiting factors were: the workload of the MOJ officials who were in the Committee increased, as it was widely perceived that

coordination among the laws was necessary and the MOJ officials were trustworthy; and some of the judges who were members of the Committee were appointed to judges for the Khmer Rouge Tribunal, which inhibited them from participating in the Project.

### 3-2 Summary of Evaluation Results

#### (1) Relevance

The Evaluation Team concluded that the Project was relevant for the following reasons:

1) The Project was in line with both the development policy of Cambodia and the assistance policy of Japan

(i) A series of development policy documents of the Government of Cambodia placed a high priority on both judicial reform and the establishment of the Civil Code and the Code of Civil Procedure high among national agenda. The Rectangular Strategy, announced in June 2004, has identified judicial reform as a priority issue for the establishment of good governance, the central theme of the strategy. Establishment of the two Codes were a priority in the Short and Medium-Term Plan of Action for Legal and Judicial Reform (April 2005) and the National Strategic Development Plans (June 2006).

(ii) Japan's Country Assistance Program for Cambodia, announced in 2002, had focused on an earlier establishment of the Civil Code and the Code of Civil Procedure under its policy of supporting the Government of Cambodia in enhancing good governance. The JICA Country Program for Cambodia, which was previously announced in 2003, and later renewed in 2006 as a draft for the time being, noted that developing law program would be promoted on the basis of "Strengthening the Rule of Law."

2) The Project accommodated the needs of Cambodia: Knowledge and capacity building for those who were involved in the legislation process, including the members of the Committee, was in line with policy of the Government of Cambodia of pursuing an earlier establishment of key laws; and in the process of the preparatory study on the Project, officials of the Government of Cambodia requested Japan to provide assistance in compiling a legal lexicon and guides and drafting the related laws/regulations.



Legal practitioners in Cambodia had high expectations for information campaigns on new laws.

3) The joint working approach, which was applied to this Project, having legal experts from Cambodia committed to the whole process, including composing the draft Codes and getting involved in the legislation procedure. As a result, the Codes could reflect domestic conditions and contributed to the development of human resources in Cambodia.

## (2) Effectiveness

One could assume that the Project was effective because both the Project Purpose and the Outputs were generally attained. Nevertheless, the workload of some project stakeholders increased unexpectedly as they had to address problems, which was initially not enumerated in the Important Assumptions in the PDM.

The Project has progressed to achieving the Project Purpose. As for the attainment of the planned Outputs, achievement of Outputs 1, 3, 4 and 5 contributed to the fulfillment of the Project Purpose. On the other hand, as per of the Outputs 2 (“legal and judicial experts will deepen their understanding of both bills”), the plan to conduct disseminating seminars of the new Codes has not been fully put into action. In addition, achievement of the Output 6 (“Related laws/regulations for the civil code will be drafted”) by the end of the project term was impossible.

The planned Outputs have proved to be adequate and were appropriately associated with the Project Purpose.

There was no change to the external condition that was assumed to be important in the beginning: “The personnel engaged in the project activities will continue to work in the legal and judicial sector.” However, while the project was being implemented, it became apparent that a clear and systematic policy of the government of Cambodia on legal and judicial development was also an important external condition to implementation of the Project. As the project stakeholders moved deeper into the legislation process, their workload increased more than it had been expected because they needed to coordinate with other ministries about the related laws which were being

drafted with the assistance from other donors. It was obvious that over-workload was due to inconsistent, or even non-existent, policies of the Government of Cambodia to develop comprehensive legal and judicial system.

### (3) Efficiency

The efficiency of the Project was secured to a certain extent as the inputs and project activities were generally appropriate in terms of both timing and scale. However, as per of the size of the Inputs, implementation of the Project owed considerable amount of workload of the long-term experts. Also, an inadequate number of the members of the Committee would remain to be a concern for the prospective implementation of the Project.

A book of annotations and a textbook on the Code of Civil Procedure were timely compiled. The drafting of transitional provisions for the Civil Code and the related laws/regulations for the Code of Civil Procedure in Japanese was also timely. The legal lexicon has already been edited and used by some practitioners, including members of the Committee, although it has yet to be published officially.

Even though the MOJ requested JICA to dispatch short-term experts to organize dissemination seminars, due to delay in arranging the schedule, the dispatch of the short-term experts was not put in action by JICA.

The two experts, who were dispatched to Cambodia as a project coordinator and a legal advisor, had so many duties in their routine works, including translating Japanese texts into Khmer, examining Khmer texts and providing advice and instruction for the Committee, that they could not catch up with the initial schedule in some activities of the Project.

As mentioned previously on the implementation process, the MOJ officials who participated in the Committee later became occupied with the considerable amount of workload. In addition, three of the judges who were members of the Committee found it difficult to participate in the activities of the Committee because they were appointed to the judges to the Khmer Rouge Tribunal when this evaluation was conducted..

#### (4) Impact

The Code of Civil Procedure was enacted in July 2006 and scheduled to come into force in July 2007. For the Civil Code, the Inter-Ministerial Meeting already completed consideration.. One could consider this progression to be the first step to attaining the Overall Goal and also the appearing sign of impact of the Project.

As noted previously in the section of Relevance, the joint working approach was adopted in this project, which enabled legal experts of Cambodia to be involved in the whole stages of the Project, including composing the draft Codes and establishing legislation procedures. The Government of Cambodia highly evaluated this approach. As a result, the government of Cambodia has begun to adopt this approach to other projects for legal and judicial development that are assisted by other donors (ex. French-assisted project for drafting the Criminal Code and Australia for anti-terrorism law). In fact, the government of Cambodia planed to incorporate the joint working approach in the legislation procedures, which would be explicit in the guidelines, which the Government of Cambodia was preparing. One might conclude that the aid approach which the Government of Japan took was becoming the standard approach to legal and judicial development in Cambodia.

#### (5) Sustainability

From the perspectives of policy, organizational/financial and human resources, indications on sustainability of the Project are the following.

From the policy aspect, the project's sustainability were considered high because the Government of Cambodia regarded the establishment of the Civil Code and the Code of Civil Procedure as a national priority.

However, from the financial aspect, one could notice that sustainability of the Project was low, because despite the efforts by the MOJ to secure a sufficient budget, budget allocations for projects for legal and judicial development were inadequate. In fact, the activities concerning planning and implementing legal and judicial development entailed unaffordable expenses, which otherwise should be subsidized by foreign donors.

On the other hand, the MOJ was in progress of improving its organizational capacity. As per of disseminating activities, the Committee was elaborating a concrete plan to conduct dissemination seminars about the Code of Civil Procedure in the local regions. One could observe that there was an emerging sense of independency of the MOJ in conducting dissemination activities: prior to conduct dissemination seminars in local regions, the MOJ proposed to invite Japanese working group to Cambodia to give seminars on the new Code for the higher courts' judges to learn the Code, which would lead to flawless implementation of the Code.

In terms of human resources, the grave concern to the project was the members of the Committee could not participate in the project activities because their workload has increased in coordination with other ministries about the related laws and some of them were appointed to judges to the Khmer Rouge Tribunal. Measures should be taken to maintain the Project activities in shour-term and to develop human resources who could continue to work for legal and judicial development in long-term.

### 3-3 Contributing and Inhibiting factors to the Project

#### (1) Contributing factors

As mentioned earlier, the major contributing factors to the Project was that the Government of Cambodia put establishment of the Civil Code and the Code of Civil Procedure on an priority in the national agenda, which was accepted by other donors. Added to this, improvement of knowledge and capacity of the members of the Committee contributed to implementation of the Project. It should be noted that their knowledge and capacity have been developed since the implementation of Phase I of the Project, in which the same members have consistently taken essential parts. I.

#### (2) Inhibiting factors

The Evaluation Team welcomed the fact that the high capability of members of the Committee was widely recognized. On the other hand, this has resulted in an increased workload of the members in coordination with other ministries about the related laws and regulations, which disturbed them from concentrating on the Project activities. Another inhibiting factor was that some of the members of the Committee were

appointed to judges to Khmer Rouge Tribunal: This unable them to participate in the Project activities.

### 3-4 Conclusion

The Project has produced the following outcomes:

- The legislation process has progressed: The Code of Civil Procedure was enacted in July 2006 and scheduled to come into force in July 2007; and The draft Civil Code passed the Inter-Ministerial Meeting in September 2006.
- The members of the Committee has acquired enough knowledge and explanation capacity of the Codes through such activities as (i) studying the Codes during training in Japan and seminars in Cambodia; (ii) acquiring knowledge about the related laws/regulation; (iii) establishing terminology for the codes; (iv) managing the process of deliberating on the Codes, including providing explanations as necessary; and (v) ensuring consistency between the Codes and related laws being drafted by other ministries.
- The Committee has compiled a lexicon and a manual on the first instance procedure, laying the groundwork for developing teaching materials to conduct dissemination activities about the Codes in the future.
- Progress has been made in the process of drafting related laws/regulations and transitional provisions for the Civil Code and the Code of Civil Procedure.

The Relevancy of the Project was high. It was significant that the joint working approach has contributed to the capacity building of legal experts of Cambodia through their activities in the whole legislation process, including the drafting the Codes and legislation procedures. The following section identifies what should be done to produce further outputs of the Project.

### 3-5 Recommendations (specific solutions, suggestions and advice for the Project)

### (1) Extending the Project for one year

As it is difficult to achieve the Outputs 2 and 6, it is necessary to extend the Project for one year. During the extended period, the both parties of Japan and Cambodia should focus on promoting the understanding and knowledge of the legal and judicial experts of Cambodia regarding the Civil Code and the Code of Civil Procedure.

Both parties should discuss and complete a specific plan for dissemination seminars by January 2007. The plan should specify the target groups, teaching materials, and arrangements of the lecturers, and other necessary items.

A book of annotation and a textbook on the Civil Code are essential for disseminating the Code. Japan should complete the book of annotations as soon as possible and compile Japanese version of the textbook by March 2007.

It is necessary for the both parties of Japan and Cambodia sides to have the opportunity to discuss the action plan for the extended period with regard to the establishment of the related laws/regulations, as the Termination Evaluation Team could not discuss this in detail.

### (2) Measures to be taken by Cambodia

The MOJ should take action to sustain the activities of the Committee given that its members are occupied with securing consistency of the Codes with other ministries and with their involvement in Khmer Rouge Tribunal. The MOJ should also consider measures to train novice human resources to address the mid- to long-term issue of lack of manpower.

### (3) Measures to be taken by Japan

JICA should consider measures to deploy more experts in Cambodia, given the fact that the long-term experts from Japan, especially the project coordinator / legal advisor, have considerable amount of workload.

JICA should hold closer consultations with stakeholders in Japan and in Cambodia, like conducting regular meeting, for timely project activities.

### 3-6 Lessons Learned

- Because neither project consultation study nor mid-term evaluation was conducted, this Evaluation Team had to review the whole project process at the terminal evaluation, which included examining the background, progress and performance and identifying issues to be addressed. The reason that caused this situation was a lack of leadership in maintaining coordination among the JICA Headquarters, the working groups in Japan, and JICA Cambodia Office: This coordination could have facilitated sharing information such as the overall policy of the Project, duties and concerns and demarcated responsibilities of each of the said actors for the activities. JICA should play a larger role in this respect, for example, by making better use of the liaison council for work supervision.

- The textbooks and books of annotations which were produced in the Project would be used in the Project for Improvement of Training on Civil Matters at the Royal School for Judges and Prosecutors (RSJP) of the Royal Academy for Judicial Professions, where some members of the Committee were teaching. This could facilitate amalgamation of the process of legislation (draft, legislation and dissemination) and training of novice human resources.