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HUMAN RIGHTS COUNCIL
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Agenda item 10

TECHNICAL ASSISTANCE AND CAPACITY-BUILDING

Australia, Canada**, Israel**, Japan, New Zealand**, Norway: draft resolution**

12/... Advisory services and technical assistance for Cambodia

The Human Rights Council,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as enshrined in the Charter of the United Nations, as reaffirmed in the Universal Declaration of Human Rights, and in accordance with their respective obligations under the International Covenants on Human Rights and other applicable human rights instruments,

Recalling General Assembly resolution 60/251 of 15 March 2006,

* Reissued for technical reasons.

** Non-Member State of the Human Rights Council.

Recalling also Council resolutions 5/1, on institution-building of the Council, and 5/2 on a code of conduct for special procedures mandate holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

Recalling further Council resolution 9/15 of 24 September 2008 and other relevant resolutions,

Bearing in mind the report of the Secretary-General on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights (A/HRC/12/41),

Recognizing that the tragic history of Cambodia requires special measures to ensure the protection of human rights and the non-return to the policies and practices of the past, as stipulated in the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,

Taking note of the new developments in Cambodia, especially those associated with recent progress and efforts by the Government of Cambodia to promote and protect human rights, especially in the achievements and improvements of social, economic, political and cultural fields over recent years through its relevant national plans, strategies and frameworks,

I. Khmer Rouge Tribunal

1. *Reaffirms* the importance of the Extraordinary Chambers in the Courts of Cambodia, which aims to bring justice for the most serious cases of violations of human rights committed during the Khmer Rouge era by serving as an independent and impartial body, and believes it will significantly contribute to eradicating impunity and establishing the rule of law by, inter alia, exploiting its potential as a model court of Cambodia;

2. *Welcomes* the progress made with regard to the Extraordinary Chambers in the Courts of Cambodia, including the substantive hearing concerning the accused Kaing Guek Eav, and supports the positions of the Government of Cambodia and the United Nations to proceed with the tribunal in a fair, efficient and expeditious manner, given the advanced age and frail health of the persons charged and the long overdue justice for the people of Cambodia;

3. *Also welcomes* the assistance of a number of States to the Extraordinary Chambers in the Courts of Cambodia and, noting the revised budget estimate endorsed on 17 July 2008, encourages the Government of Cambodia to work with the United Nations and the States providing assistance to ensure the highest standards of administration of the Extraordinary Chambers, and invites further assistance for the Extraordinary Chambers in a prompt manner in order to ensure its successful functioning;

II. Democracy and Situation of Human Rights

4. *Welcomes:*

(a) The cooperation extended by the Government of Cambodia and constructive dialogue with the Special Rapporteur during his first mission in Cambodia;

(b) The report of the Special Rapporteur on the situation of human rights in Cambodia (A/HRC/12/40) and the recommendations contained therein;

(c) The efforts and progress made by the Government of Cambodia in promoting legal and judicial reform under the leadership of the Council of Legal and Judicial Reform, including adopting and/or enforcing basic laws, such as the civil procedure code, the criminal procedure code and the civil code, as well as the approval of the criminal code at the Council of Ministers;

(d) The efforts made by the Government of Cambodia in combating corruption, including the completion of the drafting of an anti-corruption law and efforts to bring corrupt officials to justice, as well as its efforts in stopping political appointments to posts in public administration based upon the allocation of political parties;

(e) The efforts made by the Government of Cambodia in combating trafficking in persons, including the enforcement of the law on the suppression of human trafficking and commercial sexual exploitation;

(f) The efforts made by the Government of Cambodia to resolve land issues through the implementation of land reform;

(g) The commitments made by the Government of Cambodia to adhere to and implement its obligations under the international human rights conventions, inter alia, the

commitment made by Prime Minister Samdech Hun Sen on the occasion of the opening of the eighth informal Asia-Europe Meeting seminar on human rights, held in Siem Reap in September 2007, which included reference to the planned establishment of a national human rights institution;

(h) The efforts made by the Cambodian Human Rights Committee, especially in resolving complaints from people, improving the situation of prisons and intervening in prolonged pretrial detentions;

(i) The efforts made by the Government of Cambodia to adhere to its obligations under international human rights treaties, including the submission of its reports to the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child in February 2009, as well as to the Committee on Economic, Social, and Cultural Rights in May 2009;

(j) The efforts and progress made by the Government of Cambodia in promoting decentralization and deconcentration reform with the aim of achieving democratic development by strengthening subnational and grass-roots institutions, including the local elections at provincial/municipal and district/sangkat levels, held in May 2009, which demonstrated the continued development of the democratic process in Cambodia, while recognizing the need to strengthen further the enforcement capacity of the national election committee;

(k) The approval of the National Disability Law by the National Assembly in May 2009, and the approval of a sub-decree on procedures for the registration of the land of indigenous minority communities and a policy on the development of indigenous minorities by the Council of Ministers in April 2009;

5. *Expresses its concern* about some areas of human rights practices in Cambodia, and urges the Government of Cambodia:

(a) To continue to strengthen its efforts to establish the rule of law, including through the adoption and implementation of essential laws and codes for establishing a democratic society, and its efforts at judicial reform, especially to ensure the independence, impartiality, transparency and effectiveness of the judicial system as a whole;

(b) To enhance its efforts to combat corruption, including by the early enactment of an anti-corruption law and its implementation;

(c) To continue to address, as a matter of priority, *inter alia*, the problem of impunity, and to enhance its efforts to investigate urgently and to prosecute, in accordance with due process of law and its obligations under international human rights treaties, all those who have perpetrated serious crimes, including violations of human rights;

(d) To enhance its efforts to resolve equitably and expeditiously land ownership issues in a fair and open manner, in accordance with the 2001 Land Law, by strengthening the implementation of the law through the development of national guidelines to clarify relevant procedures, as well as by strengthening the capacity and effectiveness of relevant institutions, such as the National Authority for Land-Dispute Resolution and cadastral committees at the national, provincial and district levels;

(e) To promote an environment conducive to the conduct of legitimate political activity and to support the role of non-governmental organizations and media in order to solidify democratic development in Cambodia;

(f) To continue its efforts to improve human rights, especially those of women and children, and to make additional efforts, in concert with the international community, to combat key problems, such as human trafficking, issues related to poverty, sexual violence, domestic violence and the sexual exploitation of women and children;

(g) To take all steps to meet its obligations under international human rights treaties and to strengthen further its cooperation with United Nations agencies, including the Office of the United Nations High Commissioner for Human Rights, including through enhanced dialogue and the development of joint activities;

(h) To continue to promote the rights and dignity of all Cambodians by protecting civil and political rights, including freedom of opinion and expression, as well as economic, social and cultural rights, in accordance with the rule of law, through the continuous and enhanced implementation of the Rectangular Strategy and various reform programmes;

III. Conclusion

6. *Invites* the Secretary-General, agencies of the United Nations system present in Cambodia and the international community, including non-governmental organizations, to continue to work with the Government of Cambodia in improving democracy as well as ensuring the protection and promotion of the human rights of all people in Cambodia, including by providing assistance, inter alia, in the fields of:

(a) Drafting various laws necessary for protecting and promoting human rights and assisting the establishment of an independent national human rights institution;

(b) Capacity-building to strengthen legal institutions, including by improving the quality of judges, prosecutors, lawyers and court staff;

(c) Capacity-building to strengthen national institutions for criminal investigation and law enforcement, as well as providing the equipment necessary for these ends;

(d) Assisting the assessment of progress in human rights issues;

7. *Encourages* the Government of Cambodia and the international community to provide all the necessary assistance to the Extraordinary Chambers in the Courts of Cambodia to bring justice for the most serious cases of violations of human rights in the country, which would help ensure the non-return to the policies and practices of the past, as envisioned by the 1991 Agreement on a Comprehensive Political Settlement of the Cambodia Conflict;

8. *Takes note* of the need to continue close consultations between the Government of Cambodia and the Special Rapporteur on the situation of human rights in Cambodia towards the further improvement of the situation of human rights in the country and of the continuous technical cooperation of the Office of the High Commissioner with the Government of Cambodia;

9. *Decides* to extend by one year the mandate of the special procedure on the situation of human rights in Cambodia and requests the Special Rapporteur to report on the

implementation of his mandate to the Council at its fifteenth session and to engage in a constructive manner with the Government of Cambodia for the further improvement of the situation of human rights in the country;

10. *Requests* the Secretary-General to report to the Council at its fifteenth session on the role and achievements of the Office of the High Commissioner in assisting the Government and the people of Cambodia in the promotion and protection of human rights;

11. *Decides* to continue its consideration of the situation of human rights in Cambodia at its fifteenth session.
