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CAMBODIA NATIONAL RESCUE PARTY

សង្គ្រោះ បម្រើ ការពារ

Mr Takehiko Nakao
President
Asian Development Bank
Manila
(tnakao@adb.org)

Phnom Penh, October 7, 2013

Dear President Nakao,

On behalf of the Cambodia National Rescue Party (CNRP), mandated by the Cambodian people to take part in the forming of a new government in the July 28, 2013 national elections, I would like to draw your attention to the fact that the current Cambodian government is illegal, being the result of a constitutional coup starting with the controversial constitutive meeting of the National Assembly on September 23, 2013.

This inaugural meeting was boycotted by the 55 opposition CNRP elected parliamentarians, representing almost half of the assembly, because of the government's adamant refusal to address shocking election irregularities as denounced by all independent observers.

The constitutional coup was characterized by two blatant violations of the Constitution of the Kingdom of Cambodia:

1. Article 76 of the Constitution states, "The National Assembly consists of at least 120 members." In addition, a decision by the Constitutional Council in 2003, confirmed in 2009, specifies that the first meeting of the Assembly following any parliamentary elections must gather at least 120 members in order to be valid. However, on September 23, only 68 members from the ruling Cambodian People's Party (CPP), out of a total of 123 members, attended that first meeting.
2. Article 51 of the Constitution states, "The Kingdom of Cambodia adopts a system of Liberal and Plural Democracy." However, on September 23, the Assembly was only made up of the 68 members from the CPP. Such a one-party Assembly is clearly unconstitutional and can only produce an unconstitutional and illegal government.

As a result of the above-mentioned constitutional coup and the ongoing political deadlock, the Asian Development Bank should suspend any agreements with the

current government led by Mr Hun Sen. The ADB should also refrain from signing any new agreements with this government, which does not represent the Cambodian people and thus cannot legally make any commitment on behalf of Cambodia.

On October 23, 1991 eighteen friendly countries including Japan, the USA and the Philippines signed the Paris Peace Agreements on Cambodia. Besides restoring peace and ensuring international assistance for the reconstruction of the warn-torn country, the Agreements guarantee for Cambodia a “system of liberal democracy, on the basis of pluralism.” The country was supposed to move from a communist-type regime characterized by a one-party system toward a real and vibrant democracy following the organization of “free and fair elections.”

Twenty-two years after the conclusion of the international treaty and more than US\$ 20 billion of assistance spent by the international community, Cambodia is – politically speaking – back to square one with the return to a one-party system reminiscent of the immediate post-Khmer Rouge period and the Cold War era.

Prior to the July 28, 2013 elections, the Hun Sen government rejected recommendations to ensure free and fair elections made by the Election Observation Mission deployed by the European Union for the previous national elections in Cambodia in 2008, by the United Nations Special Rapporteur on Human Rights in Cambodia in 2012 and by other independent organizations such as the Washington-based National Democratic Institution in March 2013.

As a consequence, the July 2013 poll is largely viewed as having been rigged, with widespread irregularities that have distorted the will of the people and have yet to be investigated and addressed.

Please take into consideration the possible legal consequences of any operation by the ADB in such a context where there is no legal and legitimate government.

Thank you for your careful appraisal and for the ADB’s support for good governance, which is closely associated with democratic progress and the rule of law.

Yours sincerely,



Sam Rainsy
President of the Cambodia National Rescue Party

CC. ADB Country Director for Cambodia Mr. Eric Sidgwick (esidgwick@adb.org)