

Role of Parliament in Defence Budgeting in Cambodia

Im Sithol and Chap Sotharith¹

1. The Cambodian Defence Budgeting Process

1.1 Legal framework

According to the 1993 Constitution, the Royal Government of Cambodia (RGC) must prepare the budget bill in cooperation with the line ministries, including the Ministry of National Defense. The 'Law on the Budget', which is drawn up every year, has to be passed by the National Assembly.

Defence spending is controlled solely by the Ministry of Defence with proper supervision by the RGC and the National Assembly. The National Audit Authority (NAA) is an external controller designed to monitor government spending, it has the legal power to oversee the actual defence budgeting process but it has never exercised this duty even when Members of the National Assembly raised concerns about irregularities in defence spending..

1.2 Implementation of the system in practice

In Cambodia, the fiscal year for the annual budget starts on the 1st of January and ends on the 31st of December. According to the Cambodian law on public finance which came into force on the 28th of December 1993, the annual budget preparation for all Cambodian ministries, including the Ministry of Defence, must adopt the following budgeting process:

Budget strategic planning (from March to May):

In the first week of March, the Ministry of Economy and Finance (MEF) prepares the macro-economic policy framework and medium-term finance policy, that are consistent with the national policy framework for development, and submits them to the RGC for decision.

During the first week of April, the MEF issues a circular on the preparation of the budget strategic plan. This plan is based on the macro-economic policy framework and medium-term finance policy, that are determined by the RGC. Then, all ministries, including the Ministry of Defence, must prepare their national strategic plan through the circular while considering their specific objectives and

¹ Im Sithol and Chap Sotharith are Research Fellow and Executiv Director respectively of the Cambodian Institute for Cooperation and Peace (CICP), Phnom Penh, Cambodia.

priorities as well as the national development plan. This budget plan must be sent to the MEF before the 15th of May.

Budget packaging preparation (from June to September):

During the first week of June, the MEF prepares the circular on techniques for budget preparation for the RGC's ratification. A draft budget must be sent to the MEF before the 15th of July. Once the MEF have received all of the draft budgets, it invites the ministries to defend them in order to coordinate the income and expenditure. In September, the MEF determines the figures for the incomes and expenditures and then drafts a law on finance. In this phase, the Ministry of Defence can make a draft budget proposal and ask for any expenditures to be altered in accordance with the MEF. If the MEF rejects the proposal and if no consensus can be reached in this phase, the Ministry of Defence can put its request to the plenary session of the Council of Ministers.

Adoption of the budget (from October to December):

In the first week of October, the MEF submits the annual budget bill to the RGC for adoption. In practice, before submitting it to the RGC for adoption, the bill must be passed at an inter-ministerial meeting after the recommendation of the Economic, Social and Cultural Observation Unit and the Jurist Council of the Office of the Council of Ministers. In the first week of November, the annual finance bill must be submitted to the National Assembly and later to the Senate for adoption. During the plenary session of the Council of Ministers, the Minister of Defence can ask for changes to the defence budget in front of the Prime Minister who chairs the meeting.

The annual finance bill must be adopted by the Cambodian Parliament (the National Assembly and the Senate) before the 25th of December. According to article 113 of the Constitution, the Senate reviews and comments on the bill or the draft law preliminarily adopted by the National Assembly within a month. Should there be some urgency, as is frequently the case, the time taken for the bill to be pre-adopted is reduced to approximately five days. The National Assembly must immediately consider the proposed revision of the bill or draft law by the Senate. The bill or draft law can only be passed from the Senate to the National Assembly over a maximum period of one month. However, this duration is frequently reduced to just ten days and when there is some urgency, it can even only last two days.

If the Senate turns down the bill, the National Assembly is not permitted to consider it any further for a period of one month. This duration is reduced to fifteen days for the annual finance bill and two days in urgent cases. The second adoption of the bill or draft law by the National Assembly must be made by an open majority vote. The bill must be promulgated by the King before it comes into force. According to this article, the adoption of the bill comes under the exclusive power of the National Assembly not the Senate. In the first week of November, the annual finance bill must be submitted to the National Assembly for adoption by the 25th of December. Legally, the duration for consideration and

adoption of the annual finance bill is less than two months. Some analysts consider the time limit not long enough for the parliament to make an overall accurate study on the annual finance bill before adoption. Given its lack of expertise in financial matters, the National Assembly usually agrees with most of the budget lines proposed by the government.

If the annual finance bill cannot be adopted before the 1st of January, the annual finance law from the previous year is automatically implemented on the following basis:

- 1- Fiscal incomes and all other incomes shall be authorised and collected according to the procedures determined by the last finance law and within the framework of existing laws and regulations
- 2- Current expenditures including public debts continue to be implemented in the framework of the year's finance law until the adoption of the new finance law.
- 3- Capital expenditures beside the public debt continue to be implemented in the framework of last year's credit and can be raised if necessary
- 4- All expenditures related to membership in international organisations and obligations relating to public debt must continue to be paid according to the existing agreement.

1.3 Major Challenges

There are many challenges in defence budgeting including lack of external controls on defence spending (audit office, parliament, ministerial level); lack of access to classified information; lack of internal controls on defence spending within the ministry (e.g. accountants, comptrollers etc); and lack of expertise among parliamentarians.

Moreover, the role of the public and media in Cambodia are still limited in the area of defence due to the sensitivity and confidentiality of the sector. Some parts of defence spending is considered as the "State's Top Secret."

2. Role of Parliament

2.1 Framework and Scope of Parliamentary Involvement

The role of parliament in overseeing the defence budgeting process is stipulated in the 1993 Constitution.

After being adopted at the plenary session of the RGC, the annual budget bill must be sent to the Permanent Committee of the National Assembly (PCNA). The bill must be presented as a written document and is distributed to all members of the National Assembly, with a note from the RGC attached. The PCNA sends the

draft to the specific commission and then to Commission No. 2 (The Commission of Economy, Finance, Bank and Audit) for study and revision. After overseeing the draft, the must make its conclusion and before returning the proposal to the PCNA.

All the members of the PCNA can make any comments or proposals for the revision of the proposed budget. At this stage, the representatives of the RGC have the right to defend the draft budget adopted at the plenary session of the RGC or the specific commission can invite the representative of the RGC to explain the draft if needed. The draft is then scheduled in the agenda of the session of the National Assembly. All members of the National Assembly have a voice in this session; the National Assembly therefore has the exclusive power to agree or disagree on the draft.

2.2 Roles and Duties of Commission No. 2

Roles

- Follow up the RGC in making and implementing laws or policies related to finance and banking in accordance with the constitution and the respective legal framework
- Invite ministers to clarify any points related to finance and banking
- Research law on finance and banking.
- Scrutinise state incomes and expenditures
- Defend the law on finance in the plenary session of the National Assembly.

Duties

- Examine all of the RGC's bills
- Write reports on all of RGC's bills or draft laws
- Propose and receive reports from the ministries concerned
- Notify the RGC about any possible delays of the institutions concerned.
- Make recommendations to the RGC for the implementation of state budget savings
- Raise concerns over individual mistakes in the institutions
- Handle claims relating the competences of Commission No. 2
- Propose a budget plan and control and evaluate expenditures of the autonomous budget of the National Assembly.

The Committee on Internal Affairs, National Defence, Investigation, Clearance and Civil Service (Committee No. 4) plays a role related to defence budgeting such as controlling and studying the bills passed by the Ministry of the Interior and the Ministry of National Defense. According to Article 97 of the 1993 Constitution, the Committee No. 4 can summon members of the RGC or the ministries to clarify and/or make amendments to these bills.

After the annual budget has been adopted and promulgated, the parliament still has the constitutional power to supervise the execution of the adopted budget. In a democratic country like Cambodia, it can be said that a system of checks and balances is in process. A stronger role of the parliament in national defence is indispensable because this is crucial for the strategic decision-making of the country. The National Assembly therefore needs to have the power concerning checks and balances *vis-à-vis* the Royal Government of Cambodia.

3 Conclusion

As information pertaining to the defence and security budget tends to be classified, it is treated as being top secret and the most highly guarded information that the nation possesses. The Cambodian Parliament only has a limited capacity to oversee the security sector. Major challenges include the lack of technical capacity that the parliament has and the level of political commitment in analysing and overseeing the defence budget

Literature

Constitution of the Kingdom of Cambodia

Law on public finance and budgetary system of Cambodia dated 28 December 1993

Im Sithol and Chap Sotharith (2007) Security Governance Challenges on East Asia: Cambodia Case Study, CICP Working Paper No.15.

Internal Regulation of the National Assembly of Cambodia

Internal Regulation of the Senate of Cambodia

Law on Annual budget 2002, 2003, 2004, 2005, 2006,2007 and 2008

Ministry of National Defense (2006) White Paper

Notes of Ministry of Finance of Cambodia on law on verifying the state budget for 2006

Public finance and budgetary system of Cambodia (draft)