

Report on the

# Special HRM Review

Submitted to

Project Board of the Extraordinary Chambers in the Courts of Cambodia

Report submitted by

HRM Review Team

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## Executive Summary

A Human Resource (HR) Audit conducted in early 2007 revealed weaknesses in Extraordinary Chambers in the Courts of Cambodia (ECCC) HR policies and practices which needed to be addressed in order to ensure that an appropriate level of ECCC operational capacity is maintained, and that international standards are adhered to, especially with regard to transparency and accountability measures.

The Project Board for the Support to the ECCC Project responded by initiating a number of steps to address the identified issues. In addition the ECCC too initiated its own improvements in response to the specific issues raised by the HR audit. The objective of this review is to assess whether measures taken to address these issues have been implemented and whether the HR management policies and practices of the Cambodian side of ECCC meets international standards, provides consistent and effective measures against any mismanagement, and are transparent.

## Key Findings

### Personnel Handbook

The Personnel Handbook that was reviewed and revised with assistance from Daniel Conway was adopted by the ECCC in August 2007. **This provides guidelines that are comprehensive, clear and has become the standard reference document for key HR processes.**

HR processes that are related to recruitment, selection and appointment, performance evaluation, position classification, attendance and leave management and compensation, as detailed in the Personnel Handbook, are being adhered to by the ECCC. Meticulous documentation is being maintained of these processes and decisions. Capacity building of the personnel section, Chiefs of Sections and Supervisors would further enhance the effectiveness of practices such as the conduct of selection interviews and performance evaluation.

The ECCC personnel section has developed an implementation plan for the recommendations contained in the Gomez report relating to improvements to the development and format of position descriptions. There is a need to review the current position classification approach to ensure that a consistent and standardized approach is instituted for the grading of positions.

Staff contract extension has been following a clear policy since the completion of the job match exercise and will be streamlined completely once the testing for the translators and interpreters is completed.

### Review of salary scale

An analysis of the recommendations contained in the HR Audit report and the **Conway report suggests that Conway was correct to base calculations on UN net base salary plus post adjustment.** His recommendation, that the current ECCC professional salary rates should be retained, was reasonable based on the information considered. The HRM Review Team validated this recommendation against current market rate information, and found that the current ECCC professional staff rates are at the top of the market without being above the market, and that the current rates are equivalent to the revised UN National Officer rates (Oct 2007). General staff rates were found to be high but below the UN General Service (GS) rates revised in October 2007.

In addition to the above analysis, different salary scale options were assessed in light of the need for retention of staff due to the possible extension of court operations. As a result, the HR Review Team recommends that ECCC salary system be revised to incorporate steps for each grade, in order to allow for payment of salaries to newly recruited staff commensurate to their qualifications and experience; progression based on performance and contribution to the ECCC mission; and ongoing retention and motivation of staff through the term of their employment by the ECCC. It is however, advisable that further detailed studies be carried out on this including assessing the financial implications of adopting new procedures.

### Validation of the job match findings and review of procedures

The job matching exercise was conducted in November 2007 to assess how well the qualifications and experience of staff members appointed to ECCC posts matched the qualifications and experience requirements set out in the vacancy announcements for the posts to which they were appointed. The HR Review Team reviewed the procedures as outlined in the draft Job Matching Report and found that the approach taken is logical and systematic, although the criteria used to determine whether or not a candidate matched the position requirements was found to be lenient. However, the HRM Review Team found the explanation provided by Conway in his report justifying the need to allow some flexibility in some cases in determining whether the appointment was reasonable (as opposed to whether the candidate was a “full match”).

The HRM Review Team was asked to review and validate five job match cases which the Project Board felt were inadequately explained by the job match team. In these five cases, the HRM Review Team found that the files had been updated to reflect additional experience and qualifications. The Project Board took a decision to confirm that all cases were no matches and should be re-advertised with the incumbent given three months notice. The decision of the Board is already being implemented.

### Project Board composition, mandate/role and oversight function

The Project Board has been meeting regularly to perform its project assurance and decision making role. Meetings are being conducted in a very structured and systematic manner, ensuring transparency and clarity in the Board's decision making process. Board meetings are being co-chaired jointly by UNDP and ECCC. Special attention is being taken to look into the follow up actions being taken on Project Board decisions.

### Audit and spot check process

Morrison Kak and Associates were engaged in October 2006 to carry out an annual audit and spot checks on the financial transactions of ECCC covering the periods 2006 ad 2007. The Project Board has recommended the inclusion of HR processes in the audit and spot checks. The terms of reference for spot checks is currently being revised to include HR management processes, and the HRM Review Team was informed that the spot check to be carried out in March 2008 will include HR management processes.

### Code of Conduct

The ECCC Code of Conduct was adopted in August 2007 as part of the Personnel Handbook and has been communicated to all staff. All staff have signed copies of the Code of Conduct, with a copy placed in their file and a copy given to them. New staff is required to sign the Code of Conduct as part of their appointment process. Copies of the Code of Conduct are posted on notice boards. Suggestion boxes are available for the submission of complaints or allegations of violation of the Code of Conduct. A Committee set up to deal with complaints and improvement suggestions has been mandated to look into any allegations of violation of the Code of Conduct, and is responsible for determining the validity of the allegation. The staff that the HRM Review interacted with, were well aware of the Code of Conduct as well as the suggestion boxes however they were not aware of the reporting process for allegations (other than using the suggestion box) and the role of the Committee.

### Conclusion and Recommendations

Combating the dual challenges of a past which has left behind a nation still struggling to achieve with modern management practices and the daunting task of meeting the expectations of the international community has been an uphill task for the ECCC .It is encouraging to see that there is a willingness and commitment amongst ECCC staff to meet the expectations of the international community. This has been demonstrated by initiatives and actions that ECCC has taken to deal with some of the

#### Conclusion of the HRM Review Team

*The HRM practices of ECCC national side are robust and ready to take on the challenges of the next phase of operations.*

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concerns raised by the HR audit. There will be need for handholding and capacity building to support ECCC to continue to meet expected international standards. As part of the next stage of institutional strengthening, the HRM Review Team recommends that further capacity building is delivered to the personnel section and ECCC managers in the areas of conducting interviews, performance management and position classification. A great deal of standardization has happened over a very short period which has replaced the ad hoc arrangements that used to be the norm when ECCC commenced its operations.

**In its current state, the HRM practices of ECCC national side are ready to take on the challenges of the next phase of operations.** Robust HR systems have been developed and implemented to address previous shortcomings, provide effective support to the judicial process and minimize the risk of questionable HR practices occurring in the future. Further capacity enhancement efforts and zero tolerance for non-compliance with HR systems and the Code of Conduct will support ongoing improvement in the performance of the ECCC.

## 1. Background

United Nations Development Programme (UNDP) administers the funds from the European Commission (EC) and the UN Trust fund who provides financial support to the Khmer Rouge Tribunal in Cambodia also called the Extraordinary Chambers in the Courts of Cambodia (ECCC).

As part of UNDP's oversight mechanism its Office of Audit and Performance Review (OAPR)<sup>1</sup> conducted a HR audit in 2007 aimed at assessing the adequacy of HR management practices. The Audit revealed weaknesses in the ECCC human resource management which needed to be addressed in order to ensure that the appropriate level of ECCC operational capacity is maintained and that international standards are adhered to especially with regard to transparency and accountability measures.

The Project Board of the Support to the ECCC Project based on Audit recommendations initiated a number of steps to address issues in the human resource management system of the ECCC. Six months after these Project Board agreements were made, the Project Board, based on a recommendation made by the EC, decided to conduct a special review to assess whether or not the agreed actions designed to convincingly solve the management problems of the operations of ECCC have been implemented and have been effective.

This special review has been carried out by a team of consultants of which two are part of the Human Capital Advisory Service of Deloitte and one is a locally based consultant, Sam Plummer. The objective of this initiative was to assess whether measures concerning human resource management as discussed and agreed by the members of the Project Board have been implemented and whether the HR management policies and practices of the Cambodian side of ECCC meet international standards, provide consistent and effective measures against any mismanagement, and are transparent.

The HRM Review Team is well aware of the recent history of Cambodia and the impact that it has had, directly or indirectly on human resource practices. In the late seventies and eighties while the world was making significant strides in the area of human resource management, Cambodia was at war which has now left the nation trying to grapple with the reality of having a workforce which was new to globally accepted HR management practices. The reality is that there is a shortage of trained and experienced workforce in the country who have had significant exposure to international standards and practices in human resources and judicial administration.

These challenges are further magnified in the context of ECCC because

- of the short term nature of the Court which may not be attractive enough for people aspiring to have a long term career.
- staff, having no exposure to international standards and expected to perform at top level as soon as they took up their posts since the court needed to become operational immediately.

### Cambodian Ambassador to Brunei

*.....tragedy took place in Cambodia in the 70's and 80's, due to more than two decades of civil war, especially the Khmer Rouge regime that destroyed everything, Cambodia not only didn't make any progress, but was thrown backwards while its neighboring countries enjoyed peace and development in all fields."*

Without ignoring the above context, the HRM Review Team has carried out its assessment objectively, fully aware of the critical nature of the ECCC and the need for having established HR practices to carry out its responsibilities to the satisfaction of the all stakeholders involved in functioning of the court.

## 1.2 Terms of Reference

The scope of work for the HRM Review Team is as follows:

<sup>1</sup> Report submitted by OAPR on 4 June 2007

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- Personnel Handbook and its application in recruitment and other human resource management processes after it was adopted in August 2007.
- Salary scale and the need to rationalize and revise the scale currently used by ECCC for Cambodian personnel.
- Job match process will be concluded after validation of the job match findings and review of the procedures.
- Analysis of discrepancy between the job match result and the result of the assessment performed by UNDP auditors in March 2007.
- Project Board composition, mandate/role and oversight function.
- Audit and spot check process and whether these adequately assess the health of HR systems in a timely manner and inform Project Board decisions.
- Code of Conduct.
- Other actions taken in response to the HR audit findings as detailed in the matrix of status of audit response.

This report is structured to address each of the areas as outlined in the ToR with details of findings, recommendations and conclusions. The report also provides a progress update on the action taken on the areas agreed in the various Project Board meetings and OAPR audit report.

## 2. Methodology adopted by the HRM Review Team

The approach taken by the HRM Review Team includes

- Discussions with ECCC employees from the national and international staff including
  - Personnel Section
  - ECCC employees - National Staff
  - Senior Management from ECCC and UNAKRT
- Review of the personnel files
- Review of available documentation
- Review of Personnel Handbook

Every attempt has been made to arrive at conclusions after reviewing documents and validating the findings through discussions with staff. The following considerations have been taken into account by the HRM Team in the review process

- Meeting staff from various sections, occupying a range of positions from both the national and international elements of the Court to get an understanding of the effectiveness of HR practices that have been implemented recently.
- Meeting staff having a significant work experience (over a year) with ECCC to understand from them the perceived changes in the HR practices over period of time.
- Selection of personnel files for the review on a random basis and as well as some personnel files identified by the Project Board.
- Feedbacks from national and international senior management of ECCC (administrative and judicial) on various HR practices.



## 3. Key Findings

### 3.1 Effectiveness in implementation of the Personnel Handbook

The Personnel Handbook which was reviewed and revised with assistance from Daniel Conway has been adopted by the ECCC. The purpose of this handbook was to set out policy and procedure guidelines for key HR processes. This handbook adequately addresses the concerns raised in the UNDP audit report.

Following are the findings of the HRM Review Team

- The Personnel Handbook has become the reference document for key HR processes such as recruitment, appointment and selection where the guidelines are fairly comprehensive and clear.
- The Personnel Section has been following the guidelines in the handbook in the recruitment and related areas and the same is validated through review of related documents.
- The recruitment, selection and appointment processes and documentation requirements are effective in minimizing the risk of questionable practices occurring.
- There is scope for improvement in the handbook in a few areas, including the insertion of sections relating to reporting of allegations to the investigating committee and to staff separation procedures. Please refer section 4.2.2.
- Employees that the HRM Review Team interacted were aware of the Personnel Handbook and its contents.
- The HRM Team noted that international senior management have been given copies of the Personnel Handbook and are involved in procedures relating to local staff including recruitment and selection and performance evaluation.
- The Personnel Handbook is available on the shared server and access is given to all employees.

#### Conclusion of the HRM Review Team

*Adherence to the Personnel Handbook especially in the recruitment and selection procedures has proved to be an effective measure to combat questionable recruitment practices.*

#### 3.1.1 Completeness of documentation of recruitment processes

The Personnel Section maintains records of the recruitment, selection and appointment processes in three separate files

- Personnel file contains all records of the successful candidate through the process of selection till appointment.
- Recruitment file contains applications received for each position.
- Vacancy file contains announcements and recruitment related records documents for a position.

HRM Review Team has reviewed sample records and the following observations have been made based on the sample review.

- The record keeping is fairly meticulous and each step of the recruitment, selection and appointment process has been found to be in chronological order. These include
  - Recruitment Requests duly approved
  - Terms of Reference for the position
  - Vacancy announcements published in two newspapers and posted on the website
  - A log book with all application letters received by post and on e-mail duly dated
  - Letter to panel members inviting them to participate in the ad hoc Committee and acceptance of the same

#### Conclusion of the HRM Review Team

*HRM Review Team confirms that the personnel section has been meticulous in maintaining records related to recruitment, selection and appointment processes are concerned.*

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- Shortlist form detailing the short listing criteria
- Minutes of the selection meeting and decision of the Ad hoc Committee on selection
- Selection test papers
- Candidate evaluation sheets
- There is duplication of documents in the three records mentioned above, possibly in an effort to ensure complete documentation.

### 3.1.2 Adherence to Policies and Procedures

Sample checks were carried out to assess compliance with policies laid out in the handbook, specifically for

- Policies for recruitment, selections and appointments
- Procedures for carrying out performance appraisals
- The position classification policy
- Attendance and leave management policies
- Compensation policies

The HRM Team has found that all these policies are being followed and adhered to.

The HRM Team also assessed the adherence to policies in the Handbook in other areas such as

- Disciplinary action, where one case was identified. This case has been investigated as per the policies and action taken accordingly. All documentation related to this has been found to be in order.
- Staff promotion, where it was found that there has been no staff promotion process undertaken so far by the national side of the ECCC though there is a policy provision for the same.

Checks on the documentation associated with the above policies and processes showed that

- The documentations related to the recruitment processes are being followed and all the records have been found to be in order.
- The Personnel Section maintains records of all completed performance appraisal forms.
- The approved leave application form and the time and attendance sheet for each month are maintained for each employee.
- The Personnel Section also keeps a record of salary slips for each employee.

### 3.1.3 Involvement of international staff in recruitment and appraisal

The HR Audit team in their report submitted in June 2007 had recommended that the Ad hoc Selection Committee should not be limited to Cambodian staff alone.

- Review of the documents showed that this practice has been adopted and international staff are now involved in the recruitment and selection process of Cambodian personnel.
- This practice was further confirmed in our discussions with the UNAKRT Senior Management.
- As of now the Chiefs of Section, both national and international are carrying out performance appraisals of staff.
- The HRM Team has been informed that there are six integrated sections of both national and international staff. Three of these sections are headed by international staff (General Service, ICT and Defense Support), while the other three are headed by national staff (Court

#### Conclusion of the HRM Review Team

*The HRM Review Team has noted that the policies and procedures laid out in the handbook are being adhered to by the personnel section and ECCC management*

#### Conclusion of the HRM Review Team

*The HRM Review Team confirms that international staffs do provide meaningful contributions to recruitment as part of the ad hoc selection committee.*

Management, Public Affairs and the Victims Unit). So far the norm has been that the national staff in these sections are formally supervised by the Director of the Office of Administration (DOA) and the international staff by the Deputy Director of the Office of Administration (DDOA), rather than by the respective Section Chief. However the Chiefs of Section are invited to give their comments as part of the performance evaluation of these staff members.

### 3.1.4 Improvements in position descriptions and position classifications

The existing ECCC position descriptions have been developed by either:

- Adapting UNAKRT position descriptions to reflect equivalent ECCC positions or
- Drafting of position descriptions/terms of reference by Chief of Sections/supervisors and submission to personnel section as prescribed in the Personnel Handbook;

The job-matching exercise raised concerns that

- Position descriptions were not consistent in their content and format.
- Position descriptions did not differentiate minimum from desired education qualifications and work experience.
- Position descriptions required substantial or specialized set of educational qualifications and work experience, which limited the potential candidate pools and compelled the selection panel to stray from policy and endorse best qualified candidates even if they only partially meet requirements.
- There was no consistent job analysis approach applied to determine the minimum education qualifications and work experience required for the position; and
- Position gradings were sometimes inconsistent and there was no systematic position classification process available for assigning grades to positions.

In response to these conclusions, the ECCC Personnel Handbook was revised to include references to Position Classification and Position Descriptions. A consultant, Deanna Gomez, was engaged to revise the ECCC position description template, develop guidelines for development of position descriptions, and assist with the review of position descriptions for various positions. Gomez recommended the adoption of the UN position description template and developed guidelines to assist ECCC managers and personnel staff in the development of position descriptions. She also drafted 21 position descriptions using this template. Gomez' report with these attachments was submitted to the ECCC for approval on 15th December 2007.

The HRM Review reviewed the actions since the submission of the report and found that

- Gomez' report has been received by the ECCC and a written implementation plan has been developed by the personnel section.
- This implementation plan includes consultation with Chiefs of Section on the suitability of the position description template and the accompanying guidelines, and sets a deadline of 17 April 2008 for finalization and approval of the new template and guidelines.
- The implementation plan addresses training needs of Chiefs of Section and Supervisors in the use of the position description template and the revision of existing position descriptions.
- The implementation plan includes
  - an approval process for the new draft position descriptions
  - Full implementation is to be completed by the end of July 2008

#### Conclusion of the HRM Review Team

*The Personnel Section have responded to the recommendations contained in the Gomez report and have initiated a process setting out milestones for completion of implementation.*

### 3.1.5 Advertisement of vacancies and solicitation of application

The audit report recommended that vacancy advertisements in newspapers should continue but should allow for application for positions by e-mail and, in the event of low responses, the position should be re-advertised.

The HRM Review Team has reviewed the relevant documentations and has found that

- In the latest position vacancy announcements published in the newspaper and posted on the website , the e-mail address has been provided to allow applications to be received through mail
- The Personnel Section maintains a record of all applications including those received through email
- There has been one case of re-advertisement of a position where the selection committee determined that none of the candidates sufficiently meet the requirement standards. There have been no cases so far where there has been a need to re-advertise due to low responses.

#### Conclusion of the HRM Review Team

*The Personnel Section has satisfactorily carried out improvements in the advertisement and solicitation of applications in line with the recommendations.*

### 3.1.6 Conduct of performance evaluation

As highlighted in the earlier sections, the HRM Review Team has found records of completed performance evaluations. The following are some observations

- The personnel handbook refers to two Performance Evaluation Reports (PER) as (11A and 11B). 11A is used for interim reviews and 11B is designed for the annual performance review.
- Both forms were being used, but more recently Personnel Section has been using the annual PER for all the reviews. The HRM Review Team was informed that since most staff contracts are being extended by three or six months the use of the interim review form was not justified. Further the interim review form captures very basic information on staff performance. while the annual PER provides for capture of more detailed staff performance related information
- The performance appraisal process is used as part of the approval process for extension of contracts.
- The goal setting and review that is required as part of the performance evaluation process is not being carried out effectively with the roles and responsibilities from the relevant position descriptions simply being inserted in the relevant section of the PER form.
- Both staff members and supervisors stated that goal setting is difficult given the reactive nature of many jobs and the fluid nature of the objectives
- There appears to be no formal consultation and discussions between the Supervisor and the staff during the assessment process.

There is a need for capacity development of the Personnel Section so that there is a better understanding of the technical aspects of appraisal processes such as goal setting, performance assessment, feedback and counseling. This will equip them to provide the necessary guidance to supervisors who are carrying out the performance appraisal process.

#### Conclusion of the HRM Review Team

*All staffs are being e evaluated for performance in accordance with the policy and process, although there is an opportunity for improvement of this practice through further capacity building for supervisors and Personnel Section.*

### 3.1.7 Employment contract management

The policies on contract management as outlined in the Personnel Handbook are being adhered to where applicable.

- Senior management staff are being given contract extensions of up to two years
- Chiefs of Section are being given contract extensions of one year
- Professional and administrative support staff are being given contract extensions of six months to one year, and

## Report of HRM Review Team

- New hires are being given 3 months probation.

91 cases that were part of the job match exercise do not follow the standard contract extension process as these were still under discussion. After the approval of the job match exercise by the Board, all those who have been a part of the same have been given a six month contract except those where the Board has made a separate decision<sup>2</sup>.

Most of the national staff of ECCC is on short term contracts. The HRM Review Team found that

- All employees have signed a copy of the contract and these have been placed in their personnel files with a copy given to the employee.
- All contracts were extended up to 31st December to allow the job match exercise to take place.
- Since then all contracts have been extended by six months except for translators and interpreters. The linguist expert has advised that testing is not recommended for language staff already on board. The Project Board has agreed that extensions could be processed on the basis of the Experts' report which is still awaited.

### Conclusion of the HRM Review Team

*Staff contract extension have followed a clear policy and process since the completion of the job match exercise and will be further standardized once the testing for the translators and interpreters is completed.*

## 3.2 Need to rationalize salary scale used by ECCC national staff

As part of the agreement on the set-up of the ECCC, the Royal Government of Cambodia and donors agreed in principle that salaries for national professional positions should be set at 50% of their international counterparts as at 2003.

On 4 June 2007, UNDP's Office of Audit and Performance Review issued Report RCM0172 on its "Audit of Human Resources Management at the Extraordinary Chambers in the Courts of Cambodia (ECCC)." The Auditors noted that the salaries of the Cambodian professional and higher staff (equivalent to UN grades P2 through D.1) were being paid at a rate of 50% of the gross salaries in the 2003 UN professional salary scale, and made the following recommendation: "UNDP-Cambodia should carefully review the ECCC salary scale for the national personnel and submit a proposal with appropriate justifications to the Project Board for its consideration and approval."

In the "Review of the Compensation of the Cambodian Professional and Higher Staff" (1 August 2007), Conway concluded that the auditors should have based the salary calculation on the UN net base salary rates plus post adjustment as these two elements make up the salary as defined by the UN. After careful analysis of actual salaries received at each grade, he recommended that the ECCC should "maintain the present ECCC professional compensation system which uses 50% of UN Gross salaries in 2003 as its reference point", as this "results in ECCC salaries that are 50% of current (i.e. 2007) UN international professional salaries".

### 3.2.1 Review recommendations of the HR audit report and Conway report

An analysis of the recommendations of the two reports suggests that the approach taken by Conway was correct. Conway based his calculations on the net salary received by international UN staff, and on the post adjustment received by these staff in Cambodia. This is consistent with the agreement that salaries for national professional positions should be set at 50% of that actually received by their international counterparts.

Conway went on to identify three options for addressing the issue, and recommended (option 1) that the current ECCC salary rates should be retained as they approximate the intended outcome of the above approach (using net base salary and post adjustment) and position the rates at about 50% of the international staff. Given that drastic changes to salary scales would impact upon staff and potentially disrupt ECCC activities, this approach is found to be reasonable.

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<sup>2</sup> Refer section 3.4

The HRM Review Team compared the ECCC professional salary rates with Cambodian market rates in similar positions in equivalent sectors and organizations to validate the above findings. It was found that

- The current ECCC rates are at the top of the market without being above the market, and
- The current rates are equivalent to the current Cambodia UN National Officer rates (revised Oct 2007)

Given that the UN aims to position itself to be competitive with both private sector and the international development community, this confirms that the existing ECCC professional salary scale supports its goal to attract the best candidates for each professional post.

**Conclusion of the HRM Review Team**

*Conway's approach of basing ECCC salary calculations on net salary received by international UN staff plus the post adjustment received by these staff in Cambodia was correct*

### 3.2.2 Assessment of different salary scale options

Different salary scale options were assessed in light of the need for retention of staff due to the possible extension of court operations. In doing so it is important to consider the context of the professional salary rates offered by the ECCC.

- The limited term of the ECCC and its demands for professionalism and integrity from staff meant that recruitment of highly-qualified and experienced candidates ready to work was preferable to employment of candidates with performance potential but requiring training and development;
- The most attractive potential candidates among the target groups for professional positions are likely to be currently employed in desirable jobs within their chosen field and to be committed to a career path within that field;
- The ECCC has been offering employment contracts of between three and twelve months, which are extendable dependant upon performance and budget, thus providing no guarantee of on-going employment;
- The ECCC does not provide a benefits package, meaning that employees must make their own provision for insurance and pension and for ongoing personal career development;
- The ECCC is located 16 kilometers and approximately one hours' travel time outside central Phnom Penh and thus impacts on leisure time and ability to attend to personal business during the working day.

**Conclusion of the HRM Review Team**

*The ECCC salary system should be reviewed to introduce steps for each grade to allow for appropriate salaries to be paid commensurate to the experience and qualifications of staff.*

The above context justifies the ECCC's provision of top salaries to professional staff in an effort to attract the best candidates and to provide reimbursement for the "costs" of employment by the ECCC.

However, the recruitment and retention context has changed.

- The ECCC has found that, despite the top salaries offered, it has not always been able to attract the best candidates for some positions, and has thus adjusted its approach to one of employment of the best candidate available by exercising some degree of leniency in the application of selection criteria to allow for a larger pool of applicants.
- It has recently been proposed that the ECCC extend its operations to the first quarter of 2011, which will require that the ECCC take a longer term approach to the retention and motivation of staff.

Recruitment of staff from throughout the market requires that the ECCC has flexibility to pay salaries to newly recruited staff commensurate to their qualifications and experience in order to ensure fair comparative salaries between staff and to recognize their ability to contribute to the mission of the ECCC.

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It also requires the ability, in terms of remuneration, to recognize staff development (apart from those promotions as currently defined in the Personnel Handbook) and to motivate staff towards increased contribution to the mission of the ECCC. Such an approach will also moderate future salary budgets for new positions.

The HRM Review Team also conducted a review of the General Staff (GS) salary rates. A market comparison indicated that the GS rates are at the high end of the market, but have fallen behind the UN rates for GS staff issued in October 2007. Similar issues to those detailed above for professional staff exist for GS staff.

### Conclusion of the HRM Review Team

The ECCC salary system for both professional and general staff should be revised to incorporate steps for each grade to allow:

- Appropriate salaries to be paid to newly recruited staff commensurate to their qualifications, experience and ability to contribute to the mission of the ECCC;
- Progression based on performance and contribution to the ECCC mission; and
- Ongoing retention and motivation of staff through the term of their employment by the ECCC.

The range of steps should allow for employment of staff from a "trainee/entry" level to a highly skilled level. A sufficient number and size of steps should be provided to allow for differentiation based on suitability of newly recruited staff for the position, and on performance and contribution of staff to the ECCC mission, and for motivation of staff to strive for progression to higher steps.

It is also recommended that any revised salary system should be linked to new position classification process proposed in 3.1.4.

## 3.3 Validation of the job match findings and review of procedures

The objective of the ECCC job matching exercise was to assess how well the qualifications and experience of staff members appointed to ECCC posts matched the qualifications and experience requirements set out in the Vacancy Announcements for the posts to which they were appointed.

Procedures and guidelines for the Job Matching Exercise were developed by Dan Conway and approved by the Project Board on 13th November 2007. A total of 91 job matches were done of which there were 77 cases of full matches, 7 cases of no matches and 7 cases of partial matches.

The HR Review Team reviewed the procedures as outlined in the draft Job Matching Report. The following are the observations from this review

- The approach taken by the job matching team is logical and systematic in the comparison of position requirements with candidates' qualification and experience.
- The criteria used to determine whether or not a candidate matched the position requirements appears to be somewhat lenient. However, it was also acknowledged by the HRM Review Team that
  - job matches were, in a number of cases, conducted on positions that specified the qualification requirements of an "ideal" candidate, rather than the minimum requirements for a candidate to be able to perform the role,

#### Findings of the HRM Review Team

*The job match exercise was methodical in its approach and the use of liberal criteria for evaluation has been adequately explained in Conway's report as it has taken a pragmatic approach in addressing the inherent constraints of the Cambodia's limited talent pool having the requisite experience and qualification<sup>3</sup>.*

<sup>3</sup> Refer ECCC Job Matching Exercise , Part I submitted by Daniel Conway

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- limited scope was provided for flexibility in recognizing significant relevant experience as a substitute for educational qualifications.
- It was therefore acceptable for the job match exercise to allow some flexibility in few cases in determining whether the appointment was reasonable (as opposed to whether the candidate was an exact “match”).

### 3.4 Analysis of discrepancy between the job match results

As part of Report on ECCC Job Matching Exercise, Conway has explained the differences in the outcome, for some of the positions, between the Job Match Exercise and that of the UNDP Auditors. Conway identified that

- The auditors examined the qualifications of the applicants for ECCC posts at the time of their applications
- The Job Matching Exercise examined the qualification of ECCC staff members as they were in November 2007, after in most cases one year of ECCC service
- In some cases the auditors and the job matching team made different evaluations of the same factual information

However, the Project Board found that five cases had been inadequately explained by the job match team and these were referred to the HRM team for review.

In these five cases it was observed that the differences were due to the difference in the information available in the Personnel files. The information on the sheets that had been taken from the ECCC by the job match team appeared to be inconsistent with the information in the personnel files obtained and photocopied by the auditors in Feb/March 2007.

After a review of the personnel files and comparison of the outcomes of the job match exercise and auditors report, the HRM Review Team concluded that

- Auditors used the qualification and experience of the ECCC employees at the time of their application while the job match team used the qualification and experience as of November 2007 (including the ECCC work experience).
- The information in the Personnel file which was used by the job match exercise had been updated to reflect additional qualifications gained since joining ECCC, added ECCC experience, highlighting some of the pre ECCC experience which the staff had not mentioned in the original application.

#### Findings of the HRM Review Team

*It was obvious to the HRM Review Team that since the basis on which the auditors and the job match team arrived at their conclusions was different, the outcomes did not match. The Project Board on 29 February 2008 discussed these 5 cases and has decided to declare these cases as "No Match" due to unresolved questions regarding additional qualifications presented at the time of the job match exercise.*

### 3.5 Project Board composition, mandate and oversight function

As per the agreement in the project document<sup>4</sup> for the support to ECCC the role of the Project Board is primarily that of oversight and monitoring of the ECCC. The oversight, as noted by the HRM Review team, is primarily on the activities of ECCC funded through UNDP only and not on the overall operations of the ECCC.

The HRM Review Team had the opportunity to be observers in the Project Board meeting on 26 February 2008 as well as review the minutes of the meetings of the earlier Project Board meetings. The following are the observations of the HRM Review Team.

<sup>4</sup> Project document for the Project "Special Support to Cambodia side of the budget for ECCC, 08 June 2006"



### 3.5.1 Frequency of board meetings

The original mandate of the Project Board was to meet annually. However the Board has met at least four times since August 2007 till date to address critical issues and to follow up on the recommendation of various reviews. This also reflects that the Project Board has stepped up its assurance and decision making role and has carried out the recommendations of the Auditors to increase the periodicity of the Board meetings. It was also noted that the Board meetings are being jointly chaired by UNDP and ECCC.

### 3.5.2 Transparency and effectiveness of decision making process

The HRM Review Team noted that the meetings are being conducted in very open and systematic manner where all issues are discussed item by item. Agreements on each issue is documented and summarized at the end of the meeting. This is followed up with circulation of the minutes of the meeting. Such a process ensures clarity in the Board's decision making process decreases ambiguity on issues and increases transparency in the Boards operations.

### 3.5.3 Adequacy of assurance activities

The project assurance role of the Board is being carried out by providing objective and independent oversight. The status report of progress is presented to the Board by the ECCC at the start of the meeting which sets the appropriate tone and context. The HRM Review Team observed that the Board expressed its interest to obtain and examine the reports of the spot check and the audit to ensure that the audit findings and recommendations are being responded to and followed up.

It is important to note that independent oversight can be provided if the Board is able to look at the broader objectives of the Project and rise above operational issues unless such issues impact the fulfillment of the objectives of the ECCC.

## 3.6 Adequacy of Audit and spot check process

Morrison Kak and Associates were appointed in October 2006 to carry out audits and spot checks on financial transactions of the ECCC. In their report, the UNDP Auditors had observed that the Terms of Reference for these spot checks did not include an audit of human resource systems such as recruitment procedures and had therefore recommended that the same be included in future spot checks. The Project Board has adopted this recommendation of the auditors. The HRM Review Team in its discussions with the Personnel Section has made the following observation on the progress of implementation of spot checks and following are the observations on the same.

- Since the agreement in the Project Board meeting to include HRM processes, there has been only one spot check which was carried out on the basis of the original ToR which only detailed the financial spot check requirements.
- The report of that spot check had references to HR only in the areas of staff wages and any interface with financial transactions.
- A revised ToR for the spot check is currently being drafted with the guidance of UNDP to include specific HRM audit areas.
- The HRM review has provided its comments on the contents of the ToRs of the spot check exercises currently in the process of being enhanced to adequately incorporate HR management and procurement.
- Once revised and implemented, the spot check process will be an effective tool in monitoring compliance with HR systems.

#### Conclusion of the HRM Review Team

*The Project Board recommendations of including HRM as part of the spot checks is being adopted and the first such spot check will be carried out this month (March 2008)*

### 3.7 Code of conduct

The Code of Conduct which was adopted in August 2007 is part of the Personnel Handbook. The Code of Conduct has been signed by each member of the Cambodian staff and documented as part of their personnel files.

The following are some of the steps that have been taken up by the ECCC in the implementation of the Code of Conduct

- Communication with staff to explain the contents of the Code of Conduct
- Ensuring that Code of Conduct has been signed by all employees and placed in their Personnel files.
- Setting up of suggestion boxes to receive complaints or allegations of violation of the Code of Conduct.
- Display of the Code of Conduct on notice boards around the ECCC premises.
- A Complaints Committee set up in February 2007 is mandated to look into any cases of allegations of corruption, kickbacks and similar misconduct. The role of the Complaints Committee has been defined in a document.
- The HRM Review Team has been informed by the Personnel Section that
  - The Committee is set up to deal with other issues such as suggestions received from employees and not exclusively to deal with corruption charges.
  - Since the Committee was set up prior to the issue of the Code of Conduct, the role of committee does not explicitly include addressing of issues or complaints regarding non compliance with the Code of Conduct.
  - The Committee comprises of ten representatives (Cambodian nationals) who are elected by and from the non supervisory staff of each section.
  - The Committee considers verbal and written complaints and arrives at decisions based on two thirds of majority across the Committee representatives.
  - The minutes of the meetings and the decision of the Committee is displayed on the notice boards.
  - The role of the committee is to confirm or deny the legitimacy of any allegation.
- From the above it is apparent that though there is a process in place, it needs to be explicit so that the outcome is conclusive.

The HRM Review Team had meetings with employees to understand their views on the Code of Conduct. The following are the findings based on these discussions.

- All employees have signed on the Code of Conduct and are aware of the conduct standards that are expected of the national staff of the ECCC.
- New Recruits are given the Code of Conduct as part of their contract and though they may have signed the same it does not appear that the importance of the document is well understood by them.
- Employees who were working in the ECCC at the time of implementation of the Code of Conduct have a better appreciation of the document. This was because
  - The Code of Conduct had been communicated in a brief session comprising of a group of employees.
  - They were allowed to raise questions and ask for clarifications on the Code of Conduct. These queries have been addressed by the personnel section.
- There is a lack of awareness on the process for reporting a case of violation of Code of Conduct other than the fact that they could use the suggestion box to report the case.
- The staff was unaware of any process after a case of violation of Code of Conduct has been reported and hence skeptical about the outcome of such reporting.

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- The role of the Committee has not been updated since the implementation of the Code of Conduct.

Apart from the above there is an added dimension in the context of the Cambodian culture where questioning superiors or reporting knowledge of wrong practices whether due to fear of retribution or due to traditional deference to authority, seniority and hierarchy, is not common practice.

### Conclusion of the HRM Review Team

*Initiatives have been taken to create awareness among staff on the code of conduct. The team also noted that there were no recent allegations of mismanagement in the ECCC.*

Since the adoption of the Code of Conduct there have been efforts made by the Personnel Section to create awareness about the Code of Conduct through communication meetings and addressing queries. However, a follow up to these actions needs to be done periodically so that there is reinforcement of the Code of Conduct and processes put in place to make the system robust and reliable. Zero tolerance by project board would also contribute to increased awareness to the need for adherence to the Code of Conduct.

## 3.8 Other actions taken in response to the HR audit findings

The following matrix provides a summary of the actions that has been taken on the recommendations of the HR Audit as well as status update of agreements on HR issues in the Project Board.

**Table1: Status of implementation of HR audit recommendations**

Audit Recommendations	Status	Comments
Advertisement in newspaper should continue. In the event low response to advertised vacancy, re-advertise the same.	Being followed	
Allow submission of application by email	Being followed	
Retention of all job application and documents	Being followed	
Short-listed and interviewed candidates should meet minimum requirements stated in TOR and VA	Being followed to the extent feasible	A few partial matches have resulted from failure to recruit/attract candidates that meet the ideal qualification despite re-advertisement. The immediate need to appoint a candidate into the position to support the demand of the judicial process was often the reason cited for such appointments. The Project Board has agreed that the appointments during the probationary period were considered to be partial match and the post would be readvertised in the expectation of finding more suitable candidates. The current incumbent would also be allowed to reapply.
Ad-hoc selection panel - Chief of sections should be involved	Being followed	
Selection process should include reference checks	Being followed	
Applicants must disclose any relative working/has worked for ECCC	Being followed	
Staff performance evaluation by section chief (national or international)	Being followed	
Extension of service contract should follow a clear policy.	In Progress	

**Table 2: Progress update on HR related areas in the Project Board minutes of meetings**

Project Board decision	Status	Comments
The application form will be revised to indicate a more direct solicitation of information about relatives working in government.	Implemented	

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Project Board decision	Status	Comments
Existing language staff would undergo standard testing required for their posts e.g. translators and interpreters.	In Progress	The Project Board has agreed that an assessment to be made by the language expert in ECCC shall serve the purpose of confirming whether the language staff should be retained in service or not. Given the current demand and work load, training and testing can be performed at a later stage.
Spot checks would include HR management.	In progress	TOR in the process of being enhanced to include HRM and procurement areas
"FS" would be replaced with "GS" in the salary scale and in the contracts of Cambodian support staff.	Implemented	Validated in the records
The results of the spot check and external audit would be shared with the members of the Project Board	Implemented and ongoing	To be done post spot check and audit - this refers to spot checks and audits reports in general not only those that include HR/procurement

## 4. Recommendations of HRM Review Team

The HRM systems of the ECCC have come a long way since its inception. The initial set up team lacked experience and exposure in setting up policies and processes of international standard, resulting in systems that were very basic in nature and often seemed ad hoc in their approach. Subsequent efforts of the team with guidance by the Project Board have resulted in a significant improvement in developing and implementing policies as well as in maintenance of records and documents.

The HRM Review Team has identified below further opportunities for improvement in

- areas that are operationally critical
- areas that can be strengthened without disrupting the existing processes and with minimum efforts in time and resources
- areas of key concern to the international donor community

### 4.1 Capacity Building

Successful implementation of any HR systems requires a partnership approach between the HR section and heads of sections (in this case the Chief of Sections). As of now the Personnel Handbook has streamlined the procedures but there are certain areas where training needs to be provided to ensure that implementation is not just procedural but also carried out effectively and with the right spirit. The HRM Review Team has identified three areas for capacity development in the future. Capacity development should involve training on an ongoing and regular basis.

#### Conducting Interviews:

Training on conducting interviews needs to be provided to those who serve as members of the ad hoc selection committee so that there is a common approach to assessment of candidates. Interviewing skills cannot be developed overnight and needs guidance by experts to be able to understand the nuances and techniques of the questions being fielded in the interview.

#### Performance Management System

The HRM Review Team in their discussions with the staff and Chief of Sections realized that the "concept" of assessing performance at work is not well understood within ECCC. It appears that performance assessment is not commonly viewed as a tool to monitor, enhance and reward the performance of employees but is instead understood as a "process" that needs to be followed for contract extension of staff. Since there is no real guidance for the appraisers, the process is left open for interpretation and implementation based on the understanding and experience of the appraiser. Training on how to use the performance appraisal system in a standardized manner is required in

- setting objectives at the start of the job
- monitoring and providing guidance during the interim period
- conducting an interactive appraisal session with the employees where feedback on performance is given constructively

Such training can be provided to the Personnel Section staff and Chief of Section so that they can provide the necessary support and guidance to the team.

#### Position Description and Classification

The HRM Review Team studied the consultant Gomez's proposals regarding the proposed adoption of the UN position description templates and associated guidelines and has observed that

- The proposed approach ensures that the minimum requirements for each position are specified (rather than the specific requirements), thus avoiding unnecessarily narrow person requirements,

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providing wider recruitment pools, and allowing flexibility in the identification of suitable candidates.

- The proposed UN position description template is overly detailed and complex making it difficult to comprehend for end users. Sections including Impact of Functions, Competencies and Critical Success Factors are superfluous to the needs of the ECCC and require HR systems and knowledge that may not be available without significant training and development.
- The proposed guidelines do not provide a process for consultation and approval of new or revised position descriptions.
- There is no position classification process proposed in the Gomez report.

The HRM Review Team recommends that

- the existing revised position description implementation plan is adopted by the ECCC, including the provision of training to the Personnel Section and to Chiefs of Section.
- the proposed position description template and process are simplified to be consistent with the ECCC's ability and needs.
- a position classification process be developed and implemented that links to any revised salary system.
- the Personnel Section is trained in using the new position classification.
- the revised position classification process is used to re-grade ECCC position descriptions as they are revised and prior to recruitment of any position.

## 4.2 Areas that should be further strengthened

### 4.2.1 Code of Conduct

The HRM Review Team has considered international practices and approaches to the Code of Conduct and made the following recommendations

#### Additions to the contents in the Code of Conduct

- "Failure to report violation of Code of Conduct" should be incorporated as part of the Code of Conduct to send out the message that not reporting cases of violation will amount to condoning the act and shall be viewed as misconduct.
- Incorporation of both "offering and accepting gifts and money" as violation of CoC.
- Widen the scope of "conflict of interest" to include personal conflict of interest.

#### Creating awareness on the Code of Conduct

Creating awareness on the Code of Conduct has to be an on-going process.

- In addition to the process currently being followed by the Personnel Section it would be useful to have interesting illustrations and pin ups related to the Code of Conduct narrated in a manner (cartoons, one lines, and snippets) to hold the attention of employees. These should be updated and changed periodically to maintain interest and should be posted in common areas of the ECCC premises to draw attention.
- While it is good practice to include the Code of Conduct as part of the employee contract, it is necessary for the Personnel Section to explain the Code of Conduct to the employee separately so that the document is not lost as just another page of the contract.
- Follow up group communication sessions should be carried out either by the Personnel Section or the Chiefs of Sections on a periodic basis so that there is complete coverage of staff at all times.

### Strengthening the process around violation of misconduct

The HRM Review Team recommends that there be clear definition of ToR of the Committee with respect to

- selection of Committee members,
- authority of the Committee to make recommendations to the DOA and to take action
- processes to be followed by the Committee to investigate a case to ensure due process and confidentiality.
- appropriate action arising from a committee decision such as suspension/dismissal of staff, filing of criminal or administrative case, publishing in newspaper of the severed employer-employee relationship, etc.,
- time line at each stage of the investigation and decision making process to ensure that cases are closed within a defined period.

Adherence to a robust process during the investigation shall help in creating confidence in the system among staff.

ECCC should consider having a more integrated and holistic approach towards issues around code of conduct and should strive to adopt international best practices in the areas of dealing with corruption and work ethics.

### 4.2.2 Personnel Handbook

The Personnel Handbook is robust enough for the requirements of ECCC but can be strengthened in the following areas

- A section should be included on the investigation committee, and should cover membership, roles and responsibilities of the committee members and the process for investigation and decision making by the committee regarding complaints, suggestions or violations of code of conduct.
- The Personnel Handbook should also incorporate a section on separation procedures in case an employee wants to resign from the services of ECCC.
- The Personnel Handbook section on appointment should emphasis on reference checks and the same should be practiced rigorously .Reference checks need to be done strictly before issue of an offer letter to a candidate and the outcome should be documented as part of the personnel file. Effort needs to be made by the Personnel Section to verify the authenticity of the documents submitted by the candidates at the time of the recruitment and later at any time when information is updated in the personnel file.

## 6. Conclusion

Combating the dual challenges of a past which has left behind a nation still struggling to achieve modern management practices and the daunting task of meeting the expectations of the international community has been an uphill task for the ECCC .

In this critical phase of its operations it was encouraging see that there is a willingness and commitment to meet the expectations of the international community. A great deal of standardization has happened over a very short period which has replaced the ad hoc arrangements that used to be the norm when ECCC commenced its operations. The recent reviews and audits have also helped in highlighting areas of weaknesses which have been improved upon.

Robust HR systems have been developed and implemented to address previous shortcomings, to give effective support to the judicial process and to minimize the risk of questionable HR practices occurring in the future. There is however a degree of handholding and capacity building necessary to support ECCC to continue to meet expected international standards. Zero tolerance for non-compliance with HR systems and the Code of Conduct will also support ongoing improvement in the performance of the ECCC.



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