

X The First Draft of the Environmental Code (Atty. Matthew Baird, Expert to Vishnu Law Group)

Atty. Matthew Baird presents the First Draft of Environmental Code.

XI Presentation and open discussion

- Question:
 - Book 14: should we use term **Forestry or Timber?**
 - Most points highlight actions rather than key issues
 - Book 4: mentions a lot about actions
 - There should be the balance of chapter, **section in each book.**
 - The purpose is not stronger. How can we measure?
 - Objective: please mind hierarchic priorities and cohesion of objective
 - Objective: Point d, e, f, h state actions rather than long term objective
 - Objective: Point f: why not others or national strategy
- Question:
 - **Sotheary:** what is different between animal and endangered species which are put in different place? **Trafficking and trade?**
- Question:
 - Water Section should be put in separate chapter.
 - Who has and doesn't have access to water?
- Question and suggestion:
 - **There are many books, 34 books.** There should be the balance of chapters in each book. The investors may find it difficult to access to this environmental code with there are so many reference to other legal instruments kept apart from the code. The suggestion: there should be soft copy uploaded into internet.
 - Change from Environmental code of Cambodia to Cambodian Environmental Code.
 - There should be check list chart of words **explained in English.** People can explain and understand differently from the same point.
 - There should be provision in the annex so that this can avoid overall amendment of the code.
- Question:
 - Principle 9 doesn't state clearly, Please make adjustments.
- Question:
 - We mention timber. What is about branch of the tree? **Please review**
- Question:
 - One book states some relevant ministries, but I don't see the Ministry of Culture and Fine Arts. This ministry is also relevant to the book
- Question:
 - In Objective, point (a) should add ecosystem. To develop road, please mind forest. This is how the development affects. Please make code to prevent.
- Question:
 - **Conservation Trust Fund we need to consider.**

Commented [MB1] : Amended to refer to forestry rather than timber

Commented [MB2] : This is a matter for further drafting and response following drafting.

Commented [MB3] : This is a matter to be addressed. Trafficking is an illegal activity but trade is in accordance with the law.

Commented [MB4] : This is noted. The Code is to include many topics. This requires many books.

Commented [MB5] : A dictionary and definitions is being prepared

Commented [MB6] : Noted.

Commented [MB7] : This is supported.

- Answer:
 - **H.E. Sum Sokhamphou:**
 - will review word use
 - Prepare glossary
 - Create annex to note and be for changes
 - The balanced division of books, chapters. This cannot be done as the Minister is in progress to add, delete, and adjust on general principles. More principles will cover more comments. Now it is just a draft...we brainstorm more.
 - How can we include everything in the code like France system because we don't really rely on that system at all. We focus only on the existing problems.
 - We need an applicable code to change people's mindset. The code is the reference for the readers and implementers.
 - The inclusion of the Ministry of Culture and Fine Arts, Economy, and Education is the must.
 - The mechanism of sharing information to all Ministries before joining international forum or world. This will ensure right and joint information to the outside world.
- Answer:
 - **Atty. Matthew Baird:**
 - The use of words: animal and endangered. This needs more references to make it clear for the audience and clarification.
 - When we capture the comment, we will response. Khmer version is original, so there may be the problem with translation.

XII Lunch Break

XIII Sub-Technical Working Groups identify issues to be addressed in the next phase, assign responsibilities among the STWG members, and create internal timelines (*Small Group Discussion, led by the **Head or Deputy Head of each of the Sub-Technical Working Groups***)

XV Coffee break

XVI STWGs present the results of their work Wrap Up, Next Steps and Closing of the Meeting (*Representative(s) assigned from each STWG*)

Group 1

Sustainable city and Green Economy

- Suggest the working group participation from technical official from the Ministry of Mine and Energy, the Ministry of Land Management, Urban Planning and Construction
- Methodology: how to include comment from different experts on the same sector into the code?
- How to apply green development strategy in the code

- Book 23 should focus on climate change
- What is one eco mapping process?
- Should combine book 6 and book 11
- This draft code doesn't have Bio-mass
- How is the process of meeting each STWG?
- For timeframe, this group will try to implement
- Ecosystem should be provided in Book 26. If not, this should incorporate into Book 23

Commented [MB8] : Under consideration.

Commented [MB9] : This is a type of energy source that would be included for consideration by the SWTG

Group 2

Book 17: Waste Management and Pollution Control

This book should be divided in to two different books. The books include as following:

❖ Book 17(1): Waste and Hazardous Substances Management

- Chapter 1: Urban/Household Waste Management
- Chapter 2: Solid Waste Management
- Chapter 3: Hazardous Waste Management
- Chapter 4: Hazardous Substances Management
- Chapter 5: Sewage System and Sewage Treatment System Management
- Chapter 6: Database of Pollutant Release Transfer and Register (PRTR)

❖ Book 17(2): Environmental Pollution Control

- Chapter 1: Water Pollution
- Chapter 2: Air Pollution
- Chapter 3: Noise and Vibration
- Chapter 4: Ozone Layer Protection
- Chapter 5: Transboundary Pollution
- Chapter 6: Inspection
- Chapter 7: Marine Pollution

Commented [MB10] : This is a matter for consideration. To be addressed following the re-ordering of the Code.

Book 6: Chapter #: Motor Vehicle Exhaust Standards

- It should be placed in book 17(2) mentioned above.

Commented [MB11] : This is already included.

Book 10: Environmental Quality Standards and Environmental Protection Guidelines

- There are two suggestions from the group such as followings:
 - For this book, the group needs help from international experts to establish the procedure of the setting of National and Local Environmental Quality Standards (EQS) and Guidelines as it is new to Cambodia.
 - Anyway, this book seems to talk about the setting of EQS including ambient standards and discharge standards, which contrast to the title of the book itself. It is recommended that it be placed in book 17 instead.

Commented [MB12] : This matter needs to be referred to the international experts to help identify EQS that can be applied to Cambodia.

Commented [MB13] : There are already standards in Cambodia. This Book is to update the EQS and to provide for environmental protection guidelines

Commented [MB14] : The response is that the setting of EQS and specific protection guidelines should be separate from the Books dealing with the application of the EQS. EQS will also be applied in the Book on EIA as well.

Group 3

✓ Led by Mr. Meas Sophal

1. Identify issues to be addressed on the next step/phase:

- Trying to find the main point; sustainability as an example, in article 1 and 2b (water, land, air and light), implying that if the purpose started with sustainability, then the following articles should explain it; if it started with protection, then the next books or chapters should have gone with that, which will be easier to create policies or even the penalties-like being interacted with one another or being arranged orderly based on the purposes of article1
- One person thought that the form is somehow not a law, but more like a guideline-meaning that there's no enforcement mechanism to actually follow it (repeated somewhat-still confusing and mixed)
- Book 5, 7, 8, 12, 13, 14, 15, 16, 18, 21, 25, 26, 28, 30, and 31 are related, as following:
 - Book 7: the title should be changed to natural resource determination (raised by one member) according to his implication when he read it; others thought that the title shouldn't use regional, but sub national instead-like in each zone should do what?; later, it seems to be more like The Correct Policy Organization (ကနဦးဗဟိုမူဝါဒအဖွဲ့အစည်း); they were not clear what the title wants or means, and the chapters that have the word "reserves" should be changed to "protected areas"; they believed that book 7 and 8 should be integrated as book 7 is like a policy while book 8 is more like an implementation, so they should stay under one title like conservation; Book 5 and 7 are very similar in terms of name; hence, the title should be Protected Area System; on one hand, they felt that the terminology was not really a matter, but we need to study IUCN categories in order to understand more; besides, the title of Book 7 will be changed from Natural Resources Planning and Management to PA systems Planning and Management, and the last 2 chapters of Book 7 should be put elsewhere so that we can delete Book 7 since Book 8 covers Book 7 already;
 - Book 8: should include one chapter on Prohibition of Wildlife Farming on Endangered Species because people start to catch wildlife and take it as

Commented [MB15] : This is under consideration by the STWG

their own which turn out to be legal once the authority catches them, and it is in line with CBD, IUCN, and CITES, so we better check it;

- Book 12: should be marine and coastal areas planning and management; should arrange briefly or classify things clearer as it will be easy for us to do the mapping and satellite;
- Book 13: change to National and Sub national conservation corridors (trans-boundary cooperation) and should be put under Book 7 rather than separate it alone;
- Book 14, 15, and 18: were proposed to integrate the “Conservation Trust Fund” supported by Trust Law.

Commented [MB16] : This is a matter for review following the reordering of the Code.

2. Divide the responsibilities (haven't touched upon this)
3. Create the internal timeline (haven't started yet)

Books:

1. General provisions
2. Organization of jurisdictional and institutional issues
3. Public participation and access to Environmental Information
4. Environmental Impact Assessment
5. Making of national, regional and local environmental and natural resources plan
6. Urban land use planning and management
7. Natural resources planning and management
8. Biodiversity conservation and management
9. Strategic environmental assessment
10. Environmental quality standards and environmental protection guidelines
11. Sustainable cities
12. Coastal zone planning
13. Establishment of national conservation corridors
14. Sustainable Timber management
15. Sustainable Fishery Management
16. Community management
17. Waste management and pollution control
18. Water management
19. Cultural and natural heritage protection and management
20. Extractive industries and sustainable economic benefits
21. Sustainable tourism and eco-tourism

22. Sustainable energy
23. Climate change
24. Reduction of greenhouse gas and promotion of green growth
25. Disaster risk reduction and disaster management
26. Environmental economic measure, fees and charges

Below is the suggestion made by the group III regarding the book of the draft code. Participants of group 3 had rearranged the content of the code as agreed by the group's members.

Correction (Developed by group 3):

1. General provisions
2. Organization of jurisdictional and institutional issues
3. Public participation and access to Environmental Information
4. Environmental Impact Assessment
5. Strategic environmental assessment
6. Environmental quality standards and environmental protection guidelines
7. Urban land use planning and management
8. Sustainable cities
9. Waste management and pollution control

Natural Resource Management Establishment of PA systems and conservation corridors, the group has provide some inputs under the book 7 through 13. Below is the outcome of the discussion:

(From Book 7 and 13) Development of environmental and natural resource plan/zoning

- a. Establishment of PAs and conservation corridors for biodiversity conservation
 - i. Forests
- b. Establishment of PAs. coastal, marine and freshwater
 - i. Marine and coastal
 - ii. Fresh water fisheries
 - iii. Mangrove conservation
10. Management of PAs and corridors
 - a. Cross cutting PA management issues (includes most chapters from Book 8)

Commented [MB17]: To be reviewed following re-ordering of the Code.

- b. Sustainable Forest management specific issues
 - i. Conservation –biodiversity, wildlife
 - ii. Production—timber, NTFPs
- c. Sustainable Fishery Management specific issues
 - i. Conservation –biodiversity, aquatic species, coral reefs etc
 - ii. Production—commercial fishery, aquaculture
- d. Sustainable Water management specific issues
 - i. Conservation –biodiversity,
 - ii. Production— water for irrigation

11. Community based NRM (This is a suggestion to be put under the Chapter of Community based Natural Resource Management)

Where to put ELCs? The group has raised a question of where the ELCs can be placed under the content.

- 12. Cultural and natural heritage protection and management
- 13. Extractive industries and sustainable economic benefits
- 14. Sustainable tourism and eco-tourism
- 15. Sustainable energy
- 16. Climate change
 - a. Reduction of greenhouse gas and promotion of green growth
 - b. Disaster risk reduction and disaster management
- 17. Environmental economic measure, fees and charges

Group 4

Group 4 was participated by only three people because some people were busy in the afternoon session of the workshop; they had to leave early and thus was not able to attend the discussion. The three members of this group were: one member was an official from the Ministry of Environment; one person was from an INGO, and another person was from Vishnu Law Group. This group was assigned to discuss on Book 19 “Cultural and Natural Heritage Protection and Management”. The draft of this book consist of 5 Chapters including (1) Identification and designation of cultural and natural heritage sites; (2) Special Protection Status Classifications; (3) Special Considerations in EIA for Cultural and Natural Heritage Sites; (4) Management Plans for Sites; (5) Requirements for Heritage Impact Assessment.

After discussing, Group 4 decided to provide some comments on the description of the chapter as follows:

- Point 2 of the description box should include the Ministry of Culture and Fine Arts and all authorities related to heritage management.
- Point 4 should include “Rescue Archeology or Salvage Archeological Survey and Excavation” for any sites, locations or zones that are subject to development.

Commented [MB18]: Included

Commented [MB19]: Agree

In addition to the comments on the description box of the chapter, this group commented on some of the chapters of the book as follows:

Commented [MB20]: These amendments have been made to the Code.

- Chapter 1: should include national inventory list of both the cultural and natural heritage throughout the country and this should be updated on a regular basis. This chapter should also establish heritage zones at the national, provincial or even the communal levels.
- Chapter 2 should be “Damage and Conservation Status Classification” instead of “Special Protection Status Classifications”.
- Chapter 4 “Management Plans for Heritage Sites” should also establish protected zones and core zones for heritage management.
- Chapter 5 must include the “Rescue Archeology or Salvage Archeological Survey and Excavation” for any sites, locations or zones that are subject to development as already mentioned above.
- This book should add a new chapter on “impacts on the People” because there are a lot of people who have been affected by the development and conservation of the cultural and natural heritage.

Group 6

Mr. Long Rithyrak (Chair of STWG. 6)

- Firstly, he wants to mention that in Zero Draft of Environment Code has some problems with translation from Khmer to English and from English to Khmer key words because some meaning of BOOKs or Chapters of the Code are not full meaning. For example, in the BOOK-20 should be input about Industry Benefit Sector. In addition, on BOOK-23, 24 did not input about oil and gas, so he wants expert to checking this point again.
- Another point, he said that after group discussion, our members raise about EIA that involve with mine. In this point we want to separate about Environmental Impact Assessment 4 parts:
 - Preliminary EIA
 - Full process all EIA
 - Emergency Case
 - Military Case
- The Emergency Case and Military Case should not be do Environmental Impact Assessment because these case are very importance to save the people and

society. Finally, the Chair of Group 6 (Mr. Long Rithyrak passes presentation to Mrs. Serena from CCC to present detail about mine on BOOK-20 EXTRACTIVE INDUSTRIES AND SUSTAINABLE ECONOMIC BENEFITS.

Book 20- extractive industries and sustainable economic benefits

Mrs. Serena from (CCC) Co-operation Community Cambodia.

- ***These are statements of Mrs. Serena instead of STWG.6:***
- The idea of “Best Practice” must be clearly defined. The example was provided of how Brazil has recently suffered from vague or inadequate terminology related to tailings management, which resulted in a dam breach and chemicals used in the mining process being spilled into a nearby river.
- Resettlement of communities needs to be explicitly documented with clear requirements to ensure that those moved at the expense of development projects are not made worse off or more vulnerable.
- The human rights case in environmental degradation scenarios should have a clear connection within the Code. Everyone should have the right to a clean environment that does not detract from ones livelihood.
- The question was raised of whether or not the Extractive Industries Transparency Initiative (EITI) should be part of the Environmental Code because EITI is mainly related to the transparent disclosure of financial documents. EITI does not have a component or requirement for EIA.
- Site management extends to environment and society.
- It is crucial that licenses approving development projects are not granted until after an EIA has been completed and approved.
 - There should also be various EIAs completed for the different stages of a project: exploration, implementation, continued management, etc.
- There should be an additional chapter related to the infrastructure installations that are part of development projects. For example, many projects have access roads to a project site that may affect a community's access to forest areas or provide access for outsiders to conduct illegal logging activities.

Book-22 sustainable energy, **book-23** climate change, **book-24** reduction of greenhouse gas and promotion of green growth

Representative: Ms. Raphaele Deau

- **Book 20:** Add oil and gas in the list of types of extractives or the book will be restricted to mining only (oil and gas are also part of the extractives).
- **Book 22:** This book is very important as the energy sector is now representing a major emitter of GHG, while in the last national GHG inventory (dated back to 2000), the energy sector only accounted for 6% of the national GHG emissions. Today, with

Commented [MB21] : These comments are under consideration.

growth in manufacturing, construction (residential and industrial), energy needs are skyrocketing, and new carbon intensive activities are emerging (coal, cement...).

- Suggestion:
- Replace title to 'Energy' (not 'sustainable energy') and organize book in 2 categories:
 - 1. Renewable energy (RE): solar, bio-energy, sustainable hydropower. Chapters: encourage investment in RE / Define the RE options / Refer to a 'renewable energy policy' (this needs to be discussed with MME, NCSD and MoE).
 - 2. Non renewable energy (coal, oil-gas, large hydro): Chapter: Avoid, Reduce, Offset or user paying principle (include possibility of PES, especially for large hydro, or bridge with book on water management) / Make links with book 23-24 on carbon reporting,...
- **Book 23-24:** Difficult to feedback on such general and cross-cutting topics. But one thing that is of general interest, and has been suggested to NCSD ('Study on private sector response to climate change', co-authored Raphaele Deau - Jacquelin Ligot) is voluntary/compliant reporting of private companies on their carbon/sustainability footprint. There is currently no compliant mechanism, but while we're waiting for compliance, we can suggest voluntary reporting as a way to manage operations in a more strategic manner and participate to the green economy in Cambodia.

Representative: Mr. Ramasamy

- For energy projects there needs to be clear requirements for noise, emissions, waste water discharge, chemical byproduct treatment, etc.
- **Zoning** is also a crucial issue that often affects power generation facilities because of transmission stations; therefore regulations will need to be clearly outlined.
 - An example was provided of how a coal power plant had a 2-kilometer radius between its generation facility and the nearest community, however, over time workers moved closer to the power plant and then later complained about the noise, dust, particulate matter, etc.
- Gaseous waste may eventually be covered in a separate book on emissions (23-Climate Change or 24-Green House Gases), but a section should be developed on emissions from energy generation activities.
 - Similarly, what is the monitoring and regulation mechanism that will be used to enforce emission related laws and provide information to the public.
- There is potential for books 23 and 24 to be merged because they both have a focus on gaseous emissions.
- There is a lack of discussion on radio signals continued development and potential impact on birds and other animals. Further studies related to this should be completed.

Commented [MB22] : Zoning needs to be addressed in the planning process, including buffer zones for industrial or

Group 7

For group 7, there are 7 people join the discussion. All the members choose four topics to discuss which are: Book that group 7 chooses to work on, Comment on the draft, divide the responsibility among the member and decide the schedule for the meeting.

1. Topic one: Group 7 chooses to work on book 3, book 5, book 26, book27 and book 28.

2. Topic two:

- **Dr Vannak** who is one of the members in the group suggest to add a book which talk about effective environmental governing. In that book, it should include the following chapter:

- Chapter 1: Allocation and utilization of technical and financial resources for environmental sustainability
- Chapter 2: The sustainable management of natural resource.
- Chapter 3: Institutional arrangement for environmental governance.
- Chapter 4: Capacity building for environmental governance.
- Chapter 5: Monitoring system of natural resource and ecology

Commented [MB23] : The important issue about the role of the Code. The aim of the Code is to promote environmental governance.

- **Dr Vannak:** suggests separating of book 3 into 2 books differently. One book will talk about public consultation and another book will talk about accessing to information.

Commented [MB24] : Access to information is an integral part of the public participation process.

- All the members suggest that all books shall have a very clear guideline so that they can have consistency. Civil code and Criminal code are a good modal.

- The arrangement of the book is not yet good. It shall reconstruct again.

- In book 26: It shall have a chapter which talks about the fiscal policy for the balanced development and environmental protection and another chapter which talk about monitoring policy for the balanced development and environmental protection.

- In book 25 on page 26 which mention about disaster, it shall have the member from for example disaster committee in the drafting process. Moreover, this book shall include the chapter on disaster preparedness, emergency response, post disaster response.

Commented [MB25] : This is agreed.

- If it is possible, we could merge book 4 and 9 into one book.

Commented [MB26] : SEA and EIA are separate systems. SEA relates primarily for policies and plans. These need to be

3. Responsibility of the members:

- **Mr. Kry Kyrath** : will be responsible for book 3&5 on GIS
- **Dr. Chhun Vannak** and **Sor Sontheary**: will be responsible book on research and governance.
- The other people will take the responsibility later.

4. The date of meeting: The next meeting will be held on at 2:PM Monday 18 April 2016 at MoE.

5. Others:

- There are fewer members in this group. The group members suggest to invite other members (From ECOSOCC, Supreme National Economic Council, Royal Economy of Cambodia)

XVII Reply to the concerns of each group

▪ H.E. Sum Sokhamphou:

- Group 1

- the facilitators will coordinate STWGs to find proper meeting time, Skype call time, needs, documents, sharing. When you all are in need we will coordinate for you all. The coordination will focus strongly on two points: one is objective of the meeting and information sharing and another one is document to be share.
- Environmental code is not to ensure the application of national strategy.
- For one eco-mapping, due to time constrain, this will be in the future.. in the final provision
- Group 3
 - We will consider the hierarchic order of general principles
- Group 4
 - Saving earth digging is already mentioned, but we have technical problem stating that.
- Group 6
 - Your questions are good. We will consider more. Gaseous, oil, EITI Licensing these will be talked and discussed in detail as it is also in EIA
 - To write the detailed or leave some is separate legal instruments, this is technical. Please comment.
 - If it is too detailed, it cannot be quickly flexible on time. What is regularly amended should not be included in the code.
 - For Effective environmental governance, we have EIA, Standard... We will consider these viewpoints to include in...we will find ways.
 - Public participation and Access to information: these don't focus on server management. These refer to sharing environmental information to the public. The Ministry of Information should have method to share the same information to all the relevant before the info is used in the public. We will consider about this.

XVIII Conclusion

- **H.E. E Vuthy:**
 - Please use official submission form when you want to give comment on anything and send that to Ms. Lin.
 - Please follow work plan.
 - In June or July, there will be a workshop. There shall be technical meeting in the morning with technique of making small groups of one or two STWG groups to discuss on subject matter and then rotate in-turn-ly.

Closing Remark

