

KINGDOM OF CAMBODIA NATION RELIGION KING

Date of acceptance into National Assembly: 18 - November – 2015

Addressed to the Right Honorable Heng Somrin, president of National Assembly

Subject: On the request by the Right Honorable Son Chhay for an explanation to be provided on the procedures and management of sand extraction & request to examine the anarchic sand mining activities by two Vietnamese companies in Koh Kong province.

According to: Letter 536 – R – S, dated: 31st of July 2015 2015, as admitted by the National Assembly.

I would like to inform the Right Honorable Heng Somrin that in principle the Royal Government of Cambodia (RGC) always takes into the consideration the cleaning out¹ of estuaries, rivers and creeks, clogged by a buildup of sediments, sand and mudflats, with the aim of facilitating maritime navigation and transportation, supplying the domestic market with sand, facilitating the proper hydrological flow of these waterways, as well as providing protection against floods and draughts. The RGC also takes into consideration the balance between protecting the environment effectively and the management of natural resources with the development of the economy and society.

Furthermore, the RGC will continue to take strong measures against the illegal mining² and dredging³ of sand as well as the illegal filling of lakes, rivers, creeks, estuaries, sea and wetlands, as these activities affect our water resources, ecology and the environment.

After an investigation by the Ministry of Mines and Energy (MME), the RGC would like to respond to the questions raised by the Right Honorable Son Chhay⁴ as follows:

1.- On the companies:

International Rainbow is a Cambodian⁵ company, owned by Bun Chankrisna, male. This company is registered at the Ministry of Commerce, with number 5548 – P – N – G – B - P, date: 26th of February 2015.

Direct Access is a Cambodian company, owned by Duk Raden, female. This company is registered at the Ministry of Commerce, with number 0107 – P – N – G – B - P, date: 6th of January 2009.

¹ The Khmer word ស្អាត (sdat) can have several meanings, depending on the context: cleaning out, clearing out, restore, rehabilitate, unload, take out, drain off, clean, purify.

² In Khmer រុករាន (Jeek) meaning to mine, extract, dig.

³ In Khmer បូម (Borm) meaning: pump out, dredge, extract.

⁴ Son Chhay is a Member of Parliament for the opposition party and the opposition's chief whip. He represents the constituency of Phnom Penh.

⁵ In the original letter, literally (..) a Khmer company (..)

2.- On legal principles;

With the aim of restoring the hydrological flow of estuaries clogged by a buildup of sand, the RGC authorized, through the intervention of the Committee on the Management of Sand Resources (CMSR):

- International Rainbow to extract sand and mud flats in the following locations: Ta Ouk and Kontuot estuaries, Andoung Teuk commune, Botum Sakor district; and Tngor and Ta Chan estuaries, Tropeang ROUNG commune, Koh Kong district, in Koh Kong province, as authorized through the following documents;
 - *Letter 2526 T-T-D, dated: 25th of December 2009;*
 - *Letter 2219 T-T-D, dated: 08th of November 2010;*
 - *Letter 1581 T-T-D, dated: 23rd of July 2012;*
 - *Letter 401 T-T-D, dated: 13th of February 2014;*

- Direct Access co., to extract sand and sand/mud flats in the following location: Andoung Teuk estuary, Botum Sakor district, Koh Kong province, as authorized through the following documents;
 - *Letter 1496 T-T-D, dated: 31st of July 2009;*
 - *Letter 2218 T-T-D, dated: 08th of November 2010;*
 - *Letter 2521 T-T-D, dated: 15th of November 2012;*
 - *Letter 099 T-T-D, dated: 16th of January 2014;*

As there is to date no demand in Cambodia's market for this type of sand & mud flats, the companies have been authorized to export abroad.

After taking into consideration the above stated legal principles, the former Ministry of Industry, Mines and Energy, now renamed Ministry of Mines and Energy, issued permits to both companies, with a validity of one year at a time, allowing them to dredge <in order to> clean out <the estuaries>⁶. Before a new permit was issued, several technical and economic conditions had to be met, and hydrological studies were conducted.

Consequently, these two companies are registered as Cambodian companies, conducting legitimate dredging / extraction of sand, not 'Vietnamese companies conducting illegitimate sand dredging' as stated by the Right Honorable Son Chhay.

3.- On the technical conditions;

Direct Access Co., Ltd has conducted its dredging / cleaning activities in accordance to the technical conditions stipulated by the CMSR, whom inspected the company's operations and shared its own findings with relevant ministries. The CMSR conducted studies on the hydrologic characteristics of the estuary's river bed, on the environmental impacts of sand dredging on the estuary, on the impacts on the estuary's biology, and conducted proper consultations with local communities and local authorities. Also, the dredging operation was conducted following proper

⁶ In Khmer, literally dredge-clean out or dredge-rehabilitate. It could also be translated as dredging in order to rehabilitate or dredging in order to restore.

coordinates and the sand extraction of sand was performed through the use of cranes, rather than through the use of suction devices.

Regarding International Rainbow, according to letter 401 T-T-D, dated 21st of February 2014, issued by CMSR, the company is authorized to extract sand in the following locations: ; and Tngor Ta Chan estuaries, Tropeang ROUNG commune, Koh Kong district, Koh Kong province. Initially, and after taking into consideration the low output of the company's production plan, the Ministry of Mines and Energy (MME) assigned two sites for the company to operate in (Ta Ouk and Kontuot estuaries, Andoung Teuk commune, Botum Sakor district, Koh Kong province). However, on seeing that the company needed to increase output, the MME decided to expand the number of sites where the company could operate.

The involvement of private sector companies has eased the burden on the nation's budget in the cleaning out of the nation's waterways, and has contributed to the following long term benefits: the proper restoration of the hydrological flow of waterways, the reduction of unwanted floods in towns and villages as well as agricultural fields during rainy seasons, and the deepening of the waterways, facilitating navigation during dry seasons.

A recent assessment by a working group from the Ministry of Mines and Energy, which looked into the dredging activities by Direct Access, measured water depths and assessed the overall situation of the Andoung Teuk estuary, shows that the company has been conducting its operations in line with what it is stipulated in its permit. However, the company had lately been unable to conduct its operations in a regular manner due to the interference of a group of young individuals from the *Mother Nature Movement* group.

Throughout the 25 kilometers that fall inside the company's permit, the ministry's inspection team found that the situation was good, except in three locations where minor collapses of the estuary banks were seen: one of these sites is present outside the allocated areas <where the company was allowed to dredge>, and the two other two are inside. Regarding these cases, the ministry is conducting detailed studies as there are many reasons why these river banks could have collapsed, i.e., <naturally occurring> erosion, logging of mangrove trees, or extraction of sand at depths that are too deep. In any case, the company is in need of re-conducting environmental impact assessments before the Ministry can renew its license.

During this inspection, the ministry did not detect any impacts on people's dwellings. In public forums attended by local communities and authorities, communities living alongside the estuary expressed their acceptance and consent in regards to the sand mining, as, after the estuary was cleaned out⁷, it became deeper, making navigation and fishing more suitable during dry seasons. Communities also stated that, as a result of the dredging, the estuary's flow had become better during rainy seasons, decreasing floods in the area. Also, the mining had helped contribute to the development of their communities.

Concerning its economic obligations, the company has respected the stipulations placed upon it by the ministries of MME and the Ministry of Economy and Finance, which are:

⁷ Of sand which had over accumulated

- *Royalties*: US \$0.85 for each cubic meter of sand
- *Other benefits*: US \$0.40 for each cubic meter of sand (voluntarily⁸)
- *Community fund*: US \$0.02 for each cubic meter of sand
- *Rental of land concession*: US\$20 per hectare / per year
- *Value Added Tax*, or VAT, paid to the General Department of customs and excise: US\$0.35 for each cubic meter of sand

The Royal Government of Cambodia (RGC) always takes into the consideration the cleaning out of estuaries, rivers and creeks in order to facilitate maritime navigation and transportation, and as such it authorizes the private sector to participate <in the cleaning of these waterways>, so long as relevant procedures and legal principles are followed. This intervention by the private sector has truly eased the economic burden on the RGC's budget and is contributing to the dredging / cleaning out of the nation's estuaries, rivers and creeks. It has also provided income to the state's budget. The RGC will continue to consistently pay close attention to the activities of both companies in the afore-mentioned areas, in line with all relevant laws, standards and regulations, and will continue to take strong measures against all negative impacts and ensure the sector's economic efficiency.

Finally, I would like to request that the right honorable president of the National Assembly passes these answers onto the Right Honorable Member of Parliament who made the request for clarification.

Sincerely yours.
16th of November, 2015.
The Prime Minister

Princely, exalted supreme great commander of gloriously victorious troops, Hun Sen

⁸ Non-compulsory payment that is given on a voluntary basis by the company.