

AIDCO/ (YYYY) D/NNNN

**MEMORANDUM TO THE DCI COMMITTEE
CONCERNING THE**

Annual Action Programme (AAP) covered by the programming document Multi-Annual Indicative Programme (2007-2010) for the Financing Instrument for Development Co-operation for the Kingdom of Cambodia for 2008

1. IDENTIFICATION

Budget heading	19.100101
Total cost	€ 8 300 000 EC contribution: € 7 700 000 Other contributions: € 600 000 (NGOs under CfPs)
Legal basis	EC Regulation nr. 1905/2006 of 18 December 2006 establishing a Financing Instrument for Development Co-operation (OJ L. 378/41 – 27.12.2006)

2. COUNTRY BACKGROUND

Cambodia is one of the poorest Southeast Asian countries with a GDP per capita estimated at USD 385 in 2005. Based on data for 2005, 36% of Cambodia's 14 million people live on an income of less than 1 US\$ a day. The country is ranked 131st of 177 countries in the 2007-2008 Human Development Index. Some 74% of the population are literate. The health status of Cambodians remains one of the lowest in the region. Poverty reduction is thus central to the EC cooperation strategy in Cambodia, in alignment with the government's current "National Strategic Development Plan". Despite a remarkable economic growth since the beginning of this century (averaging some 10% per annum), there are significant disparities between the growth of the industrial and service sectors and the agricultural sector which provides income to the large majority of the population. Cambodia joined ASEAN in 1999 and the agreement on its accession to WTO was ratified by the National Assembly in 2004. Investors continue to be concerned by a weak legal environment and by government's interference with the work of the Courts. Concerns also remain about overall government capacity particularly at the provincial, district and local levels. Poverty reduction is directly dependent upon the consolidation of

the Rule of Law and the establishment of effective and equitable State and non-State systems that guarantee the individual's rights to justice and good governance, effective State resources management, fight against corruption and, consequently, attract further foreign investment and facilitate development of the private sector.

3. SUMMARY OF THE ACTION PROGRAMME

1) Background:

In recent years, the Royal Government of Cambodia (RGC) has accelerated its efforts to improve governance and has developed a "Rectangular Strategy" which refers, *inter alia*, to the government's "Governance Action Plan" and, in particular, to the reform of the legal and judicial sector and to decentralisation and de-concentration. Governance issues have been identified as a major obstacle to poverty reduction, growth and aid effectiveness in Cambodia, and international partners - including the EC and member States of the European Union - have been closely involved in the elaboration of the government's strategies to address these issues. The **Legal and Judicial sector** suffered enormously since the early 1970s, and when Cambodia re-emerged as a State in 1991, the country lacked not only human resources to operate the legal system but the system itself. For many years, Cambodia remained without the basic codifications and structures necessary to an effective legal system and, despite current progress in the enactment of several fundamental laws and the training of professionals, there is still precious little access to fair justice for individuals without power – the poor in particular. The Ministry of Justice is vastly under budgeted. The justice system lacks resources, both human and material; it is far from neutral, suffering from political interference and corruption. Courts cannot cope with their workload and enjoy little respect or trust from the public. The government has embarked upon a major reform of the legal and judicial sector. With this background, the Extraordinary Chambers of the Courts of Cambodia (ECCC) were established in Phnom Penh to judge senior Khmer Rouge leaders. A similar lack of knowledge and of human and financial resources, heavy political interference and corruption continue to impact the **Public sector** and limit in a major way the capacity of both central and sub-national administration. To address the poor capacity of the civil service, the government is implementing comprehensive reforms. At sub-national level, in particular, the success of decentralisation and de-concentration is dependent upon the availability of a strengthened capacity and of people's understanding, demand and participation. This includes increased know-how in fields as diverse as e.g. general administration, planning, fiscal management, civil registration, project administration, conflict resolution, child protection, health, or the management of natural resources. **Civil society** is gradually organising itself after complete disappearance during the Khmer Rouge regime and years under communist control. Civil society must play a key role in promoting good governance, including transparency and accountability, respect for human rights and the fight against corruption, coercion and nepotism. The contribution of civil society in promoting democratic values, ideas, cultures and understanding, as well as human rights, is increasingly recognised in Cambodia as being effective through the development of civil society organisations (CSOs). Crucial to a broader impact of civil society's contribution are political stability and better cooperation between the government and CSOs on the basis of mutual trust and respect.

2) Cooperation/Neighbourhood related policy of beneficiary country

The "National Strategic Development Plan 2006-2010" (NSDP) lays down how the "Rectangular Strategy" is to be implemented. Among key areas, the NSDP identifies the reform of the legal and judiciary sector as well as decentralisation. Other areas include administrative reforms, the reform of public finances, the reform of the armed forces and gender equity. The NSDP is complemented by (a) a 2003 "Strategy on Legal and Judicial Reform", (b) the 2005 "Plan of Action for Implementing the Legal and Judicial Reform Strategy", and (c) the 2005 "Strategic Framework for Decentralisation and Deconcentration Reforms". The EC intervention in Cambodia is in line with these documents which have broad support also from other Development Partners.

3) Coherence with the programming documents:

The Annual Action Programme is coherent with item 4.5. of the EC Response Strategy described in the Cambodia-EC Strategy Paper 2007-2013. Further, item 3.3.2.1 of the "Multi-Annual Indicative Programme 2007-2010" foresees a support to EC-Cambodia Co-operation and Dialogue in the field of Governance and Human Rights *inter alia* to promote constructive dialogue between the RGC and the EC in a wide range of areas of mutual interest, in particular in the areas of (i) governance; (ii) legal and judicial reform; (iii) institution building and administrative reform; (iv) decentralisation and deconcentration; (v) the role of civil society; and (vi) human rights. Moreover, the Action is in line with the "European Consensus on Development" which states "progress in the protection of human rights, good governance and democratisation is fundamental for poverty reduction and sustainable development."

4) Identified actions

Under the Multi-Annual Indicative Programme (2007–2010) 7 700 000 Euro is allocated to support the "EC-Cambodia Co-operation and Dialogue in the field of Governance and Human Rights", the *modus operandi* of which shall be the **EC-Cambodia Co-operation Facility for Governance and Human Rights (ECCF)**. The duration of the Action will be 4 years from the date of the signature of the Financing Agreement.

The overall objective of the ECCF is to contribute to poverty reduction, foster reconciliation and improve equity of vulnerable groups by supporting initiatives linked to "EC-Cambodia Co-operation and Dialogue" especially in the field of governance, judicial reform and human rights, including activities stemming from the "EC-Cambodia Sub-group on Co-operation in Institution Building, Administrative Reform, Governance and Human Rights".

The purpose of the action is to improve governance on all sub-national levels through decentralisation, enhanced development and delivery of justice and rule of law, a strengthened role for civil society, and harmonised donor initiatives.

The ECCF comprises a number of interventions such as grants to NGO projects arising out of Calls for Proposals and demand-driven technical support aiming at institutional capacity development. The ECCF will target (a) the improvement of access to fair justice and to mediation processes at sub-national level, public

advocacy of and information about the basics of the legal system, design and delivery of legal training at sub-national level, in accordance with priorities defined by the government's "Strategy for Legal and Judicial Reform"; and (b) sub-national processes for the implementation of the recently passed "Organic Law on Sub-national Democratic Development" and related projects supporting decentralisation and deconcentration including training, enhanced access to information among the public and constructive civic engagement with decentralised government structures. The ECCF also includes a contribution towards the national costs of the Khmer Rouge Tribunal.

5) Expected results:

The expected results of the Action will lead to improvement in the areas of justice and the rule of law, effective public services at sub-national levels, lower corruption and improved governance and human rights. These improvements will contribute to poverty reduction and potentially to progress towards all eight MDG. Specifically:

- increased capacity of relevant institutions to implement the government's reform agenda for decentralisation and deconcentration;
- improved justice systems and access to justice and fair mediation mechanisms;
- increased civil society participation in support of the government's reform agenda, country development and human rights;
- harmonised partners' initiatives to improve government ownership;
- ECCF's capacity to successfully complete its mandate is supported.

By firmly placing the Action in the context of the government's own strategies and action plans, it is expected that the authorities will provide broad support for the activities funded under the ECCF. The authorities' interest in the Action was confirmed during the first meeting of the "EC-Cambodia Sub-group on Institution Building, Administrative Reform, Governance and Human Rights" (Brussels, 2007). During the formulation mission, the Ministry of Justice and the Ministry of Interior - which will be the main operational partners - reiterated their support for the Action.

6) Past EC assistance and lessons learnt.

EC priority areas of intervention have included rural development, education, health, trade, governance and democratisation and humanitarian assistance. All in all, EC programmes have had a significant impact taking into account that Cambodia is a country in transition. With stronger national ownership of the development agenda and improved donor co-ordination, sector-wide cooperation has increased, particularly in the social sectors. Lessons learned from these EC endeavours and from other donors' activities include:

- the need to ensure a close alignment with government policy;
- the overwhelming importance of quality services by both State and non-State actors for development programme effectiveness and sustainable impact and, consequently, the crucial need to improve such services as a priority target;

- the need for a fair resolution of conflicts through a respected judicial system or through recognised alternative mechanisms;
- the importance of effective sub-national governance and people's participation;
- the need for a wider and more sustained dissemination of information among the population with respect to their rights and obligations as individuals;
- civil society organisations are an increasingly important channel of service-delivery in Cambodia where the government is still unable to perform satisfactorily;
- the assistance provided by the international community must be firmly linked to an ongoing dialogue with the Cambodian authorities on good governance (including the fight against corruption and the separation of powers) and human rights.

7) Complementary actions/donor coordination.

The Action will complement several recent or ongoing initiatives supported by the EU, JICA, UNICEF, UNDP, UNFPA, the World Bank, the Asian Development Bank, and, more recently, USAID. In line with the Paris Declaration, coordination of action among partners has much improved notably through the establishment of technical working groups. Representatives of EU donors are making progress in the division of labour and regularly participate in the technical working groups. As foreseen in the "EC 2007-2013 Country Strategy for Cambodia", Brussels and Phnom Penh also initiated in 2007 a bilateral "Sub-group on Co-operation in institution building, administrative reform, governance and human rights" within the framework of the EC-Cambodia Co-operation Agreement. The Delegation will ensure that the decisions of the Sub-group are in line with government/donors coordination mechanisms, including the technical working groups. Due attention will also be given to the recently initiated "ASEAN Project for Civil Society Dialogue".

4. COMMUNICATION AND VISIBILITY

The European Union has maintained a high degree of visibility in Cambodia through its constructive dialogue with the authorities, its support to the national elections, and through the implementation of successful cooperation programmes. Ongoing programmes in the fields of education, health and rural development are well-known among the target population. The establishment of the "EC-Cambodia Sub-group on Co-operation in institution building, administrative reform, governance and human rights" and EC participation in various aid coordination mechanisms maintain the EC direct involvement in policy and operational dialogues. Visibility is also assured by the display of the EU logo and of large boards at project locations.

All relevant activities and media coverage will continue to be undertaken as appropriate. Organisations benefiting from EC funding will be instructed to follow the EC guidelines on visibility and the Delegation will monitor implementation. There will be media events upon signature of the relevant Financing Agreement, information will be posted on the EC Delegation website. EC activities in Cambodia are also promoted during various events such as Europe Day, official visits, etc

5. COST AND FINANCING

EC-Cambodia Cooperation Facility for Governance and Human Rights € 7.7 million

Total amount of the action programme € 7.7 million

Within the maximum indicative budget of all the specific actions, cumulated changes not exceeding 20% of the maximum contribution of the Community, are not considered to be substantial provided that they do not significantly affect the nature and objectives of the Annual Action Programme. The Committee is invited to give its opinion on the attached Annual Action Programme for the Kingdom of Cambodia.

AIDCO/ (YYYY) D/NNN

ACTION FICHE FOR CAMBODIA

1. IDENTIFICATION

Title/Number	EC-Cambodia Co-operation Facility for Governance and Human Rights (ECCF) - DCI-ASIE/2008/019-634		
Total cost	Total Cost: € 8 300 000 EC contribution: € 7 700 000 Other contributions: € 600 000 (NGOs under CfPs)		
Aid method / Method of implementation	Project approach – Component 1: (direct) centralised for services contracts Component 2: joint management with the United Nations Development Programme (UNDP) Component 3: (direct) centralised for call for proposals		
DAC-code	151	Sector	Governance and civil society

2. RATIONALE

2.1. Sector context

The EC Strategy Paper 2007-2013 for Cambodia defines as its first focal sector support to the "National Strategic Development Plan" (NSDP) which has at its core a comprehensive good governance programme. Weak governance issues have been identified by government and donors alike as a major obstacle to poverty reduction, growth and enhanced aid effectiveness in Cambodia.

Legal and Judicial Reform: Courts in Cambodia are dismissed by many as "*places where one buys justice*". The Council for Legal and Judicial Reform (CLJR) has prepared an action plan for implementing the reform strategy adopted in June 2003 by the Royal Government of Cambodia (RGC). The strategy defines seven objectives, to which five the ECCF is directly relevant: (i) improvement of fundamental rights and freedoms; (ii) provision of better access to legal and judicial information; (iii) enhancement of the quality of legal processes and related services; (iv) introduction of alternative dispute resolution mechanisms; and (v) strengthening of Legal and Judicial sector institutions to fulfil their mandate. The Council for Legal and Judicial Reform has the mission to "*initiate and encourage the process and to follow up the implementation of legal and judicial reform policy and programmes in accordance with the objectives of the Supreme Council of State reforms*".

Decentralisation and de-concentration: In 2001, the RGC launched decentralisation and de-concentration reforms with the enactment of the Law on Commune/Sangkat (C/S) Administration and Management and the Law on Commune/Sangkat Elections. The first elections for C/S Councils were held in February 2002. In 2005, the RGC adopted a "Strategic

Framework for Decentralisation and De-concentration Reforms" which outlines policies for sub-national democratic development. In April 2008, the National Assembly passed the "Organic Law on Sub-national Democratic Development" that provides the legal foundation for the reformed systems and structures. The Organic Law foresees the establishment of new Councils at all administrative levels (Districts, Municipalities, Provinces, Capital). Implementing instruments are currently being drafted. They will, in particular, determine what authority will be devolved to each level. Once the Law is signed by H.M. the King of Cambodia (tentatively in summer 2008), Council elections must take place within 12 months. The "National Committee for the Management of Decentralisation and Deconcentration Reforms" (NCDD) has begun to formulate, with international technical assistance, a "National Programme for Decentralisation and Deconcentration for 2010-2019". The programme will enable development partners – national, international and civil society organisations – to adopt common strategies to support the reform. Realistically, the process will take time. The weakness of the fiscal system in Cambodia will also continue to impact on the success of decentralisation and de-concentration, and the degree of willingness of ministries to enable deconcentration will influence the success of the process.

The Extraordinary Chambers of the Courts of Cambodia (ECCC): In May 2003, the United Nations General Assembly voted Resolution 57/228B which approved an Agreement between the United Nations and the RGC concerning the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea. The National Assembly of the Kingdom of Cambodia subsequently passed a law on the establishment of the ECCC *"to bring to trial senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodia penal law, international humanitarian law and custom, and international conventions recognised by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979."* The operations of the ECCC commenced in October 2005, Internal Rules were adopted in June 2007 and investigations began two months later. Trials are scheduled to start during summer 2008. The Royal Government of Cambodia has set up a trust fund, which is managed by UNDP, to collect contributions by external partners for the functioning of the Court.

Non-Governmental/Civil Society Organisations: Non-governmental and civil society organisations have played and continue to play a major role in the construction of democracy and the State of Law in Cambodia. However, among many local NGOs/CSOs registered in Cambodia few have the skills to draft proposals meeting the requirements of donors or to manage relatively large budgets. The role of international NGOs working in close cooperation with their local counterparts remains important. NGOs/CSOs are generally well-accepted by the authorities, but a degree of mistrust persists on both sides when the work involves actions in the field of governance and human rights. CSOs are perceived by the RGC and donors, in order to ensure the sustainability of their activities, to need to work in close collaboration with concerned authorities and in line with the government's relevant strategies and plans of action.

The EC-Cambodia Co-operation Facility for Governance and Human Rights (ECCF) will provide support in a coherent way to the Kingdom of Cambodia for the strengthening of the legal and judiciary sector as well as for decentralisation and de-concentration (Component 1). The Facility will also bring a contribution to national side of the budget of the Extraordinary Chambers of the Courts of Cambodia (Component 2). In addition, contributions channelled through NGOs will complement these actions by strengthening the role of civil society in promoting human rights and democratic reform (Component 3).

2.2. Lessons learnt

The ECCF takes stock of lessons learnt during the implementation of past activities and of several recent studies¹ that emphasise the importance of a positive relationship between government institutions and civil society organisations in the reform process. Among the lessons learnt, the following are directly relevant to the ECCF: (a) further efforts are needed to bring together key actors from government and civil society to build a consensus on the rights and responsibilities of citizens, CSOs and State Actors; (b) further training and capacity building continue to be a key to the success of reform; (c) programme/project activities must be aligned with government policies; (d) technical assistance is required to assist both government institutions and CSOs to fulfil their tasks and responsibilities; (e) the top-down approaches traditionally followed in Cambodia must be challenged; (f) efforts to promote the peaceful dynamic engagement of all parties in Cambodia (people, CSOs, State Institutions) must be streamlined in development programmes; (g) technical assistance should not limit itself to technical inputs but should encourage positive behavioural changes; (h) project hiring of national technical assistance should reinforce and not divert resources from government institutions.

With regard to support to the ECCC, a recent review of the functioning of the UNDP-administered trust fund that supports national costs was carried out, at the request of the Commission, which has provided support from the European Initiative for Democracy and Human Rights. The review concluded that efforts to improve management had proved successful but that it could be further strengthened. Measures are being taken in this direction.

2.3. Complementary actions

Major recent and ongoing actions relevant to the ECCF include:

EU: EC/UNDP Democratic and Decentralised Local Governance Programme (€10M); DFID/UNDP Project to Support Democratic Development through D&D (US\$11.2M); GTZ Administrative Reform and Decentralisation (US\$2M); SIDA CDRI core support including Project for Democratic Governance Research (US\$1.71M); SIDA Project to support Democratic Development through D&D (US\$8M); SIDA Support to Democracy and Human Rights through Civil Society (US\$5M); DANIDA Natural Resource Management in D&D (US\$4.72M for 2007); France: (a) Drafting, adoption and Implementation of a Criminal Code and Criminal Procedures, (b) Organic Law on the organisation and functioning of the Courts, (c) amendments to the Law on the Supreme Council of Magistracy, (d) statute of magistrates, (e) with JICA: Law on access to information and provisions in the criminal and civil procedural codes and administrative code to ensure public access to information.

Others: USAID Local Administration and Reforms (US\$14.4M); Australia support to draft law on the penitentiary system and correctional services; WB Demand for Good Governance (US\$12M); UNICEF Local Governance for Child Rights (US\$13M); UNFPA Support to D&D (reproductive health and gender issues: US\$362,000 for 2006/7 to be expanded for 2008-2010); ADB Commune Council Development Ph.2 (US\$9.78M); JICA Project for the Improvement of Local Administration (US\$2.6M); JICA drafting, adoption and

¹ Evaluation of EC Aid Delivery through Civil Society in Cambodia (April 2008); [World Bank](#): Assessment of Civil Society Contribution to Good Governance in Cambodia; (March 2008 – Draft); [University of Queensland](#): Challenges for reconciliation and Conflict Resolution in Cambodia.

implementation of civil code and civil procedures; UNCDF/UNDP Fiscal Decentralisation Support Project (US\$1.5M); UNCDF Innovations for Decentralisation and Local Development (US\$1.0M).

2.4. Donor coordination

Donor coordination takes place in a number of Technical Working Groups (TWGs) established by the government and donors. Relevant to the ECCF are the TWG on Legal and Judiciary Reform, the TWG on Decentralisation and Deconcentration, and the TWG on Land. The Delegation is an active participant in these TWGs, which are functioning sufficiently well and represent an important platform for policy dialogue among all stakeholders involved. Applicants to the Call for Proposals envisaged in the context of the ECCF will be required to demonstrate complementarities/coordination with recent, ongoing or planned actions, regardless of the source of funding, and coherence with the NSDP. It should be noted that while government/donor coordination has become more effective, this is not always the case with NGO initiatives at local levels. The need for better cooperation among NGOs, and between NGOs, the government and the donor community will be emphasised in the Calls. In assessing the proposals submitted by the candidates, the EC will take into account the recommendations made and the decisions taken by the relevant TWGs².

3. DESCRIPTION

3.1. Objectives

Overall Objective of the ECCF is to contribute to poverty reduction, foster reconciliation and improve equity of vulnerable groups by supporting initiatives in the field of governance, judicial reform and human rights, including activities identified as a result of meetings of the "EC-Cambodia Sub-group on Co-operation in Institution Building, Administrative Reform, Governance and Human Rights".

The **Purpose** of the ECCF is to improve governance at all sub-national levels through decentralisation, enhanced development and delivery of justice and the rule of law, a strengthened role for civil society, and harmonised donor initiatives to improve government ownership.

3.2. Expected results and main activities

The **EC-Cambodia Co-operation Facility for Governance and Human Rights (ECCF)** coherently will provide support to the Kingdom of Cambodia for the strengthening of the legal and judiciary sector as well as for Decentralisation and Deconcentration (component 1). The Facility will also bring a contribution to the national side of the budget of the Extraordinary Chambers of the Courts of Cambodia or Khmer Rouge Tribunal (component 2). In the context of the ECCF, component 3 will focus on support for civil society activities aiming at (a) granting the broadest possible access to, and participation in, effective

² In particular: (a) TWG on Legal and Judiciary Reform chaired by the Council on Legal and Judiciary Reform and co-facilitated by France and Australia; (b) TWG on Decentralisation and Deconcentration chaired by Ministry of Interior and co-facilitated by Sweden; (c) TWG on Land chaired by the Ministry for Land Management and co-facilitated by CIDA.

alternative mechanisms for the settlement of individual disputes through mediation, (b) access to a fair judicial process, and (c) access to information on the rights and obligations of individuals, support to civil society organisations (CSOs) for the promotion of an effective participation of citizens and CSOs at the village, commune and district level as foreseen by the "Organic Law on Sub-national Democratic Development". All three components support the same objective and the same purpose and reinforce each other as well as the work of the "EC-Cambodia Sub-group on Co-operation in Institution Building, Administrative Reform, Governance and Human Rights", established in 2007.

The **Expected Results** of this Action are:

Component 1:

- increased capacity of relevant institutions to implement the government's reform agenda in judicial/legal sector and decentralisation;
- practical and concrete implementation of selected priorities set by the government, and selected result-oriented activities of the Council for Legal and Judicial Reform effectively undertaken and/or completed;
- capacity of relevant legal/judicial institutions and local administration to deliver public services increased;
- the priorities set by the government for decentralisation and deconcentration implemented in a manner satisfactory for the public;
- decrees and regulations related to decentralisation and deconcentration implemented;
- the working relationship between government institutions and civil society organisations involved in the legal and judicial sector, advocacy and human rights rendered closer and better.

Component 2:

- ECCC's capacity to successfully complete its mandate is supported.

Component 3:

- Alternative Dispute Resolution mechanisms (including for land) established, accepted by the population, and functioning satisfactorily;
- CSOs' fora/initiatives to address human rights and democracy issues, including gender-related violence, violence against children, gambling or alcoholism, and development planning at commune and district levels are in place;
- as a result of CSOs' initiatives, cooperation between State institutions and non-State actors at sub-national level will be enhanced, the Courts will have a better understanding of public needs and the population will have increased its understanding of judicial process, Courts' mandate and sub-national public services' functioning;
- increased satisfaction among the public for the services provided by the State, including for judicial services that are more responsive to social needs and human rights, follow transparent procedures and due process of law and enjoy the respect of the public;
- improved social and economic environment at village, commune and district level, deriving from better protection of the rights of the person, in particular women, children, and vulnerable people.

Main activities

Component 1: Demand-driven technical assistance facility

Technical Assistance will provide support for: (a) the Legal and Judicial sector of Cambodia based on the government's "Strategy for Legal and Judicial Reform" and related Action Programme, and under the coordination of the Council for Legal and Judicial Reform as appropriate; (b) the government's "National Programme for Sub-national Democratic Development 2009-2013" (NPSNDD) currently being finalised as a single cohesive package for use by the Royal Government of Cambodia and its national and international partners for the implementation of the "Organic Law on Sub-national Democratic Development" adopted by the National Assembly on 1 April 2008.

Specific technical assistance to be provided will be determined on the basis of ongoing capacity assessments and as needs are defined by the "EC-Cambodia Sub-group on Co-operation in Institution Building, Administrative Reform, Governance and Human Rights", in co-ordination with the work of the relevant technical working groups established by the government and donors. This will ensure that the technical assistance provided by the ECCF will reinforce government programmes in full coherence and coordination with the activities of other stakeholders including donors. The terms of reference for ECCF TA will be drawn up in a way that creates synergies between TA inputs and activities undertaken by NGOs TA will endeavour to promote better relations and more effective coordination between government institutions and civil society organisations.

Technical assistance inputs will cover the following interventions: TA for the development and implementation of guidelines for the management of sub-national institutions including planning and budgeting (MOI - 20 m/m); TA for the development of training curricula and training delivery systems for council members at district and provincial levels (MOI - 6 m/m); TA for the promotion of effective co-operation between State institutions and CSOs (MOI, MOJ - 6 m/m); TA for the promotion of civic education among children (MoEYS - 10 m/m); TA for capacity building at the Ministry of Justice, training of inspectors and rules on expected performance (MOJ - 10 m/m); TA for the establishment of and capacity building systems for Labour courts (MOJ - MOL - 10 m/m); TA for the establishment of and capacity building systems for juvenile courts (MOJ - 10 m/m); TA for drafting and implementation of the Administrative Code and Administrative Procedures, including rules for the Court of Appeals (CLJR - 10 m/m). Moreover 38 m/m of unallocated TA will be used to contribute to achieve the expected results of this action.

Component 2: Financial Contribution to the ECCC

The Financial Contribution will help to cover the costs of the national side of the ECCC and will be channelled through UNDP. There is no other possible implementing partner involved in the ECCC, since UNDP is administering a trust fund set up by the government for this purpose. This contribution follows on from the initial contribution by the European Community of € 995 100, granted in 2006 for the same purpose. As of 31 January 2008, the total budget estimates for 2008 were US\$ 47 795 200 of which US\$ 9 027 100 are earmarked for Cambodian funding (of which US\$ 6 431 800 for posts and other staff costs). Due to budgetary constraints, the ECCC board has only approved the part of the work plan that can be funded with available money and it is actively seeking additional contributions from Development Partners. A substantial increase in funding is required to ensure that the Court can continue its operations beyond 2008. Contributions to date against 2008 Cambodian funding requirements total US\$ 9 580 967 leaving a shortfall of US\$ 3 737 497. Budget for

2009 is US\$ 9 489 500. A UN Secretary General Advisor has recently visited Phnom Penh to review UN operations at the Tribunal and to make suggestions for more efficient management. The EC will closely follow the implementation of this suggestions by taking active part in the meeting of the Board and by monitoring UNDP's project's administration, in particular on human resources management (keeping in mind the Review team conclusions of 17 June 2008).

Component 3: Call for Proposals

The first Call will focus on access to justice, access to mediation processes at the sub-national level, advocacy of and information about the basics of the legal system, design and delivery of legal training at sub-national level. Criteria are carefully chosen so as not to preclude inter-communality and cooperation between local actors but rather to enhance mutual strengthening: the assessment of proposals for possible co-financing will take into account their potential to reinforce/complement ongoing or planned actions by other national NGOs. In accordance with priorities set by the government's "Strategy for Legal and Judicial Reform", proposals will be considered for co-financing if they target the following priorities: (a) to promote the broadest possible access to, and participation in, effective alternative mechanisms for the settlement of individual disputes through mediation; (b) to increase awareness in the population of the need to enhance the quality of legal processes, including transparency, independence, fair trials, and to ensure the respect of defence rights as part of the judicial process; (c) to promote the establishment of informal land dispute resolution mechanisms, with a special focus on families headed by women; and (d) to increase access to information among both the public and sub-national authorities on the rights and obligations of individuals.

The second Call will support the "National Programme for Sub-national Democratic Development 2009-2018" (NPSNDD) expected to be finalised by the government during the early months of 2009. The NPSNDD is intended to define (a) processes for the implementation of the Organic Law on sub-national democratic development; (b) related policies including institutional arrangements, fiscal decentralisation and donor harmonisation; (c) necessary support projects; (d) a time-bound implementation framework. The Call aims: a) to support civil society organisations (CSOs) for the promotion of an effective participation of citizens and CSOs at the village, commune and district level as foreseen by the "Organic Law on Sub-national Democratic Development"; b) to enhance access to and understanding of information among the public and concerned officials; c) to provide training and support to emerging local level partners, low ranking officials in particular; d) to promote transparent, responsive and accountable governance at sub-national level; e) to promote partnerships between the public and the private sector with the support of sub-national State institutions and of CSOs.

3.3. Risks and assumptions

The main risks are linked to the overall political stability in Cambodia and the continued motivation of the RGC to engage in co-operation with the EC on governance and human rights issues. The lack of political will on the side of the government would slow down adoption of important laws that will slow down legal/judicial reform and decentralisation/Deconcentration. Moreover, there is a risk that the CSOs will not have sufficient interest and capacity to participate in the programme. Another important risk is the possibility that the ECCC will not successfully complete its mandate because of lack of political will by the government, lack of funding or death of the ageing Khmer Rouge leaders.

The main assumptions are the following: a) the RGC will continue its commitment to implement reforms in the areas of governance and human rights, including by implementing the Organic Law; b) government services which are to benefit from the ECCF are interested; c) the activities funded under this initiative will not overlap with similar interventions supported by other donors; d) the RGC will take the necessary measures to ensure transparency and governance of the ECCF, which will receive sufficient funding; e) CSOs and NGOs will demonstrate sufficient interest in preparing proposals to apply for funding made available under the CfPs.

The main mitigating measures are: a) the Delegation will continue to engage in a constructive dialogue with the RGC in the area of governance and human rights; b) the Delegation will be proactive in promoting the ECCF through an appropriate information strategy aimed at reaching all potential beneficiaries of this action; c) the Delegation will maintain a constant dialogue with key civil society actors and ensure synergies among all ECCF activities; d) the Delegation will continue to participate actively in the relevant Technical Working Group to ensure coordination with other donors' interventions particularly those of EU Member States; e) Technical Assistance will be targeted to support the government whenever it is genuinely needed; e) the Delegation will monitor measures taken by the RGC to improve the governance, accountability and transparency of the ECCF; f) the Delegation will publicise CfP including by inviting potentially interested partners in a workshop where the objectives of the ECCF objectives will be thoroughly explained.

3.4. Crosscutting Issues

The actions undertaken under the ECCF will have direct consequences on human rights and will address gender issues through the improvement of legal and judicial mechanisms, including non formal mechanisms such as alternative dispute resolution. Land issues which are currently of deep concern in Cambodia will also be addressed by some activities of the ECCF, with a special focus on single-headed families headed by women. This will both help poor families who are at risk of eviction from their land and will have an impact on the environmental consequences of resulting relocations.

3.5. Stakeholders

A large number of stakeholders include: (i) the Ministry of Justice, the Ministry of the Interior and other government institutions who will benefit from ECCF technical assistance and the synergies its work creates among parties concerned; (ii) personnel and institutions targeted by the reform of the legal and judicial sector; (iii) the authorities of sub-national government institutions; (iv) civil society organisations whose role will be strengthened by better relations with State institutions promoted by ECCF technical assistance; (v) end users of decentralised government services; (vi) individuals involved in private conflicts and/or in court cases; (vii) other programmes/projects through well-coordinated ECCF technical assistance; (viii) CSOs and NGOs, including the Cambodian Bar Association; finally, (ix) the population of Cambodia concerned by the proceedings of the ECCF.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

A Financing Agreement will be signed with the RGC covering the entire project.

Component 1: direct centralised management through the signature of services contracts following calls for tenders and/or framework contracts.

Component 2: joint management through the signature of a Standard Contribution Agreement with United Nations Development Programme (UNDP) based on a Financial and Administrative Framework Agreement between the European Community and the United Nations (FAFA) for the contribution to the ECCC.

Component 3: direct centralised management through the signature of grant contract following Call for Proposals

4.2. Procurement and grant award procedures

Participation in the award of contracts shall be open to all natural and legal persons covered by the Development Cooperation Instrument Regulation (nr. 1905/2006 of 18 December 2006).

Component 1: all contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Component 2: all contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the United Nations Development Programme (UNDP).

Component 3: The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EC external actions. The maximum possible amount of co-financing for grants is 80% of the cost of a project.

4.3. Budget and calendar

The total cost of the project is € 8 300 000, of which EC contribution is € 7 700 000.

Budget breakdown

Category breakdown	EC Contribution	Other Contributions	Total	CA/PA
1. Services (Component 1):				EC
1.1 Technical assistance in support of the Legal and Judicial reform and Decentralisation and Deconcentration	€ 2 500 000		€ 2 500 000	
1.2 Evaluation	€ 100 000		€ 100 000	EC
1.3 audit	€ 100 000		€ 100 000	EC
2. Joint Management (Component 2):	€ 2 000 000		€ 2 000 000	EC
2.1 contribution agreement with UNDP				
3. Grant (Component 3)	€ 3 000 000	€ 600 000	€ 3 600 000	EC

3.1 Call for Proposals				
Total	€ 7 700 000	€ 600 000	€ 8 300 000	

The duration of the project is 48 months from the date of the signature of the Financing Agreement. Call for Tenders will be launched by June 2009. The Calls for Proposals, each for € 1 500 000, will be launched in January/ February 2009 and in October/November 2009.

4.4. Performance monitoring

For component 1, regular monitoring will be the responsibility of the EC Delegation in Phnom Penh and will be based on the terms of reference and work plans of the technical assistance provided under the ECCF. The Delegation will ensure that appropriate indicators are included in the work plans. For component 2, monitoring will be carried out by the EC Delegation, taking account of the contribution agreement that will set down the responsibility of UNDP. For component 3, ongoing monitoring will be undertaken by the EC Delegation. External mid-term reviews and final evaluations will be undertaken by contracted consultants. The cost of external audits will be included in each project budget.

4.5. Evaluation and audit

For components 1 and 3, the EC Delegation in Phnom Penh will arrange mid-term and final evaluations by external consultants. Audits may be carried out as necessary according to applicable EC Regulations. For component 2, evaluation and audit obligations will be detailed in the contribution agreement to be signed with UNDP. External evaluations and audits may also be carried out by independent consultants recruited directly by the European Commission in accordance with EC Regulations.

4.6. Communication and visibility

The EC Delegation to Cambodia will advertise the activities funded by the European Community on its website and will ensure adequate visibility according to EU visibility Guidelines. Progress reports from technical assistants will be summarised and communicated to the members of the "EC-Cambodia Sub-group on Co-operation in Institution Building, Administrative Reform, Governance and Human Rights", to the representatives of EU Member States accredited to Cambodia, and to other donors as appropriate. For component 2, the UNDP will be required to publicise the financial support from the EC to the ECCF in accordance with the provisions laid down in the Financial and Administrative Framework (FAFA) signed between the EC and the UNDP. The Calls for Proposals will be advertised according to applicable regulations. Funded projects will be required to ensure adequate visibility according to EU Visibility Guidelines. Progress reports will be summarised and communicated to the members of the "EC-Cambodia Sub-group on Co-operation in Institution Building, Administrative Reform, Governance and Human Rights", to the representatives of EU Member States accredited to Cambodia, and to other donors as appropriate. Financial support to Visibility activities will be included in the budget of each funded project.