

**CAMBODIA'S SMALL DEBT:
WHEN WILL THE U.S. FORGIVE?**

HEARING
BEFORE THE
SUBCOMMITTEE ON ASIA, THE PACIFIC AND
THE GLOBAL ENVIRONMENT
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
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CAMBODIA'S SMALL DEBT: WHEN WILL THE U.S. FORGIVE?

THURSDAY, SEPTEMBER 30, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA, THE PACIFIC
AND THE GLOBAL ENVIRONMENT,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:05 p.m., in room 2172, Rayburn House Office Building, Hon. Eni F.H. Faleomavaega (chairman of the subcommittee) presiding.

Mr. FALEOMAVAEGA. The subcommittee will come to order.

This is a hearing of the Foreign Affairs Subcommittee on Asia, the Pacific and the Global Environment. The specific topic for discussion this afternoon is "Cambodia's Small Debt: When Will the United States Forgive This Debt?"

I am going to begin the hearing by giving my opening statement.

I do want to say, Mr. Secretary, I deeply appreciate your taking the time to come again and make this appearance before the subcommittee. I want to say that this town is practically a ghost town ever since we took the last vote last night at about 1 or 2 in the morning, and everybody is out trying to get re-elected. I thought we were going to still be in session next week, but things change, and this is where we are now.

Between 1972 and 1975, Cambodia incurred a \$276 million debt to the United States through the provision of agricultural commodities. General Lon Nol incurred this debt to support his chaotic and dictatorial regime, which seized power through a coup, making his an illegitimate government in the eyes of many of today's Cambodians. Lon Nol did nothing to address this debt.

The Khmer Rouge came to power in 1975. This regime also failed to service the loan. In addition, it killed or starved at least 20 percent of Cambodians, some 7 million people, and neglected infrastructure and factories and reverted to ancient agricultural techniques, all of which decimated the Cambodian economy and any ability to repay the debt. Vietnam occupied Cambodia for 10 years after the Khmer Rouge lost control, and they also ignored the debt. Consequently, Cambodia now owes the United States \$444.4 million, including interest, as of December of last year.

I want to give a little sense of perspective concerning the history of U.S.-Cambodia relations because I think it is important for the record that this be noted. At the height of the Vietnam War, Cambodia was very much a part of our overall military and strategic interests, and some highly questionable decisions were made by of-

officials of the Nixon administration, including President Nixon himself.

Part of the U.S. frustration in dealing with Cambodia was due to Prince Sihanouk. As ruler in Cambodia, he maintained a position of neutrality on the war in Vietnam, yet, at the same time, was unable to prevent North Vietnamese military forces from setting up sanctuaries or strongholds along the border between Cambodia and Vietnam. Prince Sihanouk's government was later overthrown by General Lon Nol, supposedly with the assistance of the United States, although this has never been proven to be true.

Against the advice of his Secretary of Defense Laird and Secretary of State Rogers, President Nixon accepted the recommendations of his military commanders by sending military forces into Cambodia to destroy those North Vietnamese sanctuaries along the Cambodian-Vietnam borders, raising the specter of expanding the war in Vietnam despite an established policy of supposedly winding down the overseas U.S. military presence in Vietnam.

It is believed that the U.S. military action going into Vietnam contributed to one of the greatest tragedies of recent history. The American invasion of North Vietnamese forces inside Cambodia unleashed thousands of tons of bombs on Cambodia. It also caused North Vietnam to conduct large-scale operations in support of the Khmer Rouge, who were fighting against Lon Nol's government, which was supposedly supported by the United States.

I quote from George Herring's book, "America's Longest War: The Ultimate Tragedy":

"From beginning to end, the Nixon administration viewed its new ally, General Lon Nol, as little more than a pawn to be used to help salvage the U.S. position in Vietnam, showing little regard for Cambodia and its people."

It should also be noted that President Nixon's decision to invade Cambodia caused serious repercussions even within the United States. College student demonstrations erupted all over the country, and some might have said this was Nixon's worst nightmare. One demonstration in particular resulted in four students shot dead by the U.S. National Guard at Kent State University in Ohio. Two students were also shot dead at Jackson State University in Mississippi.

Some 100,000 more demonstrators showed up in our Nation's capital to demonstrate against the President's decision to invade Cambodia. Students at some 350 college and university campuses went on strike, and more than 500 colleges and universities were closed to prevent more violence. So this little insight in terms of the history was not very pleasant in terms of U.S. involvement, not only in Vietnam but what we did to the people of Cambodia.

Cambodia has asked the United States to forgive its debt or use a portion of the payment toward U.S. assistance programs, which include health care, economic competitiveness, civil society and land mine removal—especially land mine removal, Mr. Secretary. However, the U.S. Treasury and Department of State have showed remarkable inflexibility and simply a lack of any cooperation on this issue.

Why does the United States insist on squeezing this little, least-developed country out of \$444.4 million? Why is debt forgiveness not an option? Why do we not consider recycling the debt payments for environmental conservation efforts or swapping the debt for a much-needed educational exchange fund similar to the Vietnam education exchange fund created by Congress 10 years ago?

This is the second in a series of hearings I have held in my capacity as chairman of the subcommittee on Cambodia's debt. During the last hearing, held in February, 2 years ago, the U.S. State Department testified that debt forgiveness or recycling for Cambodia would set a pattern of forgiveness for other nations indebted to the United States. In my opinion, Mr. Secretary, this is absolutely ludicrous and without justification.

We should note that a precedent has already been established. Six years ago, the United States forgave \$4.1 billion of Iraqi debt accumulated under Saddam Hussein's leadership so as not to cripple the new government. Bosnia-Herzegovina's debt of \$24 million was forgiven in 1999, and Yugoslavia's \$538.4 million debt was forgiven in 2002.

But we must also consider the impact of U.S. activities in Cambodia during the Vietnam War era. From 1969 to 1973, the U.S. staged large-scale bombing campaigns in parts of Cambodia, which still prevent the use of a vast majority of rich farmlands in this country, Mr. Secretary. In certain regions it has restricted agricultural development because many of these bombs that were dropped never detonated and has caused a serious hazard, not only to the citizens and to the people of Cambodia and just simply because the ordnance is still there and it is a real, real serious situation.

The legacy of losses inflicted by the Khmer Rouge also continues today. The average Cambodian earns a mere \$5.50 a day, an amount comparable to Mauritania, Cameroon and several other countries classified by the International Monetary Fund as highly-indebted poor countries worthy of debt reduction. But far worse living standards face 30 percent of Cambodians, who live on less than 60 cents per day, according to the 2009 United Nations Development Program report.

Given Cambodia's status as a least-developed country and acknowledging that the Khmer Rouge's brutal genocide continues to afflict the country today economically, other nations and organizations have shown considerably more flexibility in addressing Cambodia's debt.

For example, Hungary forgave Cambodia's debt of \$216 million in 2009. Russia forgave approximately \$1 billion of Cambodian debt in 2008. In 1995, Japan forgave all claims against Cambodia incurred before 1975, which totaled \$270 million. Additionally, the International Monetary Fund granted Cambodia \$82 million in debt relief 5 years ago, acknowledging that Cambodia needed the funding to reach its Millennium Development Goals.

Should the United States fail to forgive or recycle Cambodia's debt, Cambodia may turn to other countries for financial assistance. Already, China has forgiven at least \$60 million of debt and extended loans to Cambodia for infrastructure and historical preservation. Such Chinese assistance often comes without conditions for political, economic or environmental reform, thereby weakening

the position of the United States and other democracies to influence Cambodia's leaders.

Greater engagement with Cambodia could help the United States achieve our foreign policy goals in the region and counter adverse influences. Requiring payment of a debt incurred by an illegitimate government more than 30 years ago, without consideration of Cambodia's historical trauma, runs counter to the need for greater engagement, in my humble opinion, Mr. Secretary. This is why I ask the Department of State and Treasury to end their opposition to Cambodian debt forgiveness and support our efforts to give this country a brighter economic future.

The Department of Treasury could begin by taking this issue seriously enough to send a witness to testify before this subcommittee. Two years ago, and again for this hearing, the U.S. Treasury Department refused to send a witness, which, in and of itself, speaks volumes about the lack of commitment for advancing American interests in Southeast Asia.

Finally, for the record, I want to express my opposition to a bill that was introduced earlier this year, H.R. 5439, the Cambodian Trade Act of 2010, which would prevent any forgiveness of Cambodia's debt currently owed to the United States and would ensure that no textiles or apparel produced in Cambodia would be given duty-free treatment within the United States.

My two colleagues who introduced this piece of legislation are very dear to my heart, and we constantly work together on many issues. My good friend from California, Congressman Rohrabacher, and my good friend from Massachusetts, Congressman Delahunt, who is retiring this year, unfortunately, are certainly champions and senior members of this committee when it comes to human rights.

While I have the utmost respect for my two colleagues who introduced the bill, unfortunately, there was never any consultation with me or members of this subcommittee. And I am deeply concerned that a trade bill like this was introduced in response to Cambodia's deportation of 20 Uighurs who entered Cambodia illegally from China. I do want to note for the record that I do oppose the provisions this bill.

Prior to the introduction of this bill, I was in Cambodia and met with Prime Minister Hun Sen, Deputy Prime Minister Hor Namhong, and the Minister of Finance Cham Prasidh, at which time we discussed the deportation of Uighurs who were returned to China in December of last year. The Government of Cambodia provided me with the following account of events which transpired, affecting the status of these Uighurs.

Three groups, with a total of 22 Uighurs, illegally entered Cambodia in June, October, and November of last year. But the United Nations High Commissioner for Refugees failed to determine their status and failed to provide the Government of Cambodia with any information relating to the Uighurs' entry in November of last year. Two Uighurs fled the headquarters without reporting to the Ministry of Foreign Affairs and International Cooperation. Consequently, 20 Uighurs were returned in December because they had entered Cambodia illegally.

The Government of Cambodia has firmly stated that it adheres to the principles of the rule of law and respects the International Convention on Refugees. The Royal Government of Cambodia also believes, and correctly so, in my opinion, that the United Nations' High Commissioner for Refugees should do its part by acting in accordance with its mandate to coordinate the protection of refugees in a transparent and expeditious manner.

While I fully support the rights of international refugees and the mission of UNHCR, the Uighurs are a minority population residing in China, not Cambodia. Therefore, if the intent of the bill is to champion the cause of the Uighurs, it should not offer up a superficial fix which pits Cambodia against China in a match-up that should be, actually, between the United States and China. Simply put, the bill should not use trade or debt as a means to address the repatriation of Uighurs.

I remain firm in my position that the United States should forgive or recycle Cambodia's debt, given that there is historical precedent for both options. And I commend Cambodia's ambassador to the United States, his Excellency Hem Hang, for tirelessly working on behalf of the Royal Kingdom of Cambodia to bring these serious matters to the attention of the U.S. Congress.

The Kingdom of Cambodia's statement regarding the pre-1975 loans will be made part of the record.

[The prepared statement of Mr. Faleomavaega follows:]

**COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515**

**STATEMENT OF
THE HONORABLE ENI F.H. FALEOMAVAEGA
CHAIRMAN**

**before the
SUBCOMMITTEE ON ASIA, THE PACIFIC, AND THE
GLOBAL ENVIRONMENT**

“Cambodia’s Small Debt: When Will the U.S. Forgive?”

September 30, 2010

Between 1972 and 1975, Cambodia incurred a \$276 million debt to the United States through the provision of agricultural commodities. General Lon Nol incurred this debt to support his chaotic and dictatorial regime, which seized power through a coup, making his an illegitimate government in the eyes of many of today’s Cambodians. Lon Nol did nothing to address the debt.

The Khmer Rouge came to power in 1975. This regime also failed to service the loan. In addition, it killed or starved at least 20% of Cambodians, neglected infrastructure and factories, and reverted to ancient agricultural techniques, all of which decimated the Cambodian economy and any ability to repay debt. Vietnam occupied Cambodia for 10 years after the Khmer Rouge lost control of Cambodia and also ignored the debt. Consequently, Cambodia now owes the US \$444.4 million including interest as of December 31, 2009.

Cambodia has asked the US to forgive its debt or use a portion of the payments towards US assistance programs which include health care, economic competitiveness, civil society, and land mine removal, among others. However, the U.S. Treasury and Department of State have shown remarkable inflexibility and lack of cooperation.

Why does the US insist on squeezing \$444.4 million out of Cambodia? Why is debt forgiveness not an option? Why do we not consider recycling debt payments for environmental conservation efforts or swapping the debt for a much needed educational exchange fund, similar to the Vietnam Education Fund created by Congress in 2000?

This is the second in a series of hearings I have held on Cambodia’s debt since becoming Chairman of this Subcommittee. During the last hearing held on February 12, 2008, the U.S. State Department testified that debt forgiveness or recycling for Cambodia would set a pattern of forgiveness for other nations indebted to the US. However, a precedent has already been

established-- in November 2004, the US forgave \$4.1 billion of Iraqi debt accumulated under Saddam Hussein's leadership so as not to cripple the new government. Bosnia-Herzegovina's debt of \$24 million and Yugoslavia's \$538.4 million debt, both likely incurred under the dictator Josip Tito, were forgiven in 1999 and 2002 respectively.

We must also consider the impact of U.S. activities in Cambodia during the Vietnam War era. From 1969 to 1973, the U.S. held large-scale bombing campaigns in parts of Cambodia, which still prevents farming in certain regions and which some experts claim drove many Cambodians to the Khmer Rouge.

The legacy of losses inflicted by the Khmer Rouge continues today. The average Cambodian earns a mere \$5.50 a day, an amount comparable to Mauritania, Cameroon, and several other countries classified by the International Monetary Fund as Highly Indebted Poor Countries worthy of debt reduction. But far worse living standards face 30% of Cambodians who live on less than 60 cents per day according to a 2009 United Nations Development Programme report.

Given Cambodia's status as a least developed country and acknowledging that the Khmer Rouge's brutal genocide continues to economically afflict the country today, other nations and organizations have shown considerably more flexibility in addressing Cambodia's debt. Hungary forgave Cambodia's debt of \$216 million in 2009. Russia forgave approximately \$1 billion of Cambodian debt in 2008; in 1995, Japan forgave all claims against Cambodia incurred before 1975 which totaled \$270 million. Additionally, the International Monetary Fund granted Cambodia \$82 million in debt relief in 2005, acknowledging that Cambodia needed the funding to reach its Millennium Development Goals.

Should the U.S. fail to forgive or recycle Cambodia's debt, Cambodia may turn to other countries for financial assistance. Already, China has forgiven at least \$60 million of debt and extended loans to Cambodia for infrastructure and historical preservation. Such Chinese assistance often comes without conditions for political, economic, or environmental reform, weakening the position of the U.S. and other democracies to influence Cambodia.

Greater engagement with Cambodia would help the U.S. achieve our foreign policy goals in the region and counter adverse influences. Requiring payment of a debt incurred by an illegitimate government more than three decades ago, without consideration of Cambodia's historical trauma, runs counter to the need for greater engagement.

This is why I ask the Departments of State and Treasury to end their opposition to Cambodian debt forgiveness and support my efforts to give this country a brighter economic future. The Department of Treasury could begin by taking this issue seriously enough to send a witness to testify before this Subcommittee. In 2008 and again for this hearing, the U.S. Treasury refused to send a witness which in and of itself speaks volumes about its lack of commitment for advancing American interests in Southeast Asia.

Finally, for the record, I want to express my opposition to H.R. 5349, the Cambodian Trade Act of 2010 which would prevent any forgiveness of Cambodia's debt currently owed to

the United States and would ensure that no textiles or apparel produced in Cambodia would be given duty-free treatment within the U.S.

While I have the utmost respect for the two Members of Congress who introduced this legislation, as Chairman of the Foreign Affairs' Subcommittee on Asia, the Pacific and the Global Environment I am deeply concerned that a trade bill like this was introduced in response to Cambodia's deportation of 20 Uighurs who entered Cambodia illegally.

Although the bill was introduced without serious consultation with the subcommittee but given that it is highly unlikely that it will ever be passed, I intended not to publicly comment. However, because today's hearing is directly related, I want to be on record in opposition to H.R. 5349.

Prior to the introduction of H.R. 5349, I was in Cambodia and met with Prime Minister Hun Sen, Deputy Prime Minister Hor Namhong, and Minister of Finance Cham Prasidh at which time we discussed the deportation of Uighurs who were returned to China in December 2009.

The Royal Government of Cambodia provided me with the following account of events which transpired. Three groups for a total of 22 Uighurs entered Cambodia in June, October and November 2009 but the UN High Commissioner for Refugees (UNHCR) failed to determine their status and failed to provide the Royal Government of Cambodia with any information relating to the Uighurs' entry until November 2009. Two Uighurs fled the Headquarters without reporting to the Ministry of Foreign Affairs and International Cooperation. Consequently, 20 Uighurs were returned in December because they had entered Cambodia illegally.

The Royal Government of Cambodia has firmly stated that it adheres to the principles of the rule of law and respects the International Convention on Refugees. The Royal Government of Cambodia also believes, and correctly so, that the UNHCR should do its part by acting in accordance with its mandate to coordinate the protection of refugees in a transparent and expeditious manner.

While I fully support the rights of international refugees and the mission of the UNHCR, the Uighurs are a minority population residing in China, not Cambodia. Therefore, if the intent of H.R. 5349 is to champion the cause of the Uighurs, it should not offer up a superficial fix which pits Cambodia against China in a match-up that should be between the U.S. and China. Simply put, H.R. 5349 should not use trade or debt as means to address the repatriation of Uighurs.

I remain firm in my position that the U.S. should forgive or recycle Cambodia's debt given that there is historical precedent for either option, and I commend Cambodia's Ambassador to the United States, His Excellency Hem Heng, for tirelessly working on behalf of the Royal Kingdom of Cambodia to bring these serious matters to the attention of the U.S. Congress. The Kingdom of Cambodia's statement regarding the pre-1975 loans will be made part of the record.

I now recognize our Ranking Member, my good friend from Illinois, for his opening remarks.

Mr. FALEOMAVAEGA. At this time, I recognize our leading witness and only witness willing to come and testify before this subcommittee, the Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs, Mr. Joseph Yun.

Mr. Yun is currently the Deputy Assistant Secretary in the State Department responsible for relations with Southeast Asia and ASEAN affairs. He previously held the position of Director of the Office of Maritime Southeast Asia at the Bureau of East Asian and Pacific Affairs within the Department of State. He served also as a senior counselor in our U.S. Embassy in Korea and in other overseas posts, including Thailand, France, Indonesia, and Hong Kong.

He has been a career member of the Foreign Service since 1985. He holds degrees from the London School of Economics and the University of Wales.

Mr. Secretary, I want to sincerely thank you for taking the time from your busy schedule to again appear before the subcommittee for your testimony concerning the issue of Cambodia's debt forgiveness.

Without objection, your statement will be made a part of the record. If you have any miscellaneous materials or documents that you would like to submit to be made part of the record, you are welcome to do so.

So, Mr. Secretary, please, I would like to hear from you.

STATEMENT OF MR. JOSEPH Y. YUN, DEPUTY ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. YUN. Mr. Chairman, thank you for inviting me here today to testify about Cambodia's outstanding bilateral debt to the United States. With your permission, Mr. Chairman, I would like to make a few brief remarks on this topic and submit a more detailed written response for the Record.

Mr. FALEOMAVAEGA. Without objection.

Mr. YUN. U.S.-Cambodia relations have continued to improve over the past few years. The tempo of interaction has quickened, and there has been both a broadening and a deepening of positive engagement in a number of areas. In order for Cambodia to realize its full democratic and economic potential, we continue to ask Cambodia to make progress on issues related to human rights and rule of law.

A satisfactory resolution of Cambodian debt to the United States can help accelerate development of this improving and growing bilateral relationship. Such a move would also enhance Cambodia's own economic development by improving its creditworthiness and better access to international capital markets.

Cambodia's debt to the United States stems from shipment of U.S. agricultural commodities to Cambodia in the 1970s during the turbulent Lon Nol era financed with low-interest rate loans from the U.S. Department of Agriculture. Cambodia fell to the Khmer Rouge in 1975, which ceased servicing this debt. By the end of 2009, Cambodia's debt to the United States totaled approximately \$445 million, including arrears and late interest. About \$405 million of that amount was in arrears, and it's due and payable immediately.

Debt relief can be an important means of achieving U.S. goals of promoting economic growth, well-functioning markets, and economic reform of our foreign partners. Long-standing U.S. policy on debt relief and restructuring is to coordinate internationally, primarily through the Paris Club group of official creditors. In 1995, the Paris Club and Cambodia reached an agreement to restructure Cambodia's debt on the so-called Naples terms, at that time the most generous treatment in the Paris Club's project.

Cambodia eventually signed debt agreements with France, Germany, Italy, and Japan to implement the 1995 Paris Club agreement and began repaying those countries accordingly. However, the United States and Cambodia never concluded a bilateral implementing agreement, in part because the Cambodian Government refused to accept responsibility for debts incurred by the Lon Nol regime and in part because of a disagreement at the time over the amount of debt actually owed.

U.S.-Cambodian debt negotiations resumed over the 2001 to 2005 period. The U.S. ultimately offered concessions of nearly \$100 million, and the Treasury affirmed that, for legal and policy reasons, this was the final best offer the U.S. could make.

In February, 2006, the Cambodian Minister of Finance indicated that Cambodia agreed with the United States that the amount of principal it owed was \$162 million. He also agreed to move forward in drafting a bilateral agreement implementing the 1995 Paris Club agreement. Based on this understanding, the United States drafted a bilateral agreement that retroactively implemented the 1995 Paris Club agreement, including USDA's concessions, and presented it to the Cambodia Government in the summer of 2006.

Nevertheless, to date, the Cambodian Government has been unwilling to sign the draft bilateral agreement and now seeks additional concessions. Cambodia is seeking a low interest rate. However, long-standing U.S. debt policy is to retain the same interest rate of the original loans in any rescheduling of those loans. Offering a lower interest rate would be an unauthorized form of debt reduction.

Another concession requested by the Cambodian Government in the past has been debt for assistance swaps. The only general debt swap program that the United States currently offers is through the Tropical Forest Conservation Act for which Cambodia is not eligible because of its arrears. Cambodia, however, has focused on the swap arrangement that the United States established with Vietnam in 2000 and is seeking a similar program.

In 1993, Paris Club creditors provided Vietnam debt rescheduling terms similar to those of Cambodia's in 1995. Vietnam signed a bilateral agreement with the United States in 1997 and resumed making scheduled payments and was in good financial standing when Congress created the Vietnam Education Foundation several years later. This program, authorized by law, directs about 40 percent of Vietnam's total debt payments to the foundation for joint education initiatives. There are no special programs authorized for Cambodia, however, and existing programs are not available so long as Cambodia is not making scheduled payments. An individual debt program, therefore, is not a possibility.

The administration is concerned that creating a special statutory debt with option program for a country that is accumulating large arrears, despite payment capacity, sets a poor precedent for other countries in similar circumstances and sends the wrong message about prudent debt management.

In Cambodia's case, I would note that Cambodia has accumulated arrears to the United States while paying other creditors on time. The administration has, therefore, urged the Cambodian Government to sign the bilateral agreement and reestablish a track record of timely repayments under that agreement. We have communicated to the Cambodian Government that if it makes scheduled payments for at least 1 year the U.S. Government would signal to the IMF that efforts are under way to resolve the country's official arrears. Should Cambodia then obtain an IMF program, end the future Paris Club treatment, this action could pave the way for generous rescheduling of accumulated arrears on debts owed to the United States.

We have also informed the Cambodians that we would work with Congress to explore the possibility of enhancing mutually beneficial U.S. development assistance projects. Unfortunately, the Cambodia Government thus far has not responded to this overture and continues to accumulate arrears on debts owed to the United States.

In sum, the administration is very much of the view that Cambodia should resolve U.S. debt claims by concluding a bilateral agreement implementing the 1995 Paris Club agreement. This would eliminate this long-standing issue in the overall context of otherwise very much improving bilateral relations. We also believe that an agreement to address the U.S. bilateral debt issue would also enhance Cambodia's creditworthiness and Cambodia's ability to access international capital markets.

Mr. Chairman, I appreciate this opportunity to appear before you today and I welcome any questions you may have.

[The prepared statement of Mr. Yun follows:]

**Testimony of Joseph Yun
Deputy Assistant Secretary of State
Bureau of East Asian and Pacific Affairs
U.S. Department of State**

**Before the
Subcommittee on Asia, the Pacific, and the Global Environment
House Foreign Affairs Committee**

September 30, 2010

“Cambodia’s Small Debt: When Will the U.S. Forgive?”

Mr. Chairman, Ranking Member Manzullo, and Members of the Subcommittee, thank you for inviting me here today to testify about the growing U.S.- Cambodia bilateral relationship and, in particular, Cambodia’s outstanding bilateral debt to the United States.

Cambodia in Context

Given the many challenges that Cambodia faced as recent as a decade ago, the country has come a long way in recent years. It is enjoying increasing political stability and is slowly recovering from 30 years of war, including the atrocities of the Khmer Rouge era. Cambodia’s economy was the seventh fastest growing economy in the world over the past decade. While Cambodia experienced a recession in 2009, current predictions call for a return to strong growth in 2010 and 2011.

There has been meaningful progress on political and social issues as well. National elections in July 2008—while falling short of international standards on several counts—were peaceful and allowed the Cambodian people to express their preferences in an open and fair manner. The Cambodian government allowed significantly greater freedom to the political opposition during the 2008 elections than in previous elections and showed some willingness to engage on civil liberties and human rights issues. The government recently passed anti-corruption legislation and revised its massive penal code—significant steps in Cambodia’s fight against corruption. Cambodia has also made commendable progress in combating human trafficking, increasing prosecutions and convictions of traffickers, and launching a new National Committee to combat human trafficking,

as well as establishing new national minimum standards on victim protection. According to an August 2009 public opinion poll, 79 percent of the Cambodian population believes that the country is headed in the right direction.

In regional and global arenas, Cambodia has sought a larger role in recent years, as illustrated by its participation in international peacekeeping efforts, its involvement in the Lower Mekong Initiative in partnership with the United States, and its campaign for a rotating seat on the UN Security Council. Cambodia's main foreign policy challenge is, not surprisingly, managing relations with its larger neighbors. Cambodia-Thailand relations have been strained since 2008, in part related to border disputes, but bilateral dialogue has begun to diminish that tension. Relations with Vietnam are good, but final resolution of an ongoing Cambodia-Vietnam border demarcation process remains elusive. China is an increasingly important provider of assistance and foreign investment in recent years, a fact that encourages Cambodia to keep relations with China on a positive footing.

Despite a generally positive trend on most of Cambodia's domestic matters, several economic and political issues continue to cause significant concern among local populations as well as the international community. Most Cambodians remain poor, with endemic corruption and impunity limiting efforts to improve their standard of living. Political expression is stifled, including by employing criminal defamation and disinformation laws to intimidate and prosecute politicians and journalists. The judiciary remains weak, politicized, and overwhelmed. Arbitrary arrests and extrajudicial killings remain a problem. Land disputes and forced evictions, sometimes accompanied by violence, persist. HIV/AIDS and maternal mortality as well as persistent gender based violence stand as critical areas for continued improvement. All of these issues must be successfully and fully addressed for Cambodia to achieve its full democratic and economic potential.

U.S.-Cambodia Bilateral Relations

U.S.-Cambodian relations have continued to improve over the past few years. The tempo of interaction has quickened, and there has been both a broadening and deepening of positive engagement in a number of key areas. We benefit from Cambodia's cooperation on law enforcement issues, human trafficking, counterterrorism, demining, and efforts to account fully for Americans missing from the Indochina conflict. Our security cooperation with Cambodia is maturing, allowing us to focus even more on such areas as defense reform and professionalization, regional cooperation, international peacekeeping, border and

maritime security, counterterrorism, and civil-military operations. The Global Peace Operations Initiative “Angkor Sentinel” exercise in 2010 was a milestone in our growing military-to-military cooperation and exemplifies Cambodia’s commitment to international peace and stability. With United States encouragement and support, Cambodia has taken increasingly responsible positions on the world stage, including sending de-mining teams to participate in UN missions to the Central African Republic, Chad, and the Sudan.

We have actively supported the Khmer Rouge Tribunal’s efforts to bring perpetrators of that era’s atrocities to justice, and commended the tribunal’s handling of the Kaing Guek Eav, aka “Duch,” case. We paid close attention to previous allegations of mismanagement and corruption within the court administration, and successfully pushed for the appointment of an Independent Counselor function in August, 2009. Since then, the Independent Counselor has developed as a credible oversight and preventive mechanism. We and other donors are satisfied with its work. On March 31 of this year, Ambassador-at-Large for War Crimes Stephen J. Rapp announced a U.S. contribution of \$5 million in FY2010 Economic Support Funds to the court, and we will seek ways to continue our support. Former Ambassador-at-Large for War Crimes Clint Williamson was recently appointed by the UN as Special Expert to the court in order to provide legal and administrative expertise as it continues its work.

Unfortunately, Cambodia’s December 2009 forced removal to China of 20 Uighur asylum seekers, in contravention of its international obligations and long-standing cooperation with the UN High Commissioner for Refugees, has complicated our efforts to further deepen the bilateral relationship. We have called on the government publicly and privately to uphold its international obligations to asylum seekers and refugees in the future, and seek assurances that cooperation on these issues in the future will be the norm.

We also continue to push the Cambodian government on human rights and rule of law. We have targeted our foreign assistance to support programs that strengthen civil society’s ability to address legal and judicial reform, land rights, anti-corruption, the rights of women and children, prevention of human trafficking, and improving the quality of and access to education. We have also supported reform-minded institutions and individuals, sought to build capacity of public and private institutions, and encouraged expanded political participation by youth and women in elections and political processes. Our foreign assistance is also directed at a broad array of other important issues, including HIV/AIDS, maternal health, demining, professionalization of the military, and promoting economic

development. Cambodia's identification as a "focus country" under the Administration's "Feed the Future" Initiative allows us to consider ways to expand our assistance into agriculture, food security, and resilience to climate change. The Peace Corps has been active in Cambodia since 2007 and is so popular that the Deputy Prime Minister spoke at the swearing-in ceremony of the most recent group of volunteers. In all, we are aiding Cambodia's development in FY2010 with more than \$72 million, which makes it the fourth largest recipient of Department of State and USAID assistance in the East Asia and Pacific region.

Economy and Trade with the United States:

In 2004 Cambodia joined the World Trade Organization. Between 2004 and 2008, Cambodia was the seventh fastest-growing economy in the world. This rapid development was driven largely by expansion in the garment, tourism, and construction sectors. The global economic crisis had a particularly painful impact on Cambodian economic growth. Because of a slowdown in external demand and foreign investment, Cambodia's growth dropped from 10.2 percent in 2007 to negative 2.5 percent in 2009. However, there is a positive sign for recovery: International Monetary Fund (IMF) growth predictions for the Cambodian economy currently range from 4 to 7 percent in 2010 and 2011.

The United States has been Cambodia's top trading partner since 1998, with exports to the United States accounting for approximately 17 percent of Cambodia's GDP last year. Garments dominate Cambodia's exports—especially to the United States—and accounted for over \$2.6 billion, or 70 percent, of the country's overall exports between 2007 and 2009. The garment industry employs roughly 350,000 workers, mostly women. Cambodia has developed a relatively good labor record in the garment sector, built through close cooperation with the International Labor Organization and the United States under the Better Work Program. Since the expiration of the World Trade Organization's (WTO) Multi-Fiber Agreement in 2004, Cambodian garment exports have grown by nearly 20 percent, due in part to safeguards placed on imports of certain apparel from China permitted under China's WTO accession agreement. These safeguards expired at the end of 2008. Due in large part to poor external demand, merchandise exports contracted by 8.6 percent in 2009, the first annual contraction since the mid-1990s. The Cambodian government, the garment industry, and labor unions are strong supporters of legislation that would allow duty-free access for garments from Cambodia and other less developed countries.

Cambodia's liberal investment regime has led to increased investment from Asian countries, particularly South Korea and China. American investors have lagged behind this trend, but a U.S. commercial presence is starting to expand rapidly. A weak business environment, poor infrastructure, inadequate enforcement of labor laws, and the highest energy costs in the region pose significant challenges to private sector-led growth. The government needs a more comprehensive, coordinated response to improve the competitiveness of Cambodia's economy. Moreover, irregular adherence to rule of law, endemic corruption, an incomplete regulatory framework, and underdeveloped human resources prevent Cambodia from becoming more economically competitive and hinder its full development potential. For all its growth over the past decade, Cambodia remains one of the poorest countries in Asia, relying on close to \$1 billion per year in foreign assistance.

Under the United States-Cambodia Trade and Investment Framework Agreement (TIFA) and the Economic Growth Bilateral Assistance Agreement, the United States is seeking to deepen and expand bilateral trade and investment ties. We support Cambodia's efforts to implement its WTO commitments and other domestic economic reforms, and seek ways to assist Cambodian authorities in areas such as Intellectual Property Rights enforcement, transparency, anti-corruption, and effectiveness of the banking and financial sectors.

U.S. Policy on Restructuring Official Foreign Debts

Debt relief can be an important means of achieving U.S. goals of promoting economic growth, well-functioning financial markets, and economic reform abroad. Longstanding United States policy is to coordinate sovereign debt restructuring internationally, primarily through the Paris Club group of official creditors. This multilateral approach is a good value for the U.S. taxpayer because it increases recoveries from countries that are not paying their debts to the United States while maximizing benefits of debt relief for heavily-indebted, low-income countries that are unable to meet their payment obligations.

The United States provides debt cancellation only in limited circumstances, the majority of which are through the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative. This approach provides U.S. resources to pay for the budgetary cost of debt relief for countries that are facing an unsustainable debt burden. To be eligible, HIPC countries must face a debt-to-export ratio greater than 150 percent and a debt-to-revenue ratio above 250 percent, among other factors. In the first stage, debtor countries commit to implementing economic reforms aimed at

reducing poverty and avoiding a new build-up of unsustainable debt. Upon successful completion of the first stage, the United States and other Paris Club members jointly evaluate requests for debt cancellation and then reach individual implementation agreements with the debtor country. Throughout the process, State and Treasury officials rely heavily on International Monetary Fund (IMF) and World Bank assessments of a debtor country's financial need for debt relief and willingness to undertake reforms. Congress has reinforced this need-based approach to debt relief by enacting statutes such as the Special Debt for the Poorest authorization (enacted this year as Section 7033 of Division F, Department of State, Foreign Operations and Related Program, of the Consolidated Appropriations Act, 2010, P.L. 111-117) and the Enhanced Heavily Indebted Poor Countries Initiative (Title V of Appendix E of H.R. 3425, as enacted into law by Section 1000(a)(5) of P.L. 106-113, as amended). These statutes authorize the Executive Branch, under specific circumstances and criteria, to reduce sovereign debts.

Cambodia's External Debt

Cambodia's public debt is almost entirely external. In 2009, Cambodia's debt outstanding to foreign creditors was nearly \$3.2 billion, over one-quarter of which is owed to the United States and Russia. At the end of 2008, Cambodia's external public debt was 25 percent of its GDP. According to the most recent assessment by the IMF, Cambodia is at a moderate risk of debt distress, with rising contingent liabilities warranting increased vigilance. IMF data indicate that in 2008, Cambodia's debt-to-exports ratio was 37 percent and its debt-to-government revenues ratio was 167 percent (net present value terms). Cambodia, therefore, does not qualify for HIPC status. In 2005, HIPC was supplemented by the Multilateral Debt Relief Initiative (MDRI), under which the IMF and the World Bank grant full debt forgiveness to any country that has completed its HIPC program. Cambodia, however, was granted an exception to the usual eligibility criteria for MDRI and benefited from \$82 million in IMF debt relief in January 2006.

Cambodia's Debt to the United States

Cambodia's bilateral debt to the U.S. government remains an irritant to the relationship. A satisfactory resolution of Cambodia's debt would accelerate the development of an already improving bilateral relationship and enhance Cambodia's own economic development by improving its creditworthiness and access to international capital markets.

Cambodia's debt stems from shipments of U.S. agricultural commodities, such as cotton, rice, and wheat flour, financed with low interest-rate loans by the U.S. Department of Agriculture (USDA) under Title I of the Agricultural Trade Development and Assistance Act of 1954, or P.L. 480 (now entitled the Food for Peace Act). The United States and Cambodia signed three P.L. 480 Title I agreements in 1972, 1973, and 1974, during the Vietnam War and Cambodia's turbulent Lon Nol era. The United States accepted significant payments in local currency under a "Currency Use Payment" provision commonly included in such agreements; the remainder of the debt was to be paid in dollars. The Lon Nol regime never consolidated its hold on the country and in 1975 Cambodia fell to the Khmer Rouge, which ceased servicing this debt. Arrears and late interest have accumulated since that time. By the end of 2009, Cambodia's total debt to the United States totaled approximately \$445 million. About \$405 million of that amount is in arrears and would be due immediately upon the implementation of any agreement to pay the debt.

In 1995, the Paris Club group of creditor nations and Cambodia reached an agreement to restructure Cambodia's debt on Naples terms – then the most generous treatment in the Paris Club's "toolkit." At the time, the United States was by far Cambodia's largest Paris Club creditor. Cambodia benefited from a 67 percent reduction of certain non-concessional debts and a long-term rescheduling of certain concessional debts. Since all of Cambodia's debt to the United States was contracted on concessional terms at below-market interest rates, the Paris Club agreement called on the United States to consolidate arrears and future payments scheduled between January 1, 1995 and June 30, 1997 into a new loan payable over 40 years following a 16-year grace period. Debt service falling due on or after July 1, 1997 was to be paid according to the original schedule. Cambodia eventually signed debt agreements with France, Germany, Italy, and Japan to implement the 1995 Paris Club agreement and began paying those countries accordingly. The United States and Cambodia never concluded a bilateral implementing agreement, in part because the Cambodian government refused to accept responsibility for debts incurred by the Lon Nol regime and also because of a disagreement at the time over the amount of debt owed.

After several years of deadlock, debt negotiations resumed over the 2001-2005 period, with the active involvement of the U.S. Departments of State, Treasury, and Agriculture, and U.S. Embassy in Phnom Penh. After carefully examining the available legal authorities, the U.S. negotiating team's offer to the Cambodian government showed significant flexibility on the amount of debt owed, offering concessions of nearly \$100 million from USDA.

In February 2006, the Cambodian Minister of Finance indicated that Cambodia agreed with the United States, in principle, that the amount of principal it owed was \$162 million. He also agreed to move forward in drafting a Bilateral Agreement implementing the 1995 Paris Club Agreed Minute. Based on this understanding, the United States drafted a bilateral agreement that retroactively implemented the 1995 Paris Club agreement, including USDA's concessions, and presented it to the Cambodian government in the summer of 2006. The proposed U.S.-Cambodia bilateral debt agreement would reschedule the consolidated P.L. 480 debt at the original interest rate of 3 percent -- a highly-concessional rate given the interest rate environment of the early 1970s.

To date, the Cambodian government has been unwilling to sign the draft bilateral agreement and now seeks additional concessions. Specifically, it seeks a lower interest rate and/or a debt swap arrangement. Longstanding U.S. debt policy, in keeping with Paris Club principles and U.S. budget rules, is to retain the same interest rate of the original loans in any rescheduling of those loans. Offering a lower interest rate would be an unauthorized form of debt reduction.

Cambodian officials have also indicated that domestic political obstacles still make the government reluctant to accept responsibility for debts incurred by the Lon Nol regime. Although some Cambodian observers may argue that this debt is illegitimate, the United States has on its side the international law principle that governments are generally responsible for the obligations of their predecessors. The government of Iraq accepted the debts incurred by Saddam Hussein. The civilian government of Nigeria accepted responsibility for debts accumulated by military governments that ruled the country in the 1980s and 1990s. Similarly, Afghanistan accepted the heavy debt burden left by decades of foreign occupation and civil war. There are many other examples.

Senior U.S. government officials have repeatedly encouraged Cambodia to live up to the 1995 Paris Club agreement it signed with the United States and other creditors, and urged it to sign the pending U.S.-Cambodia bilateral agreement without further delay. However, Cambodia may be reluctant to accept the current proposal to settle the bilateral debt issue if it believes there are good prospects of converting a significant amount of the debt service it would otherwise pay to the United States into a form of increased U.S. assistance.

In past years Cambodia has expressed interest in a debt-for-assistance swap. The only general debt swap program that the United States currently offers is through

the Tropical Forest Conservation Act, for which Cambodia is not eligible because of its arrears. Cambodia, however, has focused on the swap arrangement that the United States established with Vietnam in 2000, and is seeking a similar statutory program. Observers often compare Vietnam and Cambodia for geographic and historical reasons, but several distinctions about the treatment of the debts these countries contracted with the United States are worth highlighting. In 1993, Paris Club creditors provided Vietnam a debt rescheduling on terms similar to Cambodia's 1995 Paris Club debt agreement. Vietnam signed a bilateral implementing agreement with the United States in 1997, resumed making scheduled payments, and was in good financial standing when Congress created the Vietnam Education Foundation several years later. This program directs about 40 percent of Vietnam's total debt payments to the Foundation for joint education initiatives. Because Cambodia is not making scheduled payments, such an individualized debt-swap program is not a possibility.

The Administration is concerned that creating a special statutory debt reduction program for a country that is unwilling, rather than unable, to pay its debts sets a poor precedent for other countries in similar circumstances and sends the wrong message about prudent debt management. Cambodia has accumulated arrears to the United States while paying other creditors on time, and in at least one case, early. Every year, both within and outside of the Paris Club context, the United States reviews and declines similar requests for debt-for-assistance swap arrangements from debtor countries that are current on their debt service and may owe billions of dollars of debt.

The Administration has therefore urged the Cambodian government to sign the pending bilateral debt agreement and re-establish a track record of timely repayments under that agreement. We have told the Cambodian government that if it makes scheduled payments for at least one year, the U.S. government would communicate to the IMF that efforts are underway to resolve official arrears. This action could pave the way, should Cambodia then obtain an IMF program and a future Paris Club debt treatment, for a rescheduling of the accumulated arrears. Unfortunately, the Cambodian government has not responded to this overture and continues to accumulate arrears on debts owed to the United States.

Congress has also expressed its view on the importance of maintaining orderly creditor-debtor relations in a number of statutes, including Section 620(q) of the Foreign Assistance Act of 1961 and the Brooke Amendment (enacted this year as Section 7012 of Division F, Department of State, Foreign Operations and related Programs, Consolidated Appropriations Act, 2010, P.L. 111-117). These statutes

provide for an automatic cutoff of U.S. economic assistance to a country that is in default on certain loans for certain periods of time. Although Cambodia's USDA debts are not subject to these default sanctions, these statutes reflect Congress's expectation that countries repay their debts to the United States in a timely manner.

Another concern about funding foreign assistance programs through the principal and interest payments of debtor countries is that it circumvents normal budget rules. Congress passed the Federal Credit Reform Act of 1990 requiring U.S. creditor agencies to make realistic estimates about recoveries when calculating the true cost of lending programs. This approach saves U.S. taxpayers money by creating transparent incentives for agencies to manage credit programs efficiently and effectively. Accordingly, the Administration requests, and Congress annually appropriate, funds to be used to pay the U.S. budget cost of cancelling a country's debt obligation or providing a debt swap. The Cambodian proposal would circumvent this congressional budget oversight mechanism.

In sum, Cambodia's prompt agreement to resolve U.S. debt claims by drafting a Bilateral Agreement implementing the 1995 Paris Club Agreed Minute, as Cambodian officials proposed in 2006, would eliminate this long-standing dispute in a scenario of otherwise improving bilateral relations. A Cambodian agreement would also enhance the country's creditworthiness and its ability to access international capital markets. Other countries following this path have benefited enormously.

Mr. Chairman, I appreciate this opportunity to appear before you today and welcome any questions you may have. Thank you.

Mr. FALEOMAVAEGA. Thank you, Mr. Secretary. I appreciate your statement and your testimony. I would like to have a little dialogue in that respect in terms of some of the issues that have been raised on this question.

Can you explain what exactly the procedure the United States currently has for granting debt forgiveness to countries that owe money to the United States? Is it in statute, or does the administration have discretion, or is it a given policy of the Treasury as well as the State Department? I would like to know.

Mr. YUN. Mr. Chairman, as you can appreciate, that issue is a very implicated issue, so I will try my best to explain what the U.S. policy is, with the provision that you do understand I am a diplomat.

Mr. FALEOMAVAEGA. I will note that for the record, sir, you are going to give a very diplomatic response to the question. I thank you.

Mr. YUN. First of all, let me say your remarks earlier on about the economic position Cambodia finds itself in and the historical remarks you made are very persuasive. However, it is not U.S. policy at this point to forgive Cambodia's debt, and let me explain that point.

In that situation you do have creditor and a debtor. In our case, U.S. is the creditor. U.S. interest is very much in protecting the creditor interest, and so in any situation we understand why countries get into debt difficulty, and so there is a general procedure.

Once a sovereign country is in a debt difficulty, what do we do about it?

Number one, the first step generally is that sovereign country must show that it is in debt difficulty. How do they show it? Typically they enter into an IMF program. Essentially, what the IMF does is go through the country's books, including its ability to finance, including how much money it has in reserve. And so they are the bookkeeper, or I guess you could say almost like a bankruptcy court internationally.

So with the IMF help, usually the creditors, there are two types of international creditors, sovereign creditor or we call it official creditor. They will reschedule their debts in Paris Club. Private side, mostly bank side, will reschedule their debt at the London Club.

In Cambodia's case, in 1995, as I mentioned, we had a Paris Club arrangement; and by perchance I happened to be there at that time. I was working for the U.S. Embassy in Paris, and I attended that debt rescheduling. And it is a negotiation process with IMF acting as the official data keeper saying how much debt relief they would need.

So at that time all the countries went through their debt and reached an agreement, what we characterize as Naples terms. And so we reached an agreement and each country from there on went back to their countries and negotiate the terms of Paris Club agreement and how each country would implement. And, as I mentioned to you, Cambodia reached that agreement with many countries and thereafter started paying them. With the U.S., we never got to that, and that's the bilateral agreement that is in question.

And so our policy is we do have a bilateral agreement that is outstanding, that implements the Paris Club. Now, the debtor country should sign the bilateral agreement so their debt relations with us is normalized. So the U.S. policy very much is to reschedule debt, forgive debts, debt reduction or anything, do it under the auspices of the Paris Club.

Mr. FALEOMAVAEGA. In terms of the IMF's involvement, as you had mentioned, pursuant to the Paris agreement that was made in 1995, how much influence does the United States have in the operations of the IMF? Don't we have about somewhere between 25-30 percent of the assets, votes, and influence within the IMF? Does the United States have that much influence in the process?

Mr. YUN. Again, Mr. Chairman, I regret very much, like you, my Treasury colleague not being here. So let me try as best I can—

Mr. FALEOMAVAEGA. Well, I just want to say that you are more senior than the Treasury Department anyway. I have always held the belief that the Secretary of State is the most senior member of the President's cabinet. In that sense, as far as I am concerned, the Treasury is second to the State Department, as far as formulating policies by the President. Now, correct me if I am wrong on that.

Mr. YUN. Thank you for your confidence.

On the IMF issue, we do, I believe, have about 19–20 percent of contribution, and that contribution is reflected in our voting size. So, of course, when a country goes there for a program, the U.S. reveals that program is very much a factor. I would agree with you. But I think in these cases what IMF does, the IMF program is essentially to put the house in order.

Mr. FALEOMAVAEGA. I understand that, Mr. Secretary. Can you tell me how we were able to forgive Iraq's debt for some \$4.1 billion 6 years ago? I assume that they went to the Paris Club, they went to the IMF, the same procedures. Somehow we were able, through the goodness of our hearts, to say, Iraq, we forgive you for \$4.1 billion.

That is not a pittance. That is a lot of money that we forgave and apparently Iraq qualified for this debt forgiveness?

Mr. YUN. In Iraq's case, they did go through IMF, and it was re-scheduled at IMF. What has happened between 1995 and 10 years down the road is that terms change and the amount of debt forgiveness a nation can do change. So after Naples terms that Cambodia was beneficiary of, we had other, more generous terms. I mean, at that time, in 1995, the Naples terms were the most generous.

And, also, we are going to have, throughout debt history, special cases. I believe Iraq was one of them; and there were special cases also for Poland, Egypt, countries that underwent significant transformation.

Mr. FALEOMAVAEGA. Mr. Secretary, with all due respect, I know what you mean. Iraq was a very special case. Given the fact that we have spent almost \$1 trillion in fighting this war in Iraq, not only for the loss of lives and 2 million Iraqi people that died as a result or displaced, as you said, there are special cases given to each country, I grant that. That is an important consideration.

So it now comes down to our basic foreign policy and political consideration. We bombed the hell out of Cambodia when we invaded Cambodia. This was one of President Nixon's defining moments, a legacy of his administration, when we sent military forces into Cambodia, supposedly to go after North Vietnamese forces, which was true. They had sanctuaries. The North Vietnamese had strongholds along the Vietnam-Cambodian borders, and with some justification. I can understand that. But what I am really troubled by all of this is that Cambodia is considered a least-developed country by the United Nations. How many countries are in the LDC classification within the United Nations?

Mr. YUN. I would say quite a few.

Mr. FALEOMAVAEGA. Can you submit that for the record? I believe there are about 50 LDCs—

Mr. YUN. Yes.

Mr. FALEOMAVAEGA [continuing]. Within the United Nations of 190-some countries that make up the United Nations.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

Currently, the United Nations classifies forty nine countries as Least Developed Countries (LDCs). Cambodia is classified as an LDC.

Mr. FALÉOMAVAEGA. I just wanted to pry into this issue a little more. Some of our policymakers, including me, ask, why can't we recycle? What is wrong with recycling the debt process? I think there seems to be not so much the money here but it is the principle.

Somehow, somebody seems to be so annoyed by Cambodia. Whatever it was historically. I can talk to you about the killing fields. I have been there. It is one of the saddest legacies of modern history—the genocide that was committed against the Cambodians. And by implication we were very much a part of what happened in that country. Really, really a sad history. I consider our involvement in Cambodia as very special in that it cost so many lives. Some 20 percent of the country's population was decimated through genocide.

And this was because we wanted to continue the Vietnamization process. President Nixon had tried very hard to get us out of Vietnam. And, as you know, instead of getting out of Vietnam, we ended up invading Cambodia—Nixon's private war, as some have said.

So I don't see where the comparison could be said that Cambodia is not special enough, in the same way that we were able to forgive Iraq's debt of some \$4.1 billion and Yugoslavia's debt incurred under Marshal Tito. He was no democratic person.

I mean, during the time of Yugoslavia's problems, we forgave Yugoslavia's debt of \$538 million. So I just want to say by comparison Yugoslavia and Iraq do not come to the same status as Cambodia with the problems and the complications and the difficulties that our country faced when dealing with these people.

I don't mean to suggest you are just throwing out numbers and figures, but I want to say that these are people. I just wonder, is there an existing policy that we have toward Cambodia that continues to allow or to say that our standing policy is that they must pay their debt because we don't want to set a precedent? The problem is that we have already set precedents. We have already forgiven debts of several countries.

As you said, it is complicated. There are exceptions. There are special cases. I happen to believe that Cambodia is a special case, and we ought to give due consideration to them for what we did to these people, their lands, and the misery is still there.

We have not even cleaned up the mess that we created in Cambodia from the hundreds of thousands of tons of bombs that we dropped on its people. A lot of innocent people died as a result.

Mr. YUN. Thank you, Mr. Chairman.

I would say that the overriding factor on debt issues is the capacity to pay. And if you look where Iraq was, where countries like Egypt were, where they went when they had a debt program, they could not sustain the amount of debt they had, which was why debt reduction was possible for those countries.

In the case of Cambodia, admittedly, they are a least developed country among them, but their capacity to pay is there in terms of foreign exchange earnings.

Mr. FALÉOMAVAEGA. I didn't mean to interrupt you, and I appreciate that term, that they have the "capacity to pay." So then it raises the question of principle. The principle is that it was an ille-

gitimate government that caused the debt to be incurred during General Nol's military takeover against Prince Sihanouk's government.

Now was that a legitimate government that we supported? There are still a lot of questions raised right now whether our intelligence agencies had anything to do with overtaking Prince Sihanouk's government when General Lon Nol became the new dictator, if you will. And, of course, later on, a civil war broke out between the Khmer Rouge and Lon Nol, who was kicked out.

So this is another gray area. To say that, on the one hand, they might have the capacity to pay, but then, as a matter of principle they say, Why should I pay when it wasn't us that were there? I mean, why is it that we are being targeted as the government to pay for these debts?

We could have said the same thing about Tito's government and his reign in Yugoslavia. The succeeding government of Yugoslavia, whatever existed then, should have been responsible. In the same way, in Iraq—the government was legitimate even though it was controlled by a dictator. How do we say that a government's legitimacy comes from the fact of whether you are a dictator or whether you are ruled by a dictator?

Mr. YUN. Mr. Chairman, in regard to that issue of what happens to the debt as it gets passed from one government to another, it is the policy of the U.S. Government and is standard international practice that whoever takes over the government assumes responsibility for all previous government. There is a class of debt called ODS debt, but that is very narrowly defined.

In the case of Cambodia, these were agriculture, PA 480 debt, mostly for foodstuffs. I think it would be another thing if, say, Lon Nol bought tanks with them and started, you know, fighting or, you know, forces that were, say, loyal to Prince Sihanouk at the time and so on. So it is very hard to classify agriculture commodities in that class of ODS debt.

Secondly, even in countries like Iraq, Afghanistan, they have assumed their previous debt. You are right. A lot of them, you are right, were forgiven, but there are some debt they have assumed. I don't think it was 100 percent forgiveness. I will get the data for you—

Mr. FALEOMAVAEGA. Please.

Mr. YUN [continuing]. How much they were forgiven.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

Afghanistan qualified for treatment as a Heavily Indebted Poor Country (HIPC) according to the eligibility requirements established by Congress in the Enhanced Heavily Indebted Poor Countries Initiative (Title V of Appendix E of H.R. 3425, as enacted into law by Section 1000(a)(5) of P.L. No. 106-113) and we signed the bilateral agreement with Afghanistan authorities in July, 2010. Congress authorized funds for the forgiveness of 100 percent of Iraqi debt in section 135 of the Continuing Resolution (P.L. 108-309)(CR), enacted into law by Section 569 of the FY 2005 Foreign Operations Appropriations bill, H.R. 4818, as passed by the House of Representatives on July 15, 2004. U.S. government forgiveness of both Afghanistan's and Iraq's official debt was coordinated through the Paris Club of creditor nations which requires, as a condition on such forgiveness, that the debtor nation have an IMF program. Cambodia does not have an IMF program.

Mr. YUN. So that policy is very much based on capacity to pay, Mr. Chairman.

Mr. FALEOMAVAEGA. I make an observation that one of the things that really riles me up is all the resources and the amount of money that we spent in the war in Iraq. And, all of a sudden, overnight, after spending almost \$1 trillion and causing the suffering that we have caused the people of Iraq, and then when the new government came up it says they are going to have a bidding process for oil companies that could come and help extract the oil so that they could start, go back to prosperity and all of that.

So 30 major oil companies conducted their bidding, and guess what country won the oil contract? The People's Republic of China, which didn't lift a finger, not even an ounce in terms of having it any way associated with all the resources and the sufferings and the commitments that we made. China ended up tapping into the resources of the oil that, I thought, as a matter of policy, was why we had to go to Iraq to make sure to secure the oil supply, that we don't lose that.

Well, after the bidding, as we like to do free enterprise market system and letting the markets control, China ended up getting the oil contracts. So that was a special condition, to say the least.

Here is just a question for you, Mr. Secretary. Is there a strategic argument for offering Cambodia debt relief? Many have argued that economic dependence has made Cambodia one of China's strongest allies in Southeast Asia. Do you agree, and would debt relief from the United States change this dynamic?

Mr. YUN. Mr. Chairman, I believe debt relief should be offered in the context of our debt policy. So in that sense we did make progress in 2006. We did come to terms on the actual amounts owed. So, right now, I think the way forward is for us in Cambodia to at least come to terms on the bilateral agreement so that Cambodia is current for, say, 1 year or so, which we have asked them. After 1 year, we can review the situation, but it is very hard to commit to up-front debt forgiveness, debt reduction, debt swap.

I mean, that really isn't the domain of Congress. If you allow us—if you allow us to do that, because what it means is that our budget, the U.S. Government budget, has to reflect that. If you allow us that, sure. I mean, we can do it.

Mr. FALEOMAVAEGA. I remember a couple of years ago there was a newspaper article that said we had forgiven Jordan \$500 million in debt, just like that. And Jordan isn't exactly a least-developed country, may I add. So, here again, I guess one word that comes to mind is contradiction. I am a little puzzled when you mention there have to be special circumstances to forgive debt.

I would deeply appreciate if you could submit for the record what exactly is both the State Department policy as well as that of the Treasury Department, since they are not here, to outline exactly what process and what specifics these countries have to follow in order to qualify for debt forgiveness. Because, as you said, it is complicated.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

The fundamental principle underlying debt forgiveness is that debts owed to the United States are assets of the United States and that federal officials generally lack authority to dispose of such assets without both: (1) statutory authority from Congress; and (2) a corresponding appropriation to pay the "subsidy cost" of the debt forgiveness under the Federal Credit Reform Act of 1990 (2 U.S.C. § 661, et seq.). Further, any additional conditions on that forgiveness included by Congress in the authorizing statute(s) must also be satisfied. When debt is forgiven, the Federal Credit Reform Act of 1990, 2 U.S.C. § 661, et seq., requires that Congress have appropriated sufficient funds to the Treasury Department's Debt Restructuring Account to pay the "subsidy cost" of the forgiveness on the government's books. Foreign government debt is maintained on the account books of the United States Government as an asset. Changes to loan contracts, including debt forgiveness, are considered modifications to the original loan agreements under the Federal Credit Reform Act and require an appropriation amount to pay the value of that modification. Essentially, this is double entry bookkeeping with the "subsidy cost" of the debt forgiveness offset by an appropriation enacted by Congress to pay the cost of the forgiveness. The Office of Management and Budget (OMB) has issued detailed rules on how this amount is "scored" for budgetary purposes.

Mr. FALEOMAVAEGA. Secondly, there are special circumstances.

Thirdly, I am totally puzzled as to what are these exceptions or special cases that makes Cambodia different from these other countries that I have just shared with you where we have forgiven debt.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED
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Cambodia's situation is different from other countries that have been given debt relief in a number of important ways. For example, whereas Cambodia has paid other creditors on time or early, it has made no attempt to pay the United States despite there being a Paris Club agreement. Also, Cambodia is the only country that has refused to pay the United States on the grounds that the debt is "odious." We do not agree with the Cambodian view that this debt is "odious" or that Cambodia is relieved of payment obligations. Finally, every country that has had debt forgiven by the United States has had an IMF program. Cambodia is requesting debt forgiveness even though it does not have an IMF program.

Mr. FALEOMAVAEGA. Could I ask if you could do that for the record? So at least, assuming I get re-elected in November, you will see my ugly face again. And I don't know if we are going to take a majority of the House, but I assure you we are going to revisit this issue again, maybe by introducing a bill that will reflect the concerns of my colleagues here and me.

I fully understand the standard policy. We don't want to set a precedent. But when I look at the number of countries that have had their debts forgiven, that is where I raise more questions and say, Well, we have a standing policy, but there are exceptions to the rule.

If you could, Mr. Secretary, if you could submit for the record all the countries for which we have forgiven their debts. It would also be helpful to explain what gave rise to our justification in forgiving those countries of their debts. I think that would really help the record.

Mr. YUN. We will do that, sir.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

Attached please find Table A5 from Treasury's Foreign Credit Reporting System's Salmon Book, which lists U.S. bilateral debt reductions from FY 1990 through FY 2009 and the statutory authorities under which those debts were forgiven. Since the table was published, Tropical Forest Conservation Act (TFCA) agreements with Peru (2008—\$25.1 million) and Brazil (2010—\$20.8 million) have been finalized.

Mr. FALEOMAVAEGA. All right. I really thank you.

I think I have already asked a question, and you have already raised the conditions that Cambodia has to come up with in order for them to properly pay their debts. Whatever documentation or things that relate to that, I would appreciate if you could submit that for the record, and maybe even the terms of the Paris Agreement, do that as well.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

The 1995 Paris Club Agreed Minute is attached along with the draft of a proposed bilateral agreement between the U.S. and Cambodia, which was never signed. Also attached is a copy of the February 2010 letter from Under Secretary of State Hormats to Cambodia's Deputy Prime Minister Hor Namhong, which offers a generous rescheduling of arrears, provided that certain basic conditions are met. We have not received a reply to this letter.

Mr. FALEOMAVAEGA. What about the suggestion by some of our policymakers—including myself—about the recycling of this debt forgiveness? Is that a poor option? Has it been done in other countries about recycling resources?

Mr. YUN. It has been done quite a bit, sir, I would say. There is, as I said, one program in the U.S. Government called Tropical Forest Conservation Act. And essentially what that program does is payment is made in local currency, and that money goes toward protecting forests. And we have done it in several countries.

Mr. FALEOMAVAEGA. I didn't mean to interrupt you, but I think there is one standing issue that has been brought to my attention, that some of the richest cultural, historical sites—I don't know if it is an ancient city or ruins—that sit right on the border between Thailand and Cambodia. It has been suggested by some of the NGOs and other organizations that some kind of funding process could be brought about so that these countries, rather than fighting over their borders in this very historic area between Cambodia and Thailand, that maybe some kind of an international cultural heritage, some type of thing that would be beneficial to visitors, tourists coming from—whether you are from Cambodia or from Thailand, certainly as a means of giving a greater economic boost for the tourism industry of both of these countries. I have been informed that—this was one suggestion that was offered, that maybe the recycling of the debt could be done in that format. But what is your best sense about recycling as another option to consider in dealing with Cambodia's debts?

Mr. YUN. I think recycling, or debt swaps as we call it, is certainly something that could complement our debt program with them.

However, one real difficulty currently doing something like recycling is that Cambodia is in arrears in the sense that they have

stopped paying us. And so, as in any creditor/debtor relation, when a debtor stops paying you, the creditor is not going to say let's think about these creative options. I mean, those options only come as we negotiate and normalize debt relations. So I would say, Mr. Chairman, certainly those are great ideas and we should and we will explore them, but please understand they can only be done as debt relations become normal.

Mr. FALEOMAVAEGA. So, in other words, you are making a precondition. Before you may consider recycling, you have to start paying up your debts to kind of show that in good faith you are sincere in your efforts to try and pay your debts. Am I sensing this is our policy on recycling?

Mr. YUN. That is very much it. Our U.S. Government is a tough creditor, sir.

Mr. FALEOMAVAEGA. Well, \$4.1 billion, that is a pretty sizeable debt forgiven for Iraq, which has a huge amount of oil. I think number two or three largest oil reserves in the world.

So what does Cambodia have to depend upon? Not very much. The textile industry is really the only thing that is really putting this poor country on the strings of trying to get economic billing. And when you compete against the largest textile industry, like China or Bangladesh or India or other countries, you are living in a real tough market situation there where these 14 million people in Cambodia are struggling to make ends meet and survive.

So basically you are saying that the basic policy on the recycle issue is that we do have this precondition that you have to start paying your debt before we talk about recycling. Is that basically the administration's position on this?

Mr. YUN. I would say in order for us to discuss issues like that, Cambodia really should come to terms—and Cambodia and us, it is negotiations—should come to terms on what to do about arrears and what to do about payments coming due. Once we can come to terms on those, I am pretty sure we can discuss some of the options you have outlined.

Mr. FALEOMAVAEGA. So it isn't a question of whether the government was illegitimate. It is a question of whether you are a dictator or whatever it is, you are responsible for the debts that incurred in that given period, obviously. Because this is what happened historically with Cambodia and why we are slapping this \$400 million debt because of something that General Lon Nol did in receiving these agricultural commodities.

Is this also one reason why our assistance in ordnance, trying to clean up the mess that we created, the bombings in Cambodia, is this also one of the reasons why we are not forthcoming in helping Cambodia get rid of the mess that we created, because they haven't repaid their debt?

Mr. YUN. We are in a kind of, I would say, contradictory situation. We do give assistance. Our USAID programs in Cambodia are in the region of \$60 million or so. And we do that every year. There is a substantial USAID program in terms of health, public health programs, HIV/AIDS programs. We also have education exchanges and some fellowships there.

Mr. FALEOMAVAEGA. Can you submit for the record total U.S. assistance programs—

Mr. YUN. Yes, happy to do so.

Mr. FALEOMAVAEGA [continuing]. Loans and stuff that are currently given to Cambodia every year.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED
DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

In Fiscal Year 2010, the United States provided \$72.6 million dollars in assistance to Cambodia. That amount includes development assistance, economic support, military financing, health, education, and non-proliferation and anti-terror programs.

Mr. YUN. So for a lot of people looking at this situation, it would seem ironic that we are insisting on debt payments while we are giving assistance. But these are two, we believe, separate issues. Matters of debt follow their own policy issue. Matters of assistance—and I think it is correct that we do that. We cannot withhold assistance because of some disputes over what is owed and what is not owed. That will take time coming to terms, and we are coming to that.

So in terms of assistance on unexploded ordnance and so on, we continue to give them. We have programs both in Cambodia, Laos, and Vietnam—we call it UXO programs. And we work with NGOs on cluster bombs, especially in Laos and Cambodia. And we also work somewhat on education programs so that people are, I would say, watchful of these UXOs.

Mr. FALEOMAVAEGA. I appreciate you mentioning the situation in Laos. I visited Laos recently. We dropped 2 million pounds of bombs, probably the most bombed country per capita in the world. What we did in that country, both Laos and Cambodia, as a result of that a lot of unexploded ordnance remains in the farmlands and all over. Approximately 300 people—mostly children and women, because they look for scrap metal—end up getting into a lot of these bombs that were unexploded and ended up getting blown up themselves. And so for the Unexploded Ordnance Program that is currently being carried out right now, for example, in Laos, we contribute only \$3 million a year to do this. And I will say, Mr. Secretary, I sincerely hope the administration is going to change the policy of giving a little more than the measly \$3 million to clean up the mess that we created both in Laos as well as Cambodia, especially for all of that. It is still there.

I am not going to get into the cluster bomb situation. I don't know if many Americans know what a cluster bomb is. Although I have seen a bombie—they are called little bombies—these cluster bombs are dropped from planes and in midair would explode, putting out 50, 100 bombs like little grenades. I mean, it is amazing how man can invent machines and things on how to kill in a more perfect way, but probably put it in other terms, the worst way in killing other human beings, and we did this to the Cambodians. A lot of innocent people died as a result of these cluster bombs that we dropped on them. But worst is that thousands or millions of these bombies are all over the country, and because they haven't exploded, children get—I think 300 people get killed a year because of what we have left that we never cleaned up, the situation that we did there.

So I hope in some way that, as much as we are giving assistance, that we can give a lot more than \$3 million a year to clean up the unexploded ordnance that we have left both in Cambodia as well as in Laos.

Mr. Secretary, I know I have retained you for quite a long time here, and I don't want to hold you any further.

As I understand it, you mentioned earlier that debt forgiveness is an entirely different issue from the current U.S. assistance programs for Laos. What is your best estimate as to the total amount of money that we provide in assistance programs, Mr. Secretary, to Cambodia?

Mr. YUN. We will get the exact figure for you. By my recollection, it is about \$60 million a year.

[The information referred to follows:]

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DURING THE HEARING BY THE HONORABLE ENI F.H. FALEOMAVAEGA

In Fiscal Year 2010, the United States provided \$72.6 million dollars in assistance to Cambodia. That includes development assistance, economic support, military financing, health, education, and non-proliferation and anti-terror programs.

Mr. FALEOMAVAEGA. Could you also provide for the record total exports, imports of products?

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. JOSEPH Y. YUN TO QUESTION ASKED
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In 2009 total trade with Cambodia was approximately \$2 billion. Total exports to Cambodia amounted to \$127 million, and total imports from Cambodia equaled \$1.9 billion. U.S. exports to Cambodia include motor vehicles, textile fibers, waste, professional and scientific instruments, and vegetables and fruit. Cambodian imports to the United States include apparel, textile yarn and fabric, footwear, miscellaneous manufactured goods, and fish.

Mr. FALEOMAVAEGA. Does the United States have any trade, any export relations, import/export ties with Cambodia?

Mr. YUN. We have very good export-import relations. As you mentioned, textile trade—of course, textile exports from Cambodia is a very big source of U.S. imports of textiles. There is substantial U.S. investment there, especially in the mineral sector and the oil and gas side. And I would say the economic relations is really improving, as is the Cambodian economic situation in general. They are very hardworking people, and they are doing quite well.

Mr. FALEOMAVAEGA. Mr. Secretary, I want to thank you for your participation in this dialogue. I sincerely hope that one day both of us will travel to Cambodia and meet with officials of that government and find a solution to the current problem with this debt issue that we have discussed this afternoon.

Thank you very much. The hearing is adjourned.

[Whereupon, at 3:15 p.m., the subcommittee was adjourned.]

APPENDIX



MATERIAL SUBMITTED FOR THE HEARING RECORD

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT
Eni F.H. Faleomavaega (D-AS), Chairman

September 23, 2010

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Subcommittee on Asia, the Pacific and the Global Environment, to be held in **Room 2172 of the Rayburn House Office Building** **(and available live, via the WEBCAST link on the Committee website at <http://www.hcfa.house.gov>)**.

DATE: Thursday, September 30, 2010

TIME: 2:00 p.m.

SUBJECT: Cambodia's Small Debt: When Will the U.S. Forgive?

WITNESS: Mr. Joseph Y. Yun
Deputy Assistant Secretary
Bureau of East Asian and Pacific Affairs
U. S. Department of State

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

HEARING MINUTES OF SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT

Day: Thursday
Date: September 30, 2010
Room: 2172 Rayburn House Office Bldg.
Start Time: 2:05 p.m.
End Time: 3:15 p.m.
Recesses:
Presiding Member(s): Chairman Eni F.H. Falcomavaega

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session [X]
Executive (closed) Session [X]
Televised [X]
Electronically Recorded (taped) [X]
Stenographic Record [X]

TITLE OF BRIEFING: "Cambodia's Small Debt: When Will the U.S. Forgive?"

COMMITTEE MEMBERS PRESENT:

NONCOMMITTEE MEMBERS PRESENT:

BRIEFERS: Same as meeting notice attached? Yes [X] No [] (If "no", please list below and include title, agency, department, or organization.)

ACCOMPANYING BRIEFERS: (Include title, agency, department, or organization, and which witness the person accompanied)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record)
Chairman Falcomavaega, Mr. Yun (witness)

[Handwritten Signature]
Lisa Williams
Staff Director

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE ENI F.H. FALEOMAVAEGA, A REPRESENTATIVE IN CONGRESS FROM AMERICAN SAMOA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT

PRE-1975 LOANS FROM USA TO CAMBODIA
Position Paper

I. Historical Background

1. Through three successive agreements with the US Department of Agriculture (USDA) in 1972, 1973, 1974 and 1975 the then Government of the Khmer Republic agreed to purchase commodities such as cotton, cotton-yarn, tobacco, vegetable-oil, wheat, wheat flour, and rice. The cost of purchasing these items was converted to *three* loans at the point of shipment from the United States.

2. Since the overthrow of that government in Cambodia by, and during the period of the genocidal Khmer Rouge regime, April 1975 to January 1979, Cambodia not only suffered the worst human tragedies in its history but all its valuable records had been destroyed, leaving no trace of any agreements with the USA in regard to the above-mentioned loans. Furthermore, it is not clear if the loans were indeed incurred after observing due processes of law and procedure as are now insisted upon by multilateral financial institutions like the IMF, World Bank and ADO. In the absence of such records, Cambodia is obliged to accept copies of the documentation which were first provided by USDA on April 24, 2002 in this regard.

3. According to the copies of records made available by USDA, the total amount of the three loans provided at that time included not only value of shipments said to have been sent to Cambodia directly, but also US\$ 130 million worth of shipments for which the documentation showed the destination to Vietnam and Korea (it is doubtful if in the then prevailing conditions of war in those parts, these ever reached Cambodia at all).

4. However, the USDA's legal position on shipments made to third party countries is that the commodities shipped became the obligation of the Government of the Khmer Republic at the moment the commodities were put on ships at the port of departure in the United States.

5. In recognition of international law and practices and in spite of the very heavy financial burden it imposes, the present Royal Government of Cambodia is obliged to accept and take full responsibility for past debts and agreements, incurred by the then government during 1970-75, although there are insufficient documentation to substantiate the debt which is widely perceived as either illegitimate or odious.

6. However, this issue is highly politically sensitive inside Cambodia. Based on circumstances prevailing at that time when the civil war was raging and the subsequent period of genocide, these loans could even be considered as "regime debt" or "ineffective debt" under the broader category of "odious debts".

Paris Club

7. On January 26, 1995 Cambodia concluded a debt rescheduling arrangement with Paris Club creditors covering France, Germany, Italy, Japan and the United States, and later joined by the Russian Federation. Accordingly, agreement was reached on part of the debt, based on the cut-off date of December 31, 1985, to be treated under the Naples 67% terms with:

- Non ODA credits; to be repaid over 23 years , with 6 years of grace, after cancellation to a level of 67 percent; and
- ODA credits: to be repaid over 40 years, with 16 years of grace.

B. With the exception of the United States of America and the Russian Federation, Cambodia has signed bilateral agreements for the rescheduled loans with the other creditors and has continued to meet the obligations to these creditors as they have fallen due.

9. Moreover, some old debts have been written off by the concerned creditors and some are being negotiated for 100% recycling for the purpose of poverty alleviation.

Bilateral Negotiations with USA

10. An effort was made in 2005 to try and seek a satisfactory resolution of the outstanding debt from the related three loans. This initially involved checking all available documentation, validating the calculations of the amounts owed, and reconciling the differences in amounts calculated by the U.S. Government and the Royal Government of Cambodia.

11. A Cambodian delegation from the Ministry of Economy and Finance travelled to the United States for bilateral discussions with officials of State, Treasury and Agriculture Departments in Washington D.C. from November 8-10, 2005. While no agreement was reached, additional supporting documents were provided to the Cambodian delegation. Following these discussions, the U.S. Government submitted an offer whereby they were prepared to forego all loans for which documentation was lost as well as the interest payable on interest arrears. The last offer submitted by the U.S. Government on December 5, 2005 stipulated the principal amount Cambodia owed to the United States as approximately US\$ 162 million (which included shipments valued at approximately \$130 million for which documentation showed destinations other than Cambodia).

12. This offer was not acceptable to the Royal Government of Cambodia on basically the counts that interest proposed to be charged at the rate of 3 percent on the rescheduled loan was higher than what Cambodia was charged, at a maximum 2 percent, on its external loans for the purpose of development projects, and other details such as the differences in total amount of debt and the rescheduling of arrears and debt services falling due.

II. Global and National Context

13. The global economic crisis of 2008 posed the greatest challenge faced by the world economy in modern times. While the developed economies faced a multitude of adverse impacts, the crisis threatened to reverse the achievements in poverty alleviation in developing and poor countries including Cambodia. Cambodia was one of the most vulnerable countries and its poor was facing a disproportionate impact of the crisis which threaten to reverse the achievement Cambodia made over the last 10 years in poverty reduction and the targets towards the Millennium Development Goals (MDGs).

14. Cambodia has been successful in reducing poverty level from 45% in 1994 to about 30% by 2008. The social protection and safety nets instituted by the Royal Government, after the global economic crisis, to shield the poor and other vulnerable groups from slipping into extreme poverty placed a major financial burden on available resources. The burden was further compounded by the food crisis that followed where the increase in prices of basic food commodities threatened to drive our poor to hunger. Under these extreme circumstances, the resources of the Royal Government are stretched to the limits.

15. The Royal Government has embarked on a development strategy to increase rapid development of the agriculture and rural development sector to address the need for food security for its people. It continues to invest heavily in education and health to maintain the targets under the MDGs and implement policies and programs for sustainable level of growth in its economy which is prerequisite for eliminating extreme poverty and reducing the number of poor. As a result, the two crisis have placed severe strain on the financial resources of the Royal Government which is expected to remain unabated in the foreseeable future as we attempt to bring the economy back to a growth trajectory that can continue to lift our poor out of poverty. This obviously has an impact on the ability to the Royal Government to pay debts and at the same time borrow for these development needs.

16. The G20 summit in London in April 2009 agreed on a Global Plan for Recovery and Reform under which it took the responsibility for the economic crisis and committed to help those most affected in vulnerable countries in particular, the world's most impoverished people. Among the major commitments made at the London (April, 2009) and the Pittsburgh (September, 2009) Summits, the G 20 countries reaffirmed their historic commitment to the MDGs and ODA pledges which also included a commitment for debt relief. There is very strong awareness and consensus in the global community, including the USA, that the leaders of the G20 should take bold steps to ensure that poor countries affected by the crisis are not forgotten. You may be aware of the appeal by Jubilee USA Network, an alliance of 75 religious denominations and faith communities, NGOs and labour, environmental, and human rights groups, made just prior to the Toronto Summit in June this year, calling on the USA to lead the G20 in committing to provide debt relief and grants to poor countries affected by the global economic and financial crisis.

17. The global economic crisis was not of our making and Cambodia played no part in it. Yet Cambodia has and continues to suffer from the impacts bringing untold sufferings to its people who have struggled to lift their livelihoods from the destruction of the past. G20 countries have collectively agreed to shoulder the responsibility to mitigate the social impacts of the crisis and have made commitments to this effect. In light of these global commitments, the severe financial constraints and burden placed on the Royal Government as a result of the two crisis, and the likely odious and illegitimate nature of the loans, we call upon the goodwill and generosity of the Government of the USA, the Congress and its honourable members, and the people of the USA to grant a cancellation of the debt resulting from these three loans. This will reduce the financial burden on the Royal Government and allow it to redirect the resources freed up from the forgiveness of the debt to the program and projects that target food security, social protection and poverty reduction.

Enhancement of Future Relationship

18. While the Royal Government and the people of Cambodia have already begun to deepen the relationship between our two countries, the position of the USDA in seeking the repayment of the debt arising out of the three loans poses a lingering obstacle in building a stronger and lasting relationship. Forgiveness of the debt will be seen as a good gesture on the part of the Government of USA and will send out the right signals to our people that you care and understand our needs. The removal of this obstacle can potentially herald a new beginning and era of enhanced and mutually beneficial partnership and open the possibilities of greater cooperation in region between the two countries.

19. Cambodia is taking substantial stride in joining the global community in the pursuit of peace and prosperity for all. Cambodia was very encouraged by the participation of President Obama in the 1st U.S. - ASEAN Leaders' Meeting in Singapore in November 2009 and by the Joint Statement on Enhanced Partnership for Enduring Peace and Prosperity. As a member of the ASEAN, the Royal Government welcomes the US commitment to a sustain engagement with ASEAN. The constructive and positive message of President Obama was further reinforced in the statement by the U.S. Secretary of state Hillary Clinton in the recently concluded ASEAN Ministerial Meeting in Hanoi, Vietnam that "The Obama Administration is committed to broad, deep, and sustained engagement in Asia". We stand ready to build a strong, enduring and mutually beneficial relationship with the USA both with Cambodia and in the ASEAN region.

20. The Royal Government and the people of Cambodia foresee opportunities for strengthening of our relationship in the future and look forward to your sympathetic understanding of the social and economic development challenges faced by Cambodia. We would like to request a favorable consideration of our proposal for the cancellation of the debts arising from the three related loans.

III. Proposal

21. The Royal Government and the people of Cambodia are very appreciative and thankful to the esteem US Congress for providing this opportunity for making this submission for the resolution of the outstanding debts arising out of the three loans with USDA. The financial resources of the Royal Government are under severe pressure given the multitudes of challenges and constraints facing the country after the adverse impacts of the global economic and food crisis. We seek the understanding and goodwill of the honourable members of the Congress, the US Administration, and the people of the people of USA in granting a favourable consideration of our request for the cancellation of the related debts.

**FOREIGN AFFAIRS' SUBCOMMITTEE ON ASIA, THE PACIFIC
AND THE GLOBAL ENVIRONMENT
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515**

**STATEMENT OF
THE HONORABLE ENI F.H. FALEOMAVAEGA
CHAIRMAN**

**before the
TOM LANTOS HUMAN RIGHTS COMMISSION (TLHRC)**

Human Rights and the Rule of Law in Cambodia

September 10, 2009

Not too long ago, I had the opportunity to visit Cambodia and I am convinced that no person of conscience could walk away from the experience without wanting to lend a helping hand. There is not an individual now living in Cambodia who has not in some way been impacted by the atrocities or crimes against humanity committed by the communist movement known as the Khmer Rouge which ruled Cambodia from 1975-1979.

Led by Pol Pot, also known as Brother Number One, the Khmer Rouge was one of the most brutal regimes of the 20th century. Responsible for the deaths of an estimated 1.7 million people out of a population of only about 7.5 million, its heartless motto was "To keep you is no benefit. To destroy you is no loss."

While we could debate, like historians are now doing, whether or not the U.S. bombing campaign from 1965-1973 and the suspension of U.S. aid to Cambodia in 1973 led to Pol Pot's rise, and while we can take issue with current problems associated with Cambodia's developing government, I would like to put politics aside and focus on how we might be of assistance to our brothers and sisters in Cambodia who have suffered enough.

I do not believe that holding a hearing that gives voice to the opposition party and excludes the ruling party is the way for us to proceed in affecting change in Cambodia. I also do not believe that any Commission should usurp the role of the U.S. Department of State or the diplomatic relations we have established between our two countries. While we expect a Commission to invite NGOs and other interested parties to testify, in instances where we have established diplomatic ties, I believe a Commission crosses the line when it extends invitations to active Members of Parliament, and even more so when invitations are extended to one political party and not the other. Although it may be the prerogative of a Commission to operate however

it wishes, it does not make for good policy to operate from a premise of bias when dealing with foreign governments with which we have diplomatic ties.

Having known the late Tom Lantos, I do not believe he would approve of the way this hearing has come about. Tom Lantos was a just man, a pioneer of human rights who believed in engagement. As a case in point, he visited North Korea on three occasions in an effort to bring about peace through dialogue. In every hearing he held as Chairman of the House Committee on Foreign Affairs, he made sure that both sides of any issue were fully represented.

The co-chairs and members of the Tom Lantos Human Rights Commission are also honorable men who I know to be just and sincere. I am certain that they, too, would have preferred that the staff responsible for putting the witness list together for this hearing had notified the Royal Government of Cambodia in advance and asked for its participation and input. This was not done, and I could only conclude that this was a staff oversight, and not the intent or desire of the Commission.

While the Commission is under no obligation to consult with House Subcommittees that share jurisdiction on these issues, I was disappointed that as a matter of professional courtesy that Commission staff did not reach out to the Subcommittee on Asia, the Pacific and the Global Environment. Ambassador Hem Heng of Cambodia did contact my office to express his deep concerns and, for the record, I am submitting his government's response as well as his letter to me dated 9-9-09.

I also asked the Commission to include him as a witness but, upon further thought and consideration, knowing that he would not be afforded the same time to prepare testimony as the opposition had been given, I withdrew my request. In the interim, one day before the hearing, Ambassador Heng received an email from Commission staff stating that the "*witness panel is full*" but that the Commission "*would be happy to organize a staff level meeting with representatives from the Cambodian government at a later date and time convenient for you.*"

In my opinion, such a response falls short of dealing fairly with any government with which we have diplomatic ties and this includes the Royal Government of Cambodia. Like Ambassador Heng, I am certain that the Government of Cambodia would not sanction a hearing in its country that allowed Members of the U.S. Congress to testify against our own Administration and I believe when dealing with the developing world, we should not be so arrogant as to treat other governments any differently than we would like to be treated. Offering one political party of a foreign government with which we have diplomatic ties the right to testify before the Commission while offering the other party only an opportunity to meet at staff level is not the way the late Tom Lantos would want things done nor is it how the Obama Administration would have us remake U.S. foreign policy. Given the implications this kind of bias might have for U.S. relations abroad, I am hopeful that we might rethink our approach.

I commend the co-chairs of the Tom Lantos Human Rights Commission and also Congressman Jim Moran for their sincere efforts to help our brothers and sisters in Cambodia. I know that Congressman Moran has personally met with Ambassador Heng on a number of occasions to discuss the very issues before the Commission today. Like Congressman Moran, I

know that Cambodia has a long way to go but I also know that Cambodia has little infrastructure left to address the serious challenges it faces. Cambodia needs our support, not our criticism.

According to His Excellency Cham Prasidh, Cambodia's Minister of Commerce, who lost both parents to the Khmer Rouge, only 69 intellectuals survived this genocide. From ashes, Cambodia has been forced to rebuild, and has looked to anyone to help. In my discussions with Minister Prasidh, I was particularly struck by his words when he said, "When you are drowning, you do not care about the color of the hand that is saving you."

These days, China is one of the largest sources of foreign assistance to Cambodia lending a hand of \$800 million in aid and loans in 2006-2007. The United States provided a little over \$100 million in the same time period. What does this kind of disparity in support mean for U.S.-Cambodia relations, or U.S. security interests in the region?

As I have said many times before, I do not believe the U.S. gives the Asia-Pacific region the attention it deserves, and by our failure to assist Cambodia when it needs us most, we are unintentionally inviting Cambodia to partner with others who may not share our ideologies, and this does not bode well for U.S. security interests in the region now or later.

Knowing Cambodia's history and our role in that history, I am hopeful that we can do better. I applaud the Obama Administration's commitment to strengthening U.S.-Cambodia trade ties, and I commend the Bush Administration for lifting a ten-year ban on direct bilateral aid to Cambodia in February of 2007. As we now move to address human rights, we would do well to remember that Cambodia is a nation struggling to get back on its feet, and it needs us to extend a hand, not a clenched fist. In extending a hand, it is my firm belief that we need to work with both the ruling and opposition parties if our end goal is to bring about change. One without the other will only serve to undermine our bilateral relations and security interests.



ROYAL EMBASSY OF CAMBODIA

WASHINGTON, D.C.

Washington, DC, September 9, 2009

THE AMBASSADOR

The Honorable Eni F.H. Falcomavaega
Chairman
House Foreign Affairs' Subcommittee on Asia, the Pacific
and the Global Environment
2422 Rayburn HOB
Washington, DC 20515

Dear Mr. Chairman:

I am writing to express my deep concerns about the decision of the Tom Lantos Human Rights Commission to hold a hearing on human rights and the rule of law in Cambodia which includes as a witness a Member of Parliament from Cambodia's opposition party but excludes any participation from the ruling party. At no time did the Commission on its own initiative extend an invitation to the Royal Government of Cambodia to participate so that all views could be fairly considered, and this raises serious concerns which I am hopeful you will address.

While governments expect to be criticized by NGOs like Human Rights Watch which have their own agendas of self-perpetuation, the Royal Government of Cambodia, like any other Governments, would not expect that a Commission would invite government witnesses to testify without including witnesses from both the opposition and ruling parties. Even though it may be within the purview of the Commission to do so, it does not make for fair policy, and it does not lead to the outcome that we all desire which is to improve U.S.-Cambodia relations by working together to address any outlying concerns.

The 1993 Constitution of the Kingdom of Cambodia recognizes freedom of expression and other fundamental rights, and this is evidenced by the fact that there is a Cambodian Office of the UN High Commissioner for Human Rights that reports to Human Rights Watch. Despite Cambodia's past in which we were subjected to one of the most brutal regimes of the 20th century, and despite the lack of U.S. assistance when we needed your help the most, the state of democracy and human rights in Cambodia have significantly increased. In fact, the Kingdom of Cambodia has been sincerely committed to promoting democracy, rule of law, and overall human rights in order to improve the well-being and living standard of its people.

Over the last few years, in particular after the President Barack Obama took office, the relationship between the Kingdom of Cambodia and the U.S. has developed gradually because the U.S. has seen our progress. Recently, President Obama lifted Cambodia from the trade black list paving the way for American companies to get credit from U.S. banks in order to trade with Cambodia. Since 1992 until now, the U.S. Government has provided an amount of about \$734 million in grant aid for use in the fields of primary education, healthcare, military and demining.

peace corps, etc. On September 8, 2009, the representatives of both Governments signed an agreement relating to the U.S. provision of a grant aid of \$34.8 million to promote healthcare and education in Cambodia.

In this regard, I regret that the Tom Lantos Human Rights Commission has decided to proceed with a hearing that excludes any input from the Ruling Party while allowing testimony to be received and heard from the opposition party. I believe the late Tom Lantos, who was an advocate for human rights and a man we admired, would be disappointed in the way his name is being misused. I am hopeful that in the future the Commission would more fully respect the role of the U.S. State Department and the diplomatic relationships our two governments have established before holding further hearings that involve active Members of our Parliament. For the Commission to proceed in a manner this biased could undermine the good relations between the Kingdom of Cambodia and the United States of America.

Please accept the assurances of my highest consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hem Heng', written in a cursive style.

Hem Heng