

# Submission Form

# Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission: 16 August, 2016

Submitted by (provide individual and STWG contact information):

STWG-2 Department of Hazardous Substances Management

1. Issue:

Recommendations for Code structure/sections for hazardous waste management, hazardous substances management, and PRTR.

2. Reference to Code Book and Chapter (if applicable): Book 6

3. Comparative Experience (including Cambodian and international examples and experience):

#### 4. Recommendation:

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### Title 3: Hazardous Waste Management

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**Hazardous waste determination, classification and labeling.**
2. □□□□□□□□□ □□□□□□□□□□□ □□□□□□□□ □□□□□□□□  
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**Hazardous waste collection, packaging, storage, recycling and treatment.**
3. □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□ (□□□□□□  
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**Disposal of hazardous waste (incineration, destruction, and landfill)**
4. □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□  
**Monitoring of hazardous waste**
5. □□□  
□□□  
**Operational requirements for all hazardous waste facilities.**
6. □□□□□□□□□ □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□  
**Import and export of hazardous waste.**





## Title 4: Hazardous chemical substances management to Environment

1. Definition
2. Institutional responsibility
3. Prohibition of hazardous substances
4. Research, Registration and Information disclosure of hazardous substances
5. Inventory, Classification and Labeling of hazardous substances
6. Production, Distribution, Storage, Transportation, Usage and Disposal
7. Import and Export
8. Monitoring of hazardous substances safety assessment
9. Accident prevention, preparedness and responses
10. Application of international convention on hazardous substances
  - a. POPs Convention
  - b. Minamata Convention
  - c. International Agreements
11. Penalty

□□□□□□□□□□□□□□□□□□□□ **PRTR**

## Directive for PRTR

- [illegible]

[illegible]



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Date of Submission: 16 August, 2016

Submitted by (provide individual and STWG contact information):

STWG-2 Department of Solid Waste Management

1. Issue:

Recommendations for Code structure/section for solid waste management.

2. Reference to Code Book and Chapter (if applicable): Book 6

3. Comparative Experience (including Cambodian and international examples and experience):

4. Recommendation:

I.



II.



III.

IV.



3R

V.



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VI.

➤  
VII.

Chapters relating to solid waste management to be incorporated into the Environmental Code

- I. Chapter 1: Definition and general provision
  - Urban/municipal solid waste, commercial solid waste
- II. Chapter 2: Responsibilities of solid waste owners
  - From management plan to licensing application
  - Responsible jurisdiction
- III. Chapter 3: Management of collecting and transporting services
- IV. Chapter 4: Mixed measures on effective solid waste management
  - Separation, activities, 3Rs, biogas incinerators, resources exploitation and motivation for recycling
- V. Chapter 5: Management on plastic bag and plastic packaging materials use reduction
  - Shall consider setting measures, limiting types, sizes, thickness, alternative choice of use...
- VI. Chapter 6: Measures on management of final disposal, landfill and solid waste incinerator
  - Address offenses or prohibit solid waste
- VII. Licensing of recycled waste import and export

6. Cambodian Laws to be Abrogated or Modified (include specific articles and clauses):

7. Drafting Team Analysis/Response (to be included in public database):

## **Submission Form**

### **Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia**

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission: 12 September 2016

*(Required)*

Submitted by (provide individual and STWG contact information): Michael Mohoney

*(Required, including relevant STWG, if any.) ISLP*

**1. Issue:**

*(Please provide a brief description of the issue that is addressed by the recommendation included in number 4 [“4. Recommendation”] below.).*

General Comment to the code

**2. Reference to Code Book and Title (if applicable):**

*(Please provide the Book and Title names and not just the number; the Book and Chapter numbers may change from one draft to the next if the Code is reordered.)*

**3. Comparative Experience (if any):**

*(Please include any Cambodian and international examples and experience.)*

**4. Recommendation:**

*(Please include here the text of the recommendation to address the issue provided in number 1 [“1. Issue”] above. If needed, note “See Attachment” for corresponding documents.)*

**5. Proposed Language to be Inserted into the Draft Code (if any):**

*(Optional. Note: when proposing modifications to existing draft Code text, please extract the relevant text and insert here, in track changes if possible.)*

**6. Cambodian Laws to be Abrogated or Modified (if any):**

*(Please include the law title and the titles of specific articles and clauses.)*

**7. Drafting Team Analysis/Response (to be included in public database):**

# ENVIRONMENTAL CODE OF CAMBODIA

~~Third~~Fourth Draft - DRAFT ~~34.0~~ ~~—23 June—~~ 12 August  
2016

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## **Book 1 — GENERAL PROVISIONS**

### **Title 1 — GENERAL PROVISIONS**

#### **Chapter 1 — OBJECTIVE**

#### **Article 1: Purpose**

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## BOOK 1 GENERAL PROVISIONS

### TITLE 1 GENERAL PROVISIONS

#### Chapter 1 OBJECTIVE OF THE ENVIRONMENTAL CODE

#### ARTICLE 1: PURPOSES OF THE ENVIRONMENTAL CODE

The purposes of this Environmental Code ~~is to promote~~ are the protection of the environment, the conservation of natural resources, and the sustainable development of Cambodia ~~through the protection of the environment and sustainable use of natural resources.~~

Article 2: — Objective

Comment [M1]: Per M. Barash.

#### ARTICLE 2: OBJECTIVES OF THE ENVIRONMENTAL CODE

- (1) The Environmental Code includes the following objectives:
  - (a) Conserve Cambodia's biodiversity, ecosystems and ecosystem services;
  - (b) Protect the environment from harm and damage, and sustainably manage natural resources, in accordance with Article 59 of the Constitution of

Cambodia;

- (c) Preserve and promote national culture, preserve ancient monuments and artifacts, and restore historic sites, in accordance with Article 69 of the Constitution of Cambodia;
- (d) Guarantee the health of the people, in accordance with Article 72 of the Constitution of Cambodia;
- (e) Safeguard the individual and collective rights of indigenous people as postulated in Sub-decree No 83 (No 83 ANK.BK) and So Chor No 653 (653 So Chor No SR).
- (f) Ensure that environmental protection and sustainable development objectives are fully integrated into national and regional economic planning and into natural resources planning and management;
- (g) Implement the National Environmental Strategy and Action Plan;
- (h) Promote a ~~co-operative~~collaborative approach to the protection and management of the environment involving government, ~~the community~~communities, land-holders, indigenous and other vulnerable people including minorities, women, youth, and disabled people, and business;
- (i) Promote environmental awareness and support for environmental protection through transparency and public participation, especially by women, the poor, indigenous people, and other traditionally marginalized communities;
- ~~(j)~~(i) Assist the implementation of Cambodia's international environmental responsibilities;
- ~~(j)~~(k) Implement the key principles of environmental law and policy as described in Chapter 2;

Comment [M2]: Per P. Karpe.

Comment [M3]: Per Mang M.

### ARTICLE 3: SCOPE OF THE ENVIRONMENTAL CODE

This Code regulates environmental protection activities; policies, measures and resources for protection of the environment; and the rights and obligations of organizations, community, family households and individuals with respect to protection of the environment.



#### ARTICLE 4: APPLICABLE ENTITIES

This Code applies to Cambodian State bodies, organizations, family households and individuals; to Cambodians residing overseas and “foreign ~~organizations~~” and organisations” individuals with operations in the territory of Cambodia, and individuals or entities whose actions otherwise adversely impact or effect the Cambodian environment or its natural resources.

Comment [M4]: Per M. Barash.

Where an international treaty of which Cambodia is a member contains provisions, which are different from the provisions in this Code, the provisions of such international treaty shall prevail.

#### ARTICLE 45: DEFINITION/GLOSSARY

In this Code, the following terms shall be construed as follows:

~~(This Article shall contain definitions of key terms used in the Code, such as “sustainable development”, environmental standards”, “best practices”, and so on.)~~

- ~~(Definitions will be based on existing definitions in Cambodian legislation where applicable, and relevant international usage of key terms.)~~

~~Nonexhaustive~~

Non-exhaustive list to be defined:

-

Sustainable development

-Environmental protection

-Environmental conservation

-Environmental standards

-Best practices

-Natural resources

-Environmental disputes

-Environmental harm

-Ecosystem services

-Liability

-Jurisdictional organization

- Forest
- Climate change
- REDD+
- Ecotourism

**Coastal Lands** – The normally dry land extending inland 5 km from the shoreline, including the intertidal zone.

**Coastal Waters** – Marine waters extending seaward 5 km from the shoreline, including the associated submerged lands.

**Coastal Watershed** – The river basins in the Kingdom of Cambodia that flow directly to the Gulf of Thailand, taken as a whole.

**Coastal Zone** – The totality of the coastal waters, shoreline, and land area behind the shoreline that interacts hydrologically with the coastal waters.

**Commercial fishing** – Fishing in which the marine fishery resources harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

**Exclusive Economic Zone of the Kingdom of Cambodia** – Waters with any detectable degree of salinity extending from the shoreline of the Kingdom of Cambodia to 200 nautical miles offshore, consistent with the 1982 Third United Nations Conference on the Law of the Sea.

**EEZ** – Exclusive Economic Zone (see definition above).

**Environment** – definition will be developed that is clear and through, reflects Cambodian values, and includes examples. Definition will be broad, comprehensive and robust.

**Significant Environmental Impacts**, means any impact on the environment, including human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, ecosystems, natural sites, material assets, cultural heritage and the interaction among these factors.

**Environmental Report as used in Book 2, Title 4, Strategic Environmental Assessment**, means a report that identifies, describes and evaluates the likely significant environmental, including, health, social and ecosystem effects of implementing the plan or programme and its reasonable alternatives, taking into account: (a) Current knowledge and methods of assessment; (b) The contents and the level of detail of the plan or programme and its stage in the decision-making process; (c) The interests of the public; and (d) The information needs of the decision-

**Comment [M5]:** Per comments on EIA, definition of “significant environmental impact” will be further developed and clarified.

making body.

**Fisher** – Any person who engages in Fishing as defined below.

**Fishery** – One or more stocks of fish or other forms of marine life, occupying a particular geographic area or water depth range, which are deliberately harvested for commercial or non-commercial purposes.

**Fishery stock** – An individual species or subspecies of fish or marine life harvested for commercial or non-commercial fishery purposes.

**Fishery stock complex** – A group of species of fish or marine life occupying similar habitat that are harvested in a similar fashion using similar gears, for commercial or non-commercial fishery purposes, and are capable of being treated as a unit for fishery management purposes. Members of a fishery stock complex often share similar ecologies but need not be closely related taxonomically.

**Fishing** – Consistent with Article 4 of the Law on Fisheries, NS/RKM/506/11, within the Marine Fishery Domain of Cambodia refers to:

1. ~~(1)~~ The catching, taking, or otherwise obtaining possession of live fish or other living marine resources;
2. ~~(2)~~ The attempted catching, taking or otherwise obtaining possession of live fish or other living marine resources;
3. ~~(3)~~ Any other activity which can reasonably be expected to result in the catching, taking or otherwise obtaining possession of live fish or other living marine resources;
4. ~~(4)~~ Any operations at sea in support of, or preparation for, any activity described in subparagraphs (1) through (3) above.

This definition does not include any scientific research activity which is conducted by a researcher or research vessel approved by the appropriate ministry.

**Fishing vessel** – Any vessel, boat, ship or other craft used for or equipped for the harvest of marine life in the Marine Fishery Domain of Cambodia, or for aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including but not limited to

preparation, supply, storage, refrigeration, transportation or processing.

**Foreign fishing vessel** – Any fishing vessel not based in and registered by the Kingdom of Cambodia.

**Future ~~Inundation Hazard Area~~ inundation hazard area** – Any portion of the current Cambodian coastal lands that is projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

**Geographic Information System** – A computer system capable of capturing, storing, analyzing, and displaying geographically referenced information.

**Geospatial information** – Data referenced to a specific set of geographic coordinates which can be gathered, manipulated, and displayed using a Geographic Information System.

**GIS** – See Geographic Information System.

**Harvest** – See Fishing above

**Individual fishing quota** – A ministerial permit under a limited access system to harvest a quantity of fish or other marine life, expressed by a unit of units representing a percentage of the total allowable catch of a fishery, that may be received or held for exclusive use by an individual person.

**Intertidal zone** – The fluctuating extent of the shoreline between mean higher high tide and mean lower low tide that is on a daily basis submerged to some degree by the coastal waters

**Limited entry system** – A system that limits participation in a fishery to those persons satisfying certain eligibility criteria or requirements.

**Mapping products** – Maps in both electronic ~~or~~ and printed formats.

**Metadata** – A set of data that provides additional information about a geospatial data element, including the author, date of creation, etc.

**Marine fishery resources** – Consistent with Article 4 of the current Law on Fisheries, NS/RKM/506/11, marine fishery resources consist of all marine organisms, including but not limited to fish, mollusks, crustaceans, and all other forms of animal and plant life other than marine mammals and birds, and the habitats upon which these species depend, including but not limited to coral reefs, mangroves, estuaries, and seagrass beds.

**Marine ~~Fishery Domain~~fishery domain** – Waters with any degree of detectable salinity extending from the shoreline to the outer limit of the Exclusive Economic Zone of the Kingdom of Cambodia.

**Marine waters** – Those waters comprising or connected to the ocean, which possess a detectable degree of salinity and exhibit daily tidal fluctuations.

**Mean higher high tide** – The average height on an annual basis of the highest tide of the day. Equivalent to the term Mean Higher High Water as used in other countries.

**Mean lower low tide** – The average height on an annual basis of the lowest tide of the day. Equivalent to the term Mean Lower Low Water as used in other countries.

**Meaningful Stakeholder Engagement** – Provide meaningful opportunities for interested stakeholders to participate in planning and decision-making for projects or related activities that may impact communities, their livelihoods, land and the natural environment.

**Optimum sustainable yield** – The rate of harvest from a fishery that provides the greatest long-term level of catch and social benefit while retaining the ecological integrity of the fishery stock or stocks involved.

**Overfishing** – A rate or level of harvest in a fishery that exceeds the capacity of the fishery to produce the optimum sustainable yield on a continuing basis.

**Public** – Public includes but is not limited to citizens, communities, civil society, business . . . .

**Remedy** – Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (or guarantees of non-repetition injunction such as fines), as well as the prevention of harm through, for example . . . .

**Risk-Based Due Diligence** – To identify, prevent, mitigate and remedy actual and potential adverse impacts.

**SCUBA** – Self-contained underwater breathing apparatus.

**Comment [M6]:** Per NGO Forum. Definition to be further developed.

**Comment [M7]:** A non-exhaustive but clear and thorough definition of “PUBLIC” will be developed.

**Comment [M8]:** Per NGO Forum. Definition to be further developed.

**Comment [M9]:** Per NGO Forum. Definition to be further developed.

**Shoreline** – The boundary between land and water at the average height of the daily higher high tide along the margins of lands bordering waters with any detectable degree of salinity. Equivalent to the term Mean Higher High Water as used in other countries.

**Strategic Environmental Assessment** means the evaluation of the likely environmental impacts, including health and social impacts. The steps of an SEA include the following: determination of the scope of an environmental report and its preparation, the carrying out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

**Transshipment** – Transportation of fish or other marine life by a foreign vessel or vehicle from a point within the Kingdom of Cambodia or its EEZ to a point outside the Kingdom of Cambodia or its EEZ.

**Waters of a foreign nation** – Any part of the territorial sea or Exclusive Economic Zone (or equivalent) of a foreign nation, to the extent such territorial sea or Exclusive Economic Zone is recognized by the Kingdom of Cambodia.

~~The Definition of Terminology shall be determined in the glossary section of this code.~~

## ~~Chapter 2~~ — PRINCIPLES

### Chapter 2 PRINCIPLES OF THE ENVIRONMENTAL CODE

This Environmental Code is premised on, and should be implemented and interpreted in accordance with, the following fundamental principles of environmental law and policy:

#### ARTICLE 1: THE PRINCIPLE OF PUBLIC PARTICIPATION

The principle of public participation, that those who may be affected by a decision shall be entitled to provide informed, timely and meaningful input prior to the decision being made. They shall also be able influence in a transparent, inclusive and accountable manner the decision-making process. Participatory decision-making leads to more well-informed decisions, enhances

**Comment [M10]:** In corporation of the additional eight principles for the guidance of the development and implementation of the Code per comments from experts and STWG members.

the ability of governments to respond to public concerns and demands, ~~to build consensus~~ and ~~to improve~~improves acceptance of and compliance with environmental decisions because ~~citizens~~stakeholders feel ownership over these decisions.

**Comment [M11]:** Per USEPA.

## ARTICLE 2: THE PRINCIPLE OF ACCESS TO INFORMATION

**Comment [M12]:** The format of information and method of access to be outlined in other sections of the Code, with adaptability built in for changes in and access to technology.

The principle of access to information, that individuals, legal entities and civil society shall have ~~appropriate~~far-reaching access to information concerning the environment and ~~development that is held by public authorities, including~~natural resources, such as impact assessments and mitigations and resettlement plans and information on hazardous materials and ~~development~~ activities in their communities. Information on environmental protection and natural resource management shall be made widely available and publically accessible in a manner that maximizes the opportunity for public participation in planning and decisions affecting the environment and society.

**Comment [M13]:** Per NGO Forum.

**Comment [M14]:** Per NGO Forum.

**Comment [M15]:** Per USEPA.

## ARTICLE 3: THE PRINCIPLE OF ACCESS TO EFFECTIVE REMEDIES

The principle of access to effective remedies, that people, legal organizations and entities shall have access to appropriate ~~avenues~~, whether administrative ~~or~~, judicial or other appropriate means, and to appropriate and effective remedies, to enable the resolution of environmental disputes. ~~Effective~~Impartial, effective and efficient procedures and remedies should exist to enforce procedural rights ~~and to~~, punish those responsible for environmental harm, and establish an incentive structure that encourages a culture of compliance.

**Comment [M16]:** Per NGO Forum.

**Comment [M17]:** Per NGO Forum.

**Comment [M18]:** Per USEPA.

## ARTICLE 4: THE POLLUTER PAYS PRINCIPLE

The polluter pays principle, that all persons, including natural persons, private legal entities and public legal entities who have caused or will cause environmental pollution – such as pollution by noise, vibration, smell, smoke, draining of liquid waste or emission of all kinds of waste or causing damage to the environment, health, economy or society or culture – shall bear the cost for repairing the damage and preventing, avoiding and mitigating the damage.

## ARTICLE 5: THE PRECAUTIONARY PRINCIPLE

The precautionary principle, that in situations where the environment may be faced with threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason

for postponing cost-effective measures to prevent environmental degradation.

#### ARTICLE 6: THE PREVENTION PRINCIPLE

The prevention principle, that negative impacts to the environment should be stopped before they occur. In applying this principle, action should be taken at an early stage to reduce or prevent environmental damage rather than wait for potentially irreversible effects to occur. The prevention principle is based on the idea that it is better – and often more cost effective – to prevent harm than employ measures to restore the environment after harm has occurred.

Comment [M19]: Per USEPA.

#### ARTICLE 7: THE PRINCIPLE OF INTERGENERATIONAL EQUITY

The principle of intergenerational equity, that the right to development, including decisions affecting natural resources and ecosystem services, must be fulfilled so as to equitably meet the developmental, social and environmental needs of both present and future generations.

#### ARTICLE 8: THE PRINCIPLE OF ENVIRONMENTAL LIABILITY

Liability to compensate for environmental harm applies to environmental damage and imminent threat of damage resulting from developmental activities, where it is possible to establish a causal link between the harm and the activity in question. Liability should cover the cost of ecosystem or resource restoration or of replacing the damaged resources, the cost of assessing the damage, and the interim losses pending restoration or replacement. Liability includes personal injury or environmental harm to public natural resources. Liability can be strict-liability without the need for proof of fault and can be joint or several.

#### ARTICLE 9: THE PRINCIPLE OF EVIDENCE-BASED DECISION-MAKING

Environmental policy and natural resource decision-making should be open and evidence-based, utilizing the best available information. Information can be scientific and technical and can also be gathered from community and indigenous knowledge.

#### ARTICLE 10: PRINCIPLE OF GENDER EQUALITY ~~FOR~~ AND PARTICIPATION OF OTHER VULNERABLE PEOPLE IN ENVIRONMENTAL



## PROTECTION AND NATURAL RESOURCES—DECISIONS MANAGEMENT RESOURCE

The involvement of women and other vulnerable persons, including youth, minority and indigenous people, and disabled people, is to be promoted in environmental protection and natural resource management planning and decision-making at all levels. Impact assessments for development projects and environmentally relevant policies will include mechanisms to effectively assess the impacts on women. ~~Gender concerns and perspectives~~ and other vulnerable people and develop risk management strategies to mitigate and prevent adverse impacts. Gender concerns and the perspective of women and other vulnerable groups will be integrated into policies and programmes for sustainable development and into the implementation of this Code. Consideration is being given to separating this into two principles, one on gender and one on vulnerable persons.

xxx

### —ARTICLE 11: THE PRINCIPLE OF INTEGRATION

Environmental protection and sustainable development objectives must be integrated into the development planning and decision-making process. There must be integration of environmental protection, economic development, and environmental rights at the conceptual level as well as the implementation stage of policies and laws.

### ARTICLE 12: THE PRINCIPLE OF THE PUBLIC TRUST

The government is the trustee of all natural resources, including both economically and ecologically important resources, and these resources must be held on behalf of the people and for the benefit of the people, including current and future generations.

### ARTICLE 13: THE PRINCIPLE OF PUBLIC INTEREST IN PROTECTING THE ENVIRONMENT VS. PRIVATE INTEREST

Priority should be given to public health and environmental protection over economic considerations or private interest. Standards for protection of health should provide an adequate margin of safety for vulnerable peoples.

### ARTICLE 14: THE PRINCIPLE OF USER PAYS

Natural resources, including ecosystem services, have value and the users of natural resources, including ecosystem services, should pay the direct and indirect cost for use of or the impacts

**Comment [M20]:** Per P. Karpe and NGO Forum.

**Comment [BR21]:** Note comment from Raphael Deau to insert User Pays and FPIC as Principles.

**Comment [M22]:** Per USEPA.

from use of these resources and services.

**ARTICLE 15: THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT**

**STATES SHALL CONSULT AND COOPERATE IN GOOD FAITH WITH THE INDIGENOUS PEOPLES AND LOCAL COMMUNITIES CONCERNED THROUGH THEIR OWN REPRESENTATIVE INSTITUTIONS IN ORDER TO OBTAIN THEIR FREE AND INFORMED CONSENT PRIOR TO THE APPROVAL OF ANY PROJECT AFFECTING THEIR LANDS OR TERRITORIES AND OTHER RESOURCES, PARTICULARLY IN CONNECTION WITH THE DEVELOPMENT, UTILIZATION, OR EXPLOITATION OF MINERAL, WATER, OR OTHER RESOURCES. ARTICLE 16: THE PRINCIPLE OF REJECT, REDUCE, REUSE RECYCLE**

**Chapter 1Chapter 3 GENERAL DUTY TO ~~AVOID~~ ENVIRONMENTAL HARMAVOID ENVIRONMENTAL HARM**

**ARTICLE #1**

A person or legal entity must not carry out any activity that causes, or is likely to cause, environmental harm. (~~t~~The general environmental duty).

**Chapter 2Chapter 4 —INTERNATIONAL ENVIRONMENTAL AGREEMENTS**

**ARTICLE #—ARTICLE 1**

Cambodia recognizes the value of international and regional environmental agreements as a response to environmental problems and the need to adopt or modify its laws accordingly and in a manner consistent with international and regional agreements to which it is party.

This Code hereby reflects the commitment of Cambodia to effectively implement in its laws and practices the international and regional agreements to which it is party.

- This Chapter will explain how the Environmental Code implements and is based upon existing international and regional agreements.

**Comment [M23]:** Per Z. Fadeeva, in collaboration with STWG 2.

Proposed new principle related to Sustainable Consumption and Production per USEPA and UNEP. Subject to further analysis and definition.

Sustainable consumption and production (SCP) approach deals with social and economic development that addresses poverty eradication and sustainable resource use. It is concerned with "the use of services and related products, which respond to basic needs and bring a better quality of life while minimizing the use of natural resources and toxic materials as well as the emissions of waste and pollutants over the life cycle of the service or product so as not to jeopardize the needs of further generations". (Oslo symposium 1994).

The critical insight offered by SCP is that in order to facilitate sustainable development, integrative approach (also pointed out by the national documents such as Report to Rio+20 and GG Strategy), has to be employed. These approach touches the whole material and energy flow through the society including...

- It will also address future agreements and treaties and how these shall be integrated into the environmental responsibilities of the relevant Ministries.

~~**Title 2 — ORGANIZATON OF JURISDICTIONAL  
INSTITUTIONS/JURISDICTIONAL ISSUES**~~

**TITLE 2 ORGANISATION OF JURISDICTIONAL  
INSTITUTIONS/JURISDICTIONAL ISSUES**

- This Title will establish the objective of inter-ministerial cooperation and the requirement for consultation and discussion between relevant line Ministries in order to achieve the objectives of the Code. Jurisdictional organisation will examine the roles, duties and means of collaboration for the following institutions:
  - Ministry of Environment
  - Ministry of Agriculture, Forests and Fisheries
  - Ministry of Mines and Energy
  - Ministry of Water Resources and Meteorology
  - Ministry of Land Management, Urban Planning and Construction
  - Ministry of Economics and Finance
  - Ministry of Culture and Fine Arts
  - Ministry of Tourism
  - Council for the Development of Cambodia

**Comment [M24]:** Per Mang. M.

- ~~• This Title will establish a National mapping process to require a single national consolidated environmental geographic information database, with open access and mandatory data sharing between ministries and the general public. This will be used to develop the National Environmental and Natural Resources Plans described in Book 2 Title 1.~~

○ Provincial and Local Authorities

**CHAPTER #-- RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF AGRICULTURE,  
FORESTRY AND FISHERIES**

**CHAPTER # -RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF MINES AND  
ENERGY**

**CHAPTER #-- RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF WATER  
RESOURCES AND METEOROLOGY**

**CHAPTER #-- RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF LAND  
MANAGEMENT, URBAN PLANNING AND CONSTRUCTION**

**CHAPTER # --CONFIRMING NATIONAL COUNCIL FOR SUSTAINABLE  
DEVELOPMENT (NCSD) ROLE<sup>2</sup>S AND RESPONSIBILITIES**

**CHAPTER # --CONFIRMING NATIONAL PROGRAMME FOR SUB-NATIONAL  
DEMOCRATIC DEVELOPMENT (NCDD) ROLE<sup>2</sup>S AND  
RESPONSIBILITIES**

**CHAPTER #-- ROLE OF AUTHORITIES SUCH AS APSARA AUTHORITY, PREAH  
VIHEAR AUTHORITY, TONLE SAP AUTHORITY AND CAMBODIAN  
NATIONAL MEKONG COMMITTEE**

**CHAPTER # ~~ESTABLISH MECHANISM TO PROMOTE INTERDEPARTMENTAL COMMITTEE~~**

**CHAPTER # ~~ESTABLISH A NATIONAL ECOSYSTEM MAPPING AND PLANNING COMMITTEE~~**

**CHAPTER # ~~FACILITATING ENVIRONMENTAL INFORMATION-SHARING BETWEEN RELEVANT MINISTRIES~~**

**ARTICLE # ~~1~~**

Assigning environmental monitoring and information gathering responsibilities among governmental institutions

**CHAPTER # ~~CENTRAL REPOSITORY OF GOVERNMENT ENVIRONMENTAL INFORMATION~~**

**CHAPTER # ~~CAMBODIAN ENVIRONMENTAL MAPPING CENTE~~~~RE~~**

**~~Article 1. General Provisions~~**

**ARTICLE 1: GENERAL PROVISIONS**

Conservation and management measures undertaken by any government institution in relation to the management of biodiversity, natural resources and the environment in the Kingdom of Cambodia shall be based on the best scientific evidence.

Pursuant to this, the appropriate government institution shall have the authority to establish a Cambodian Environmental Mapping Center~~e~~e (CEMC). The purpose of this center~~e~~e shall be to establish standards, compile, analyze, and distribute geospatial information. Information may include but is not limited to biodiversity, natural resources (e.g. lands, water and forests), the

environment (e.g. water, soil and air qualities), and climate change, using modern, computerized Geographic Information Systems (GIS).

All geospatial data, mapping products, and metadata held by the CEMC shall be deemed property of the state, and available for public use.

~~Article 2. Cambodian Environmental Mapping Center Mandates~~

ARTICLE 2: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE MANDATES

Pursuant to this authority, the appropriate government institution shall:

- 1) Require all organizations and institutions that are undertaking natural resource and biodiversity mapping in the Kingdom of Cambodia to provide copies of their geospatial data, information, and the reports that are the products of such projects to the CEMC, so that they may be incorporated into a national base of environmental data and information. Such information and data held by the CEMC shall be shared and made available without restriction to all contributing organizations and institutions, through a clearly defined procedure for data transfer and associated data transfer agreement, to be developed by the government institution.
- 2) Ensure that all data provided to the CEMC are made available for public use, with the exception of those data that the appropriate government institution housing the CEMC deems necessarily withheld for the protection of endangered or rare species. If any data are withheld from the public for the above purposes, a specific written justification and explanation must be provided by the appropriate government institution housing the CEMC.
- 3) Ensure that any decision to withhold data from the public may be appealed for reconsideration directly to the office of the minister in charge of the government institution housing the CEMC.
- 4) Set data standards for the collection of new geospatial information. The standards to be specified by CEMC shall include, but are not limited to:
  - ~~(a)~~
  - a) A requirement that all geospatial data provided to the CEMC shall utilize the WGS 84 datum.
  - b) ~~(b)~~ Coordinate system.
  - c) ~~(c)~~ Assignment and standardized spelling of names for geographic features, such as administrative units, populated places, water bodies, landmarks, hills and

mountains, etc.

d) ~~(d)~~ Metadata content and format.

5) Require that data collected by other institutions be submitted to the CEMC in the technically standardized format specified by the CEMC.

5) Require that geospatial data provided to the CEMC be accompanied by all available and relevant metadata.

6) Ensure that collection of geospatial information and data related to specific subjects or sectors is not duplicated among government institutions, and that there is one specified official government institution source for data related to any given subject or sector.

#### **ARTICLE ~~2.3:~~ CAMBODIAN ENVIRONMENTAL MAPPING CENTERE DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate government institution may at its sole discretion:

1) Obtain the necessary GIS computer software to effectively analyze, manipulate, and output geospatial data.

2) Obtain computer hardware of sufficient technical sophistication and power to run and utilize GIS computer software.

3) Accept geospatial data in the following formats:

~~(a)~~

a) point data

b) ~~(b)~~ line data

c) ~~(c)~~ shape files in raster format

d) ~~(d) shape files~~ shapefiles in vector format.

4) Produce maps and other data visualization products and provide these to other relevant ministries to assist such ministries in effectively carrying out their natural resource management authorities and obligations.

- 5) Produce maps and other data visualization products for public education and outreach, in order to improve awareness of biodiversity conservation and natural resource management in the Kingdom of Cambodia.
- 6) Establish quality assurance and quality control (QA/QC) procedures for all maps and data visualization products produced by the CEMC.
- 7) Provide for ongoing maintenance, curation, updates, and access to spatial databases hosted by the CEMC.
- 8) Adopt new methods and technologies, as they become available, which enhance the utility of GIS products and activities.
- 9) Promote, wherever possible, collaborative production, use, and analysis of geospatial datasets across ministries.

### ~~Title 3~~ — ~~PUBLIC PARTICIPATION~~

- ~~This Title will clarify and detail the requirements for public participation. The aim of this Title is to provide a consistent approach across all ministries and pertaining to the various decisions made under the Environmental Code.~~

### TITLE 3 — PUBLIC PARTICIPATION

#### CHAPTER # — **PUBLIC CONSULTATION A FUNDAMENTAL REQUIREMENT FOR ENVIRONMENTAL DECISIONS**

#### ARTICLE #

The main objective of public participation is to ensure that project-affected persons and relevant stakeholders:

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- a) are well informed about the project,
- b) ~~—~~have the opportunity to be involved in the discussion and decision-making process related to the project, and



- c) ~~—~~have the opportunity to participate in the project monitoring.

Project Proponents that are required to conduct an EIA shall include public involvement and consultation from local administrations, civil society, community representatives, the project-affected persons and other relevant stakeholders in the EIA process during project planning in order to:

-

- a) identify areas of significance of environment, economy, society and culture
- b) ~~—~~collect opinions of stakeholders and integrate such opinions into the decision making process
- c) ~~—~~review the project proposal and explain impacts on environment, economy, society, and culture.
- d) ~~—~~consider a wider range of alternatives and mitigation measures.

The public participation process in the stage of studying, consulting and reviewing the EIA report and project monitoring shall be determined by Prakas of MoE.

#### ARTICLE ~~##~~

The EIA Report shall:

-

- a) record the public participation and the Project Proponent shall take this into account during the planning and conduct of EIA.
- b) ~~—~~focus on the issues raised by women and those most vulnerable potentially impacted by the proposed project.
- c) ~~—~~include the details of the project impacts on the public and the acceptance or rejection of the requests of the public.
- d) ~~—~~provide clear reasons why those concerns are rejected.

**Comment [M25]:** Comments from NGO Forum on EIA will be addressed during the final EIA review.

#### ARTICLE ~~##~~

MoE shall ensure that IEE and EIA reports and related documents, including the EIA Approval

Letter and Certificate and EMP, shall be made publically available, and that stakeholders and project-affected communities have access to clear and sufficient information.

At a minimum the Project Proponent shall make available on publically accessible website copies of the IEE or EIA, any EMP for the project, maps and plans of the project and all proposed mitigation measures for the project.

The procedures for public participation and access to information shall be determined by a Prakas of MoE.

**CHAPTER # ~~–~~DUTY TO CONSULT WITH POTENTIAL AFFECTED PERSONS**

**CHAPTER # ~~–~~DUTY TO CONSIDER CONCERNS RAISED BY THE COMMUNITY**

**CHAPTER # ~~–~~IDENTIFICATION OF PROJECT AFFECTED PERSONS AND OTHER  
STAKEHOLDERS**

**CHAPTER # ~~–~~MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN  
NATURAL RESOURCES MATTERS**

**CHAPTER # ~~–~~MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN EIA  
MATTERS**

**CHAPTER # ~~–~~MINIMUM TIME ALLOWED FOR INDIGENOUS PEOPLE TO  
PROVIDE COMMENTS**

**CHAPTER # ~~–~~FREE, PRIOR AND INFORMED CONSENT FOR INDIGENOUS  
PEOPLE AND LOCAL COMMUNITIES IN NATURAL RESOURCES AND**

## ENVIRONMENTAL IMPACT ASSESSMENT MATTERS

### ARTICLE ~~##~~

The public participation process shall ensure that the consent of the project-affected communities to the proposed mitigation measures is based on the free, prior, and informed consent principle (FPIC).

In the mitigation measures, the Project Proponent shall:

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- a) identify measures to improve the livelihood and to assist project affected persons.
- b) ~~—~~ensure that project-affected persons are involved in any resettlement planning to minimise the adverse effects of resettlement, to ensure that compensation for lost assets is fair, suitable and acceptable as equivalent to the market price and that the mitigation measures are appropriate and sustainable.

In cases where the project-affected community disagrees with the mitigation measures proposed by the Project Proponent, the development project still continues; however, the Project Proponent shall seek other appropriate mitigation measures or provide resolution of the impacts to the affected community.

The procedure of resettlement and solution of compensation to the affected community shall be determined by Sub-~~e~~Decree.

The formalities and procedures of payment of compensation to the impacted community shall be determined by an Inter-Ministerial Prakas between MoE and the Ministry of Economy and Finance.

**Comment [M26]:** Per NGO Forum. Text to be reviewed for consistency with FPIC.

**Comment [M27]:** Per NGO Forum. Procedure will be determined in Code.

## CHAPTER # ~~—~~RESPONDING TO PUBLIC SUBMISSIONS

## CHAPTER # ~~—~~TAKING INTO ACCOUNT PUBLIC SUBMISSIONS

## ~~Title 4~~ ~~—~~ACCESS TO ENVIRONMENTAL INFORMATION

## **TITLE 4 ACCESS TO ENVIRONMENTAL INFORMATION**

- This Title will clarify and detail the requirements for access to environmental information. The aim of this Title is to provide a consistent approach across all ministries and pertaining to the various decisions made under the Environmental Code.

### **CHAPTER #—1 GENERAL PROVISIONS**

(Right to access to information, refer to Principle of Access to Information ~~to be made available~~ in Book 1.)

A comprehensive regime of access to environmental information is one of the means to secure rights of people to live in clean environment and their obligations to assure it.

~~The Article #, detailing all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting, and other information that is to made publicly accessible.~~

#### ~~ARTICLE #—Environmental information~~

Government of the Kingdom of Cambodia commits to transparency, accountability and public participation. The commitment is grounded in relevant Multilateral Environmental Agreements and national laws.

Management of natural resources, including ecosystems, environmental conservation, measures related to protection of health, shall be based on reliable information, including scientific information and knowledge of the local communities.

The people of the Kingdom of Cambodia have the right to obtain reliable environmental information from a public authority.

Public authorities/institutions shall give access to information and will proactively disseminate it. Environmental information, such as environmental impacts in EIA, to be made publicly available upon request in a timely manner.

#### ~~ARTICLE #—List of such information~~

**Comment [M28]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Comment [M29]:** Per NGO Forum.

~~ARTICLE # – Procedures for requesting, receiving and appealing decisions to deny such information~~

~~ARTICLE # – In general:~~

- They are to inform public about rights and how to exercise these rights.
- They should make efforts to maintain environmental information and have it accessible and reproducible.

MoE has responsibility to make a list of authorities responsible for maintaining and disseminating environmental information.

**CHAPTER 2 – ENVIRONMENTAL INDICATORS INFORMATION**

Environmental information includes information on:

- a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
- b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment.
- c) Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements.
- d) Instances of non-compliance with environmental laws, policies, regulations, agreements.
- e) Information about environmental risks that can affect the state of human health and safety, cultural sites and built structures.
- f) The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above.

**Comment [M30]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Comment [M31]:** Shall include all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting.

**Comment [M32]:** Per M. Desrousseaux.

g) Reports on the implementation of the measures in the item (c) above and in implementation of MEAs.

### **CHAPTER #—PUBLICIZING COMMISSIONS3 – RELIABILITY OF INFORMATION**

To assure that environmental information is reliable, the relevant authorities have to provide rational of the measures in the item (C) above including life cycle analysis, environmental assessments, cost-benefit and other analyses and assumptions; these documents also have to be publicly accessible.

**Comment [M33]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

## **CHAPTER 4 ENVIRONMENTAL COMPLIANCE RECORDS**

The government is required to establish a format for documenting environmental review compliance.

## **CHAPTER 5 ACCESS TO INFORMATION**

The government shall establish informational systems, including registers to support environmental decision making. Includes, but is not limited to:

- Environmental Mapping Centre
- Pollutant Release and Transfer Register (PRTR)
- Biodiversity Clearinghouse
- Carbon Registry
- Database of EIA and SEA

Public shall be granted access to information specified by Chapter 2 unless stipulated by law.

## **CHAPTER 6 – PROVISION OF ENVIRONMENTAL INFORMATION**

The competent authorities shall publish a regulation on provision of environmental information including procedure, timing, format, grounds for refusing information and arbitration.

The state authorities shall provide information to fulfil requirements to comply with multi-lateral environmental agreements (MEAs) and local issues/national legislation.

Public authorities shall provide information on the results of EIA, SEA and other information as required by national law, including the results of commissions of inquiry into EIA or natural resources decisions.

**Comment [M34]:** National and provincial level reporting.

~~Chapter #—Special provisions for project and activities with very significant impacts or controversial projects and activities~~

~~Chapter #—Access to information prior to decision being made~~

~~Chapter #—Reasonable time for access~~ Private and public organisations shall provide information on aspects related to the environment as required by law, including on aspects specified in Chapter 2.

Mass-media organisations should dedicate xxx of their time to coverage of environment-related issues, including through informational and educational programmes.

## CHAPTER 7 – MONITORING OF INFORMATION PROVISION

The government shall develop procedures that enable third party organisations to assess procedures of information

~~Chapter #—Protection of whistleblower for~~ provision ~~of information~~ mandated by law.

~~Chapter #—Protection of journalists who publish information~~

~~Chapter #—Environmental monitoring~~

~~ARTICLE #—Public participation in environmental monitoring and gathering of information—development of shared or open-source systems.~~

~~ARTICLE #—REVIEW AND ENSURING QUALITY~~

## CHAPTER 8 – VIOLATIONS AND REMEDIES AND ENFORCEMENT

Where there are instances of non-compliance with provision of environmental information, remedies should be applied.

**Comment [M35]:** NGO Forum comments on responsibilities for monitoring and reporting and types of reporting will be addressed during final EIA review.

Chapter will be further developed to include types and methods of monitoring programs.

~~Chapter #~~—The government is to establish minimum penalties for non-compliance with requirements for information provision; these provisions do not preclude other remedies established by relevant regulations.

Relevant authorities shall publish instances of non-compliance with environmental laws and regulations.

## CHAPTER 9 PROTECTION OF WHISTLEBLOWERS FOR PROVISION OF INFORMATION AND JOURNALISTS WHO PUBLISH INFORMATION

### BOOK 2 ENVIRONMENTAL PLANNING-OF ENVIRONMENTAL MONITORING SYSTEM, ASSESSMENT AND MONITORING

Comment [M36]: Per STWG 3/5. Revised Book name.

~~Chapter #~~—Making of National, Sub-National and Local Environmental **monitoring programmes**

~~Chapter #~~—**Provincial level environmental status report**

~~Chapter #~~—**Environmental impact reports by industries and sectors**

~~Chapter #~~—**National environment reports**

~~Title 1~~—**CHAPTER #—ENVIRONMENTAL STATISTICS AND  
GATHERING OF ENVIRONMENTAL DATA AND  
INFORMATION**

TITLE 1 AND NATURAL RESOURCES PLANS

~~Chapter #~~—**Procedures for publicising and making available environmental information**



~~ARTICLE # --Online publication~~

~~ARTICLE # --Use of radio~~

~~Chapter # --Exercise of grassroots rights in protection of environment~~

## **~~Book 2 — ENVIRONMENTAL PLANNING~~**

### **~~Title 1 — MAKING OF NATIONAL, SUB-NATIONAL AND LOCAL ENVIRONMENTAL AND NATURAL RESOURCES PLANS~~**

Comment [BR37]: Per Teng Rithiny

- This Title will set out the procedures for the adoption of National, Sub-national and Local Environmental and Natural Resources Plans. These Plans will be prepared for environmental and natural resources management, integrating food and water security issues and relevant materials exploitations certifications. This Title will provide for a planning framework to set sustainable use limits and protections for Cambodia's commercial and non-commercial natural resources.
- This Title will also relate to Book 2, ~~Title 4~~[Title 5](#) Strategic Impact Assessment that may be required prior to the adoption of plans and policies.
- This Title will detail the procedures for the creation of a national land and natural resources plan under which regional and local plans will be made and refer to ~~Book 1~~[Book 1](#)~~Title 3~~[Title 3](#) – Public Participation and ~~Book 1~~[Book 1](#)~~Title 4~~[Title 4](#) – Access to Environmental Information. The national plans will provide the clear policy and strategic direction. Sub-national plans will provide for the specific measures to implement these national objectives.
- One option is to try to adopt a single method for the making and approval of management plans for protection and management (including exploitation) of heritages areas, marine and terrestrial protected areas and management plans for threatened and endangered species.

Chapter # --Preparation of management plans in accordance with national,

### **REGIONAL OR LOCAL ENVIRONMENTAL AND NATURAL RESOURCE**

## MANAGEMENT PLANS

**CHAPTER # -CONSERVATION AND RATIONAL UTILIZATION OF NATURAL  
RESOURCES**

**CHAPTER # - CREATION OF A NATIONAL ENVIRONMENTAL AND  
NATURAL RESOURCE MANAGEMENT PLAN (NEP)**

**CHAPTER # -APPOINTMENT OF A COMMISSION TO PREPARE THE NEP**

**CHAPTER # -DRAFT NEP TO BE PREPARED WITH PUBLIC PARTICIPATION**

**CHAPTER # -APPROVAL OF NEP**

**CHAPTER # -PREPARATION AND APPROVAL OF SUBNATIONAL AND LOCAL  
NEP**

**CHAPTER # -ESTABLISHMENT OF A NATIONAL LAND AND RESOURCES  
INFORMATION DATABASE**

**CHAPTER # -DATABASE TO BE PUBLICALLY AVAILABLE**

**CHAPTER # -DATABASE TO BE USED TO MAKE NATIONAL, SUB-NATIONAL  
AND LOCAL PLANS**

**CHAPTER # –ADOPTING AN ECOSYSTEMS APPROACH TO PLANNING  
INCLUDING RECOGNITION AND VALUATION OF ECOSYSTEM  
SERVICES**

**TITLE 2 LANDSCAPE PLANNING AND THE ESTABLISHMENT  
OF NATIONAL CONSERVATION LANDSCAPES /  
CORRIDORS**

Comment [M38]: Per  
r STWG 3/5 Members.

- This Title will establish a system of national conservation landscapes or corridors. These will be areas with specific legal status and protections. This could include:
  - National parks
  - Urban parks and tree corridors
  - Private land with conservation agreements, including eco-resorts, organic agriculture

**–CHAPTER # ESTABLISHMENT OF NATIONAL CONSERVATION CORRIDORS,  
INCLUDING NAMING, LOCATION AND BOUNDARY/MAP REFERENCE**

**CHAPTER # CLASSIFICATION OF ZONES WITHIN THE NATIONAL  
CONSERVATION CORRIDORS**

**CHAPTER # ACTIVITIES PROHIBITED IN THE NATIONAL CONSERVATION  
CORRIDORS**

**CHAPTER # PREPARATION AND APPROVAL OF MANAGEMENT PLANS FOR  
THE NATIONAL CONSERVATION CORRIDORS**

**CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS IN THE  
NATIONAL CONSERVATION CORRIDORS**

**CHAPTER # PROCEDURES FOR ADJUSTMENTS TO THE BOUNDARIES OF THE  
NATIONAL CONSERVATION CORRIDORS**

**~~Title 2~~ TITLE 3 URBAN LAND USE PLANNING**

- This Title will examine land planning for urban areas. It will establish the creation of zoning plans and land classification for urban areas. It will also provide for the approvals process for developments in urban areas, in accordance with appropriate zonings. This may require the review of the Law on Land Management, Urban Planning and Constructions 1994.
- Urban areas and the development of towns and cities create significant burdens on the environment and the community. It is suggested that this be dealt with as a separate Title to focus on promoting sustainable urban development.
- The Title will establish the procedures for classifying land as urban land and the zone of urban land as housing construction zone, commercial zone and other relevant zones. It will provide the guidance for the sustainable development of cities in accordance with best practice planning principles. This will use the One Map process outlined in Book 2 ~~Title 1~~. [Title 1](#).
- This Title will also provide the minimum requirements for the management of urban land, including provisions for plans covering water, energy, storm water management, traffic, noise and construction.
- The roles of different authorities in land use planning and management will be addressed, referencing Book ~~Title 1~~ [Title 2](#).
- The Title will address the specific requirements for public participation, referencing Book ~~Title 1~~ [Title 3](#).
- This Title will address social housing.

Field Code  
Changed

Field Code  
Changed

## **CHAPTER #-- ESTABLISHMENT OF TRANSPARENT ZONING PROCESS AT CITY AND LOCAL LEVEL, INCLUDING PERIODIC TIMING, SCOPE AND STAKEHOLDERS TO BE INVOLVED AND HOW**

### **ARTICLE #--~~M~~**

[Mitigating](#) and compensating for risks of displacing residents or existing businesses through new zoning

**CHAPTER # ~~-~~CLASSIFICATION OF URBAN LAND**

**ARTICLE # ~~-P~~**

Population threshold at which a zoning plan is required

**CHAPTER # ~~-~~ZONING OF URBAN LAND**

**CHAPTER # ~~-~~ MINIMUM STANDARDS OF URBAN ZONING PLANS**

Include specifications for delineation and co-existence of industrial, commercial and residential zones.

**CHAPTER # BUFFER ZONES AND PREVENTION OF ENCROACHMENT OF NON-COMPATIBLE USES**

**CHAPTER # ~~-~~URBAN INFRASTRUCTURE REQUIREMENTS**

**ARTICLE # ~~-~~**

Improving traffic flow (through the use of one way streets, no parking zones/times, bus lanes, stop signs, etc.)

**ARTICLE # ~~-~~**

Facilitating public-private infrastructure financing

**CHAPTER # ~~-~~ PUBLIC TRANSPORTATION, BICYCLE ACCESS, RECYCLING,**

**WASTE MANAGEMENT, MAINTENANCE OF URBAN GREEN SPACES,  
ETC., INCLUDING CLARITY ON ROLES AND RESPONSIBILITIES OF  
DIFFERENT LEVELS OF AUTHORITIES**

**ARTICLE #–**

Incentivizing public transit ridership.

**ARTICLE #–**

Promoting Walkability

**CHAPTER # –BUILDING, PARKING, OPEN SPACE REQUIREMENTS**

Special building requirements (example: open space set asides, parking space requirements, energy efficiency standards), addressing minimum parking place allocations, open space set aside requirements for urban developments, traffic flow management issues, public transportation, etc.

**CHAPTER # –OTHER PRIVATE SECTOR PROVISIONS**

**CHAPTER # –MOTOR VEHICLE EXHAUST STANDARDS**

**CHAPTER # –POTENTIAL NEW TENURE SYSTEMS FOR SOCIAL HOUSING  
PROJECTS**

**TITLE 4 –EXTENDED PRODUCER RESPONSIBILITY**

**~~Title 3~~TITLE 5 ENVIRONMENTAL QUALITY ~~S~~STANDARDS**

**Comment [M39]:** Per Z. Fadeeva. This concept will be more fully developed and will either be included as a Principle or a section in the Code (Title).

- This Title will establish the procedures for the setting of National and Local **Environmental Quality Standards** (EQS) and Guidelines. It will provide details on the type and quantity of the emissions. It will also adopt existing standards and levels until it is possible to revise or amend the Environmental Standards and Guidelines.
- This Title will require that all relevant Ministries will be required to follow the Environmental Quality Standards and Guidelines.
- The Environmental Quality Standards and Guidelines in this Title will also extend to food safety principles and objectives.

**Comment [MB40]:** Per STWG 2 at 6 April Workshop. EQS will be developed in collaboration with international experts.

## **CHAPTER # -SETTING OF ENVIRONMENTAL QUALITY STANDARDS (EQS)**

### **CHAPTER # -SETTING OF AMBIENT STANDARDS**

#### **ARTICLE #-**

Air Quality Standards

#### **ARTICLE #-**

Water Quality Standards

## **CHAPTER # -SETTING OF DISCHARGE STANDARDS FOR WATERBORNE POLLUTANTS**

#### **ARTICLE #-**

Individual pollutant discharge standards to be set in the code

#### **ARTICLE #-**

Individual pollutant discharge standards to be set by the relevant ministry

**ARTICLE # -**

Setting of polluting threshold for emission monitoring

**ARTICLE # -**

Taking local ecological characteristics into account when setting emissions standards

**ARTICLE # -**

Relationship to EIA law

**ARTICLE # -**

Incorporating international standards

**CHAPTER # - SETTING OF DISCHARGE STANDARDS FOR AIRBORNE  
POLLUTANTS**

**ARTICLE # -**

Individual stationary source pollutant discharge standards to be set in the code

**ARTICLE # -**

Individual stationary source pollutant discharge standards to be set by the relevant ministry

**ARTICLE # -**

Motor Vehicle emissions standards



**ARTICLE # -**

Setting of polluting threshold for emission monitoring

**ARTICLE # -**

Taking local ecological characteristics into account when setting emissions standards

**ARTICLE # -**

Relationship to EIA law

**ARTICLE # -**

Incorporating international standards

**CHAPTER # -REVISION OF EQS**

**CHAPTER # -APPLICATION OF EQS IN CAMBODIA**

**CHAPTER # -PROVISIONAL ADOPTION OF INTERNATIONAL STANDARDS**

**CHAPTER # -DEFINITION OF BEST AVAILABLE TECHNIQUES**

**CHAPTER # -DEFINITION OF GOOD PRACTICES**

~~Title 4~~ **TITLE 6** ~~STRATEGIC~~ **ENVIRONMENTAL**

## ~~ASSESSMENT~~ ENVIRONMENTAL ASSESSMENT

- This Title will outline the use of Strategic Environmental Assessment (SEA) for the assessment and development of plans and policies in Cambodia. The use of SEA can be for all types of policies and plans, including decisions that may have impacts on natural resources management. The relationship between SEA and EIA will be further considered.
- The threshold for trigger for SEA will be clearly defined.
- This Title will also provide the link between National Environmental and Natural Resources Plans, SEA and also EIA for specific projects.

**Comment [M41]:** SEA is for PLANS and POLICIES. Not to be confused with EIA, which is for ACTIVITIES, such as development projects.

**Comment [M42]:** Per NGO Forum and other comments, content in this Title will be clarified, further developed, and made consistent with text regarding EIA as appropriate.

## CHAPTER # ~~ENVIRONMENTAL ASSESSMENT~~ OBJECTIVE OF SEA

To provide a high level of protection to the environment, including health, through the prior assessment of policies, programmes and plans.

## CHAPTER # ~~ENVIRONMENTAL ASSESSMENT~~ AIMS OF SEA

The key aims of SEA include:

- a) Ensuring that environmental impacts, including health and social impacts, are thoroughly taken into account in the development of plans and programmes;
- b) Contributing to the consideration of environmental impacts, including health and social impacts, in the preparation of policies and legislation;
- c) Establishing clear, transparent and effective procedures for strategic environmental assessment;
- d) Providing for genuine public participation in strategic environmental assessment; and
- e) Integrating by these means environmental concerns, including health and social concerns, into measures and instruments designed to further sustainable development.

**Comment [M43]:** Definitions for Environment and for Significant Environmental Impact will be developed that are clear and thorough, reflect Cambodian values, and include examples.

## CHAPTER # ~~ENVIRONMENTAL ASSESSMENT~~ IMPLEMENTATION OF SEA

**ARTICLE #–**

The SEA procedure will include the following steps:

- 1) Screening
- 2) Scoping
- 3) Preparation of the Environmental Report
- 4) Consultation and Public Participation
- 5) Review and Decision
- 6) Information on Decision
- 7) Monitoring

**ARTICLE #–**

Relevant Government institution

The relevant government institution shall be the institution with jurisdiction on the sector the subject of the SEA.

The relevant government institution shall coordinate with the MOE to ensure that these procedures are complied with.

[Confirm institutional arrangements, including role of NCSD].

**ARTICLE #–**

Screening

Any plan or programme that in the opinion of the relevant government institution is likely to have a significant effect on the environment, health or society shall be required to undertake a SEA.

Any plan or programme that is in the following **sectors** shall be required to undertake a SEA unless the relevant government institution determines that an SEA is not required.

**Comment [MB44]:** Or this could be in accordance with the Appendix I. Based on the Vietnam Decree on SEA.

- a) agriculture,
- b) forestry,
- c) fisheries,
- d) energy,
- e) industry,
- f) mining,
- g) transport,

h) infrastructure,

**Comment [M45]:** Per NGO Forum.

~~h~~i) regional development,

~~i~~j) water management,

~~j~~k) waste management,

~~k~~l) telecommunications,

~~l~~m) tourism,

~~m~~n) urban and regional planning or land use.

The relevant government institution shall determine if the plan or programme is likely to have a significant impact on the environment or health or society.

**Comment [M46]:** The Code will clarify who must determine what constitutes a Significant Environmental Impact and the definition for Environment and Significant Environmental Impact.

The relevant government institution shall ensure that all relevant ministries and government institutions are consulted in the preparation of the screening recommendation.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme should be the subject of SEA.

In reaching the decision whether to conduct a SEA the relevant government institution shall take into account the following factors:

**Comment [MB47]:** This is modified from the SEA Protocol, Annex III

1. The relevance of the plan or programme to the integration of environmental, including health and social considerations, and in promoting sustainable development.
2. If the plan or programme will provide an overall framework for projects and other activities, including location, nature, size, operations or the allocation of natural resources.
3. Environmental, including health and social problems and impacts relevant to the plan or programme.
4. The nature of the environmental impacts, including health and social impacts such as probability, duration, frequency, reversibility, magnitude and extent (such as geographical area or size of population likely to be affected).
5. The risks to the environment, including to health and society.
6. If the plan or programme will affect valuable or vulnerable areas, protected areas, including areas with a recognised national or international protection status.
7. If the plan or programme will affect indigenous peoples or natural resources allocation to indigenous people.
8. Comments received from the public participation and consultation process.

The relevant government institution will prepare, in collaboration with MOE, a screening analysis and recommendation.

Once the relevant government institution has determined if the plan or programme requires a SEA, the determination will be made public in accordance with the provision of this Code.

## **ARTICLE #--**

### Scoping

The relevant government institution shall determine together with MOE and based on the

screening process and comments received from other Ministries, the information and scope of the SEA.

The relevant government institution shall ensure that other relevant ministries and institutions are consulted in the preparation of the scoping report and the information to be included in the SEA.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme requires preparation of an Environmental Report

#### **ARTICLE #-**

##### Consultation and Public Participation

The relevant government institution shall ensure early, timely and effective opportunities for public participation, when all options are available for consideration and amendment, in the SEA of plans and programmes.

The relevant government institution shall provide for consultation and public participation in accordance with the provisions of the Environmental Code.

The relevant government institution shall comply with the provisions of the Environmental Code for access to information.

The relevant government institution shall make the Scoping Report, the Environmental Report, details of submissions received, the SEA Report Assessment and determination of the SEA publicly available in both draft and final forms.

Special consideration shall be given to providing opportunity for participation by vulnerable persons, including -women, -children, disabled persons, and ethnic minority groups and indigenous peoples.

#### **ARTICLE #-**

##### Environmental Report

The relevant government institution shall prepare an Environment Report for those plans and programmes that are subject to SEA.

The relevant government institution may prepare the Environmental Report itself or may use an appropriately qualified consultant.

The Environmental Report shall, in accordance with the Scoping Report, identify, describe and evaluate the likely significant environmental impacts, including health, social and ecosystem impacts, of implementing the plans or programmes and any reasonable alternatives or modifications.

Special consideration shall be given to protecting the rights of and evaluating the impacts on vulnerable persons, including -women, -children, disabled persons, and ethnic minority groups and indigenous peoples.

#### **ARTICLE #–**

##### Review and Decision

The assessment of the SEA shall be conducted by a SEA report assessment committee established by the relevant government institution and will include the representatives of the Office of the PM, the CDC, the institution of the Environment, and other concerned Ministries.

The SEA report assessment committee shall comprise a minimum of 9 members.

The SEA Report assessment committee shall consider the content of the Environmental Report and provide opinions and comments.

The relevant government institution shall provide support and guidance on the operations and management of the SEA report assessment committee.

The SEA report assessment committee may:

- (i) Conduct a survey on areas or adjacent areas where the project is carried out;
- (ii) Verify and evaluate information, data, analysis results, evaluation, or forecast in the Environmental Report;

- (iii) Collect opinions of relevant socio-political organizations, social organizations, socio-professional organizations, or experts;
- (iv) Hold thematic meetings between experts.

The SEA report assessment committee must conduct the assessment and send the results to the relevant government institution and MOE within 45 days of the completion of any further surveys or verification or evaluation.

#### **ARTICLE # -**

##### **Results of assessment of SEA reports**

The SEA report assessment committee shall send the results of the assessment of Environmental Report to the relevant government institution and MOE.

The assessment must contain assessment procedures, outcomes and shortcomings, suggestions of the relevant government institution in order for the SEA report assessment authority to consider approving the plans or programmes.

The relevant government institution must comprehensively and objectively consider opinions or requests of the SEA report assessment authority.

The relevant government institution shall consider approving the plans or programmes according to Environmental Reports.

#### **CHAPTER # - INFORMATION ON DECISION**

Once the relevant government institution has considered and made a decision on the plans or programme, this shall be notified to all the parties who have made submissions or been consulted during the SEA process.

The decision shall also be notified on a web-site of the relevant government institution.

#### **CHAPTER # - MONITORING**



The relevant government institution in collaboration with MOE shall develop a monitoring programme.

The monitoring programme shall monitor the significant environmental impacts, including health and social impacts, of the implementation of the plans and programmes.

If the monitoring programme identifies any adverse impacts on environment, health or society, by the plans and programmes the relevant government institution should revise the plan or programme to undertake appropriate remedial action.

The results of the monitoring shall be made available to all relevant government institutions and to the public in accordance with the provisions of the Environmental Code.

#### ARTICLE #—

Evaluating effects on ecosystem services.

### CHAPTER # —APPRAISAL OF SEA REPORTS

#### ~~Title 2 — ENVIRONMENTAL IMPACT ASSESSMENT~~

#### TITLE 7 ENVIRONMENTAL IMPACT ASSESSMENT

- This Title will establish the EIA process in Cambodia. It will replace the Sub-Decree on EIA 72 ANRK.BK 1999. It will incorporate the details and provisions of the Draft EIA Law.
- This Title will cover new projects as well as existing projects and will provide three levels of assessment:
  - Environmental Impact Assessment;
  - Initial Environmental Evaluation; and

○ Environmental Permit.

- The aim of this Title on EIA is to require all development projects and activities that will have an impact on the environment or society to undertake some form of environmental assessment. The level of assessment will be determined according to the potential impact on the environment or society.

• The threshold for trigger for EIA will be clearly defined.

- An EIA Approval Certificate will be issued and any other permit will be issued in accordance with the EIA Approval Certificate.
- EIA will be required for all projects or activities likely to have a significant impact on the environment or society.
- IEE will be required for those projects or activities likely to have a minor impact on the environment or society.
- An Environmental Permit will be required for those projects or activities that do not require an EIA or IEE. These will be required to have permission to ensure that the project is not likely to cause harm or damage to the environment or society.

**Comment [M48]:** The definition of environment in the definition section will be clear and thorough (and comprehensive and robust) and will provide examples in order for there to be an appropriate understanding that “environment” is very broadly defined and includes relationships and the characteristics important to Cambodia.

**CHAPTER # –PURPOSE OF EIA**

**CHAPTER # –SCOPE OF EIA IN CAMBODIA**

**CHAPTER # –OBJECTIVES OF EIA IN CAMBODIA**

**CHAPTER # –APPLICATION TO PUBLIC AND PRIVATE DEVELOPMENT PROJECTS**

**Comment [M49]:** Per NGO Forum. Must ensure EIA is conducted for every phase of a project or activity, such as exploration/feasibility studies, land clearance, construction, operation, expansion, closure).

**Chapter # –Responsibility of Ministry of Environment in EIA**

**/ ROLES AND RESPONSIBILITIES OF SUB-NATIONAL AUTHORITIES** **ARTICLE #**

Officials of the EIA Unit of the Ministry of Environment have the following authorities:

1. - To inspect and monitor compliance with the laws and regulations in force, guidelines, Environmental Protection Agreement, standards, EMPs and other related environmental requirements. In necessary cases, EIA officials can order the project proponent to provisionally postpone activities or provisionally close the location of the project.
2. - To check documents and electronic data on environmental management and other records on development projects and project operations.
3. - To listen to and make minutes after listening to the answers of workers, employees, representatives of Project Proponents as well as other relevant persons.
4. - To order the workers, employees, managers, legal representatives, and agents of development projects to provide information, written documents, plans as well as minutes of all kinds that are related to the environmental management of a Project Proponent.
5. - To search the project site and seize evidence where a violation of laws or regulations on EIA or EMP is suspected to have been committed.
6. - To meet with Boards of Directors, legal representatives, workers, and employees of development projects at least once per year in order to assess the implementation of this law and other relevant regulations.
7. - To make minutes of searching and seizing of evidence in order to compile the case file of the commission of the offense against this or any other law in order to take measures in accordance with procedures in force.

**ARTICLE #**

Capital and Provincial Environmental Departments of the MoE shall take part in implementing this law in accordance with the laws and regulations in force as well as the assignment of the MoE.

**CHAPTER # –REGISTRATION OF EIA EXPERTS**

**Comment [M50]:** Per NGO Forum. Also, funding for sub-national authority role? Scope of project approval under sub-national authority?

**ARTICLE 21.#**

EIA Consultants, which could either be natural persons or legal entities, shall be under the management of the MoE.

EIA Consulting Firms shall have Khmer nationality with the project team leader who is the consultant accredited by the MoE.

All EIA consultants must be registered with MoE before professionally preparing EIA with an EIA consulting firm.

Registration of certificates of accreditation as an EIA Consultant shall be valid for a maximum period of 5 years and may be renewed.

**CHAPTER # –LEVELS OF ASSESSMENT WILL INCLUDE EIA, IEE OR  
ENVIRONMENTAL PROTECTION AGREEMENT**

**ARTICLE #**

All development projects must properly assess the impacts on the environment, economy, society, health and culture with prior approval of the MoE before being sent to the government for decision.

Issuance of licenses or permission letters to development projects by Approval Ministry-Institution shall be done in accordance with the principle of FPIC and conditions determined in the EIA Approval Letter and Certificate. Licenses, permission letters, or decisions that are in contradiction to the spirit of this provision are considered null and void.

**ARTICLE #**

This law does not apply to State's development projects or State activities that have been approved by the government or the National Assembly and that are considered to be necessary and emergency projects relating to national security, territorial integrity, national sovereignty, or disaster management.

**Comment [M51]:** A comprehensive and robust definition of "environment" would clarify and simplify the text and meaning.

**Comment [M52]:** Per NGO Forum.

**Comment [M53]:** Per NGO Forum.

#### ARTICLE #

The MoE shall conduct screening to determine the type of development projects, to require the project proponent to prepare the following documents:

1. ~~an~~An IEE with an attachment of Environmental Protection Agreement;
2. ~~an~~An EIA with an attachment of Environmental Protection Agreement.
3. ~~an~~An Environmental Protection Agreement (EPA)

The projects that are required to prepare an EPA shall attach with it technical principles such as Environmental Protection Plan (EPP) in accordance with the requirements of the MoE,

#### ARTICLE #

The MoE can determine additional screening of the type of project based on the scale of environmental and social impacts that shall be determined by the MoE.

#### ARTICLE #

In cases where there is any transfer or changes to the Project Proponent by any reasons, then the IEE and/or EIA Approval Letter and Certificate as well as contract and all conditions provided for in this paragraph shall be automatically transferred to the new Project Proponent. The Contract of Transfer or the changes of the Project Proponent shall not be valid for implementation unless the transfer or the changes are done after MoE has received notification about the changes.

#### ARTICLE ~~16~~#

IEE report shall be required for:

1. Projects listed in sub-decree.
2. Projects that have prepared Environmental Protection Agreement and decided by MoE that they do IEE.

When the proposed project is required to do an IEE, the Project Proponent shall

cooperate with consulting firms in order to prepare the Terms of Reference (ToR) in accordance with the provisions and guidelines of MoE and submit to EIA Unit for final approval.

Project Proponent and consulting firms shall prepare IEE report based on the approved ToR.

#### ARTICLE ~~##~~

An Environmental Impact Assessment report shall be required for:

- 1- Projects listed in Annexure 1 or;
- 2- Projects that have received an IEE and the result of the study demonstrate ~~serious~~ significant environmental impacts ~~on environment and society~~ and the MoE requires the project to conduct an EIA.

When the proposed project is required to undertake an EIA report, the Project Proponent shall collaborate with consulting firms to draft the Terms of Reference in accordance with any provisions and guidelines of MoE and submit to EIA Unit for final approval.

Project Proponent and consulting firms shall prepare EIA report based on the approved ToR.

#### ARTICLE #

An Environmental Protection Agreement shall be entered into by all projects that are listed in sub-decree or projects with little negative impacts on environment and society.

When the proposed project is required to conduct an EPA, the project proponent shall enter into to the EPA by attaching with it the technical principles such as Environmental Protection Plan and relevant documents and submit to EIA Unit for final approval.

The form of EPA and EPP shall be determined by MoE.

### CHAPTER # ~~-~~ ESTABLISHMENT OF EIA REVIEW COMMITTEE

#### ARTICLE #

## ARTICLE #

All development projects that are required to perform an EIA are required to have technical comments from the Expert Review Committee.

The composition of the Expert Review Committee includes officials from MoE and relevant ministries and institutions, and independent experts with qualifications and appropriate experience in reviewing EIA reports. Members of an Expert Review Committee shall be selected on a project-by-project basis by MoE based on the technical aspects of the EIA report.

The organization and functioning of the Expert Review Committee shall be determined by Prakas of MoE.

The members of the Expert Review Committee shall be reimbursed for their services based on an agreement between MoE, each member, and Project Proponent.

**Comment [M54]:** While representatives from the public, including potentially affected communities, are not included in the Expert Review Committee, the public participation process provides the opportunity for EIA review and input on the decisions.

## CHAPTER # –ROLE OF EIA REVIEW COMMITTEE

## CHAPTER # –TIMEFRAMES FOR EIA AND IEE PROCEDURE

**Comment [M55]:** Per NGO Forum. Reimbursement for participation in an EIA Expert Review Committee should be limited to those committee members acting outside their normal responsibilities. Government officials or staff whose job it is to participate in the EIA process should not be specially remunerated.

## ARTICLE #

The MoE may only make a determination in accordance with this procedure after the IEE or EIA has been on public exhibition for at least the time period specified in the Code.

For the Environment Protection Agreement the minimum time period for public exhibition and comment is a 3 weeks.

For the IEE Report the minimum time period for public exhibition and comment is a 6 weeks.

For the EIA Report the minimum time period for public exhibition and comment is a 8 weeks.

## ARTICLE #

The MoE has a period of 30 (thirty) working days to review, comment, approve, reject, or require adjustment or correction to Environmental Protection Agreement and Environmental Protection Plan. The period is counted from the date of the submission of Environmental Protection Agreement, Environmental Protection Plan, and relevant documents.

~~ARTICLE #~~

ARTICLE #

MoE shall review and comment on the IEE report within sixty (60) working days counting from the date of receiving the report. The period of sixty (60) days will expire when the Ministry of Environment has provided the comments regardless of whether the comment is in the form of rejection, approval, or an order to make modification or improvement on the reviewed report. The period of sixty (60) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the slowness or failing to make correction in accordance with the above order or instruction.

**ARTICLE 24.#**

MoE shall review and comment on the EIA report within ninety (90) working days counting from the date of receiving the report. The period of the ninety (90) days will expire when the Ministry of Environment has provided the comments regardless of whether the comments are in the form of rejection, approval, or an order to make modification or improvement on the reviewed report.

The period of ninety (90 ) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the slowness or fail to make correction in accordance with the above order or instruction



## **CHAPTER # ~~PREPARATION OF EIA REPORT~~**

## **CHAPTER # ~~PREPARATION OF ENVIRONMENTAL MANAGEMENT PLAN~~**

### **ARTICLE #**

An Environmental Management Plan (EMP) shall be prepared by the Project Proponent. The EMP shall include the protection, mitigation, monitoring and management requirements that were identified in the IEE and EIA reports.

The EMP shall be regularly updated to take into account any amendments in Environmental Standards, or changes in sector performance practices or other changing circumstances of the Project.

### **ARTICLE #**

All development projects and project operators shall establish and maintain an Environmental Management System (EMS) that shall ensure the self-monitoring procedures and methods as stipulated in their EMP.

In cases where the environmental impacts are greater than those estimated in the EIA report or EMP, then the MoE shall require immediate action to remedy the impact or an adjustment of the EMP.

The adjusted EMP and monitoring programme shall be approved by MoE. A time limit to make adjustments or improvements shall be agreed upon in writing by all parties.

The Project Proponent shall prepare the environmental monitoring report every three (3) months and submit to EIA Unit for review and evaluation. The EIA Unit has the right to make site inspections and verify the monitoring data of the Project Proponent.

### **ARTICLE #**

Project-affected persons and all stakeholders shall have the right to report issues and grievances

of environmental and social concerns to the Project Proponent and to petition competent authorities. Such issues will be addressed by a sub-national commission and it can continue to an inter-ministerial commission established as part of the EMP.

**Comment [M56]:** Per NGO Forum. Define in more detail, link to relevant sections of the Code.

Relevant competent authorities shall respond to the grievance or petition and deal with concerned environmental and social issues within an appropriate time limit and inform the concerned persons accordingly.

The formalities and procedures of the grievance or petition shall be determined by Prakas of MoE.

## CHAPTER # ~~–~~SUBMISSION OF EIA REPORT

## CHAPTER # ~~–~~CONSIDERATION AND ASSESSMENT OF EIA REPORT

### ARTICLE ~~25.~~#

During the period for review and comment the MoE shall review and comment on the IEE or EIA report after:

- ~~–~~Listening to and considering the official presentation and defending of the report which is conducted by the Project Proponent and consulting firm;
- ~~–~~Considering the comments of direct or indirect project-affected people, opinion of the public and civil society;
- ~~–~~Considering the comments from relevant ministries or institutions, and
- ~~–~~Considering the proposed comments of the Expert Review Committee;

MoE is responsible for ensuring a fair public participation process by inviting representatives of relevant ministries or institutions, territorial authority, civil society, and project-affected persons to provide comments on the proposed project.

## CHAPTER # ~~–~~REVISION OF EIA REPORT

## ARTICLE #

The provision of comments in the form of approval or rejection, or the ordering to make adjustments or corrections on IEE or EIA shall be done by taking into consideration the advantages and disadvantages of environment, economy, society, and culture by examining the scope of the project, geographical location, potential impact, other special features of each project, and effectiveness of the implementation of management measures, and/or the protection of environmental quality and social impact mitigation in accordance with the level of the development of technology and science.

In case where MoE approves any IEE or EIA report, MoE shall issue an EIA Approval Letter and Certificate for the project by attaching with it the Environmental Protection Agreement.  
In case where the MoE rejects an IEE or EIA report, the MoE shall provide the reasons for the decision.

In case where the MoE provide comments of ordering to make adjustments or corrections of the IEE or EIA report, the MoE shall provide reasons and clearly demonstrate the points that need to be adjusted or corrected.

## ARTICLE #

Before the decision to grant an EIA Approval Letter and Certificate to development projects ~~which~~that are located in the areas where ~~the~~ indigenous people live, MoE, members of the Expert Review Committee and relevant stakeholders involved in the decision-making process must take strong heed and special consideration about the project in order to avoid negative impact on the culture, custom, tradition, livelihood, and the property of ~~the~~ indigenous people.

**Comment [M57]:** Per NGO Forum. Follow guidelines of FPIC, UNDRIP, and international human rights standards and respect existing laws on conservation and safeguard principles, including following Cambodia's signatory standards under international agreements.

## CHAPTER #- APPROVAL OR REJECTION OF EIA REPORT

## ARTICLE #

MoE shall send the decision on the rejection or the order to make adjustment and correction in

writing as well as the reasons or condition and/or the points that need to be adjusted or corrected to the Project Proponent and consulting firm in order to prepare the EIA report.

MoE shall send the EIA Approval Letter and Certificate as well as the Environmental Protection Agreement to the Project Proponent and relevant competent ministries and institutions such as Approval Ministries or Institutions, Council for Development of Cambodia, Capital and Provincial Departments of Environment and relevant Commune and Sangkat Councils.

## **CHAPTER # –GRANTING OF EIA APPROVAL LETTER**

## **CHAPTER # – PROHIBITION OF ACTIVITIES WITHOUT EIA APPROVAL LETTER**

### **ARTICLE #**

Project Proponents shall not commence any construction activities or Project operations until after the EIA Approval Letter and Certificate has been issued for the Project. The Ministry of the Environment shall have the power to postpone all construction activities or Project operations that do not have an EIA Approval Letter and Certificate.

All Concession Agreements that are granted by the Royal Government of Cambodia at both national level and Capital and Provincial level shall have an official EIA Approval Letter and Certificate with an attachment of Environmental Protection Agreement (EPA).

### **ARTICLE #**

The EIA Approval Letter and Certificate shall be valid for the life cycle of the project. In case where the MoE finds that there are changes to Master Plan or that the IEE or EIA reports are not adequate or effective for the implementation of impact mitigation measures, the MoE has the rights to require the project proponent to re-prepare an EIA report and/or to update the existing EIA report in order to receive a new EIA Approval Letter and Certificate in accordance with conditions determined by MoE.

## **CHAPTER # –EXISTING PROJECTS**

#### **Comment [MB58]: P**

rojects that are planned or existing that have completed the EIA process and Government approval processes shall not require further assessment. All existing projects will be required to comply with the Code and be subject to the appropriate penalties if the project causes harm to the environment or society.

#### **Comment [M59]: Pe**

r NGO Forum. Clarification for expansion of existing projects.

#### ARTICLE 31.

MoE in consultation with relevant Ministries or institutions shall prepare Guidelines based on project screening for the types of projects that have not conducted the EIA to require the Project Proponent to prepare an IEE or EIA report for existing projects or projects in operation.

The Guidelines shall be published within three (3) months after the MoE has made decision on these guidelines.

Project Proponents shall cooperate with consulting firms to complete their IEE or EIA reports and submit these documents to MoE for review and comments in a period determined by MoE.

MoE shall review, comment, and make a decision on these IEE or EIA reports in accordance with the provisions of the Code.

### CHAPTER # ~~–~~MATTERS FOR CONSIDERATION

#### ARTICLE # ~~–~~

Protecting the rights of vulnerable persons, including ~~–~~women, ~~–~~children, disabled persons, and ~~ethnie~~ minority groups and indigenous peoples, in keeping with the principle of FPIC and through the EIA process, including public participation in the EIA process and the implementation measures that are an outcome of EIA approval.

Comment [M60]: Per NGO Forum.

### CHAPTER # ~~–~~SOCIAL IMPACT ASSESSMENT

[To be developed in detail]

### CHAPTER # ~~–~~HEALTH IMPACT ASSESSMENT

#### ARTICLE #

All IEEs and EIAs must include a Health Impact Assessment (HIA) that includes:

- —baseline data on health (including nutrition) in the project areas and of the affected populations;
- —description of potential project impacts (e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease) due to construction, population influx and changes to the environment;
- —the mitigation measures to offset, reduce or even eliminate negative impacts of the project and measures that will be introduced by the Project Proponent to ~~improve~~preserve and maintain good health of the local communities; ~~and~~ and take measures for improvement where necessary; and
- —the issues related to monitoring health conditions and managing remaining impacts in the short and long-term for the project.

**Comment [M61]:** Per NGO Forum.

**Comment [M62]:** Per NGO Forum.

**Comment [M63]:** Per NGO Forum.

## ARTICLE ~~#~~#

In assessing the health impacts, Project Proponents must:

- —propose a safety and health management plan as part of the HIA for the working environment, analyzing relevant risks and specific classes of hazards in the proposed project areas, including physical, chemical, biological, and radiological hazards.
- —identify and assess the risks to, and potential impacts (e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease) due on, the safety and health of affected communities during the design, construction, operation, and decommissioning of the project, and establish preventive measures and management plans for the impacts during these stages.

**Comment [M64]:** Per NGO Forum.

## CHAPTER ~~#~~ —TRANSBOUNDARY ENVIRONMENTAL ~~IMPACT ASSESSMENT~~

**Comment [M65]:** A comprehensive and robust definition of Environment will be defined.

~~ARTICLE #~~ — A Project that has potentially significant trans-boundary environmental impacts is required to conduct a Trans-boundary Environmental Impact Assessment (TbEIA).

## ARTICLE ~~#~~ —

Procedures for conducting TbEIA including government institution jurisdictions.

## **CHAPTER # –CUMULATIVE IMPACT ASSESSMENT**

### **ARTICLE #**

- All EIAs must analyze and evaluate the cumulative impact caused by existing and future projects in the surroundings of the Project, which may trigger significant environmental or social impacts.
- In the cumulative impacts assessment report, the Project Proponent must evaluate the capacity of physical, biological and social economic resources to accommodate additional effects based on their own time and space parameters and project activities surrounding the project sites.
- Project Proponents must consider alternative mitigation measures to offset or avoid potential significant cumulative impacts

## **CHAPTER # –ENVIRONMENTAL MANAGEMENT AND MONITORING**

### **ARTICLE #**

The EIA Unit and Provincial/Capital Department of Environment are the monitoring authorities on Environmental Management Plans and following up on Environmental Management Plan implementation of Project Proponents by cooperation with the Ministry of Environment, relevant institutions, local authorities and stakeholders.

## **CHAPTER # –PROVISION OF INFORMATION**

## **CHAPTER # –REPORTING REQUIREMENTS**

### **ARTICLE #**

Each development project shall prepare an Environmental Monitoring Report of the project as

**Comment [M66]:** Per NGO Forum. Recommend referencing work on cumulative impact assessment by University of Queensland, CSRM.

follows:

- –A Quarterly Report (every three months) covering all environmental management and monitoring results shall be submitted to the EIA Unit;
- –Within three (3) months after the financial year the Project Proponent shall prepare and submit an annual environmental report, including the environmental auditor's opinions;
- –Provide copies of the Project's annual environmental report to the public on request without charge;
- –Provide an electronic copy of the quarterly reports and annual environmental report that will be placed on the publicly accessible web-site of MoE and by the Proponent on a publicly accessible web-site.

#### ARTICLE ~~##~~

Each development project with an EIA Approval Letter and Certificate shall submit a quarterly and semi-annual report to the EIA Unit concerning its environmental management and monitoring;

Project Proponents have the obligation to promptly report a critical environmental problem to relevant and competent authorities and to the public to avoid negative impacts to the environment or society;

Project Proponents shall provide information related to environmental management of the project to MoE in accordance with the request of MoE.

### CHAPTER # –FEES AND CHARGES

#### ARTICLE ~~##~~

The Project Proponent is liable for all expenses incurred in preparation of the Initial Environmental Examination (IEE) report or the Environmental Impact Assessment (EIA) report and for the expenses for project screening, for project scoping, for the public participation process, for the review and comment on the IEE or EIA report by MoE, for reviewing Environmental Monitoring Report, and for the work of the Expert Review Committee.



**ARTICLE ~~##~~**

The Project Proponent is liable for the expenses of the preparation and implementation of the Environmental Management and Monitoring Plan (EMP) and costs to cover implementation and monitoring of measures on reduction of the impacts on environment and society as delineated in the EMP and SDP.

The Project Proponent shall have a deposit [reserved] budget or insurance budget for the management of environmental and social risks which shall be determined by the MoE.

**ARTICLE ~~##~~**

A detailed budget of estimated costs for environmental impact mitigation measures that must be included in the EMP shall be borne by the Project Proponent.

The cost of making documents publically available, including web-site access, as stipulated in Article 40 of this law shall be borne by the Project Proponent.

All costs to adjust or improve the mitigation measures and project monitoring programme as stipulated in Article 43 of this law shall be borne by the Project Proponents.

All expenses for dispute resolution in both inside and outside of the court system as stipulated in Article 65 of this law are the responsibility of the Project Proponent.

Service fees and other charges shall be determined by an Inter-ministerial Prakas between the MoE and the Ministry of Economy and Finance.

**ARTICLE ~~##~~**

When the Project Proponents submit application for review and comment on IEE or EIA report, MoE has the duty to collect fees and service charges as provided in an Inter-Ministerial Prakas between MoE and Ministry of Economy and Finance on Service Charges for reviewing EIA report.

**ARTICLE ~~##~~**

The Project Proponent shall make payment of fees and service charges for reviewing Environmental Monitoring Report to MoE to enable MoE to carry out its duties to review monitoring reports, respond to requests for investigation of environmental complaints, and to carry out routine compliance monitoring during both construction and operation phases of the

project.

~~ARTICLE #.~~

~~An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.~~

~~ARTICLE #.~~

**TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL  
MANAGEMENT REPORTING**

~~The Project Proponent shall make payment of Environmental Endowment Fund based on the agreement between MoE and Project Proponent, on an annual basis until the end of business, based on the type and scale of development project.~~

**~~Title 3 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL  
MANAGEMENT REPORTING~~**

- This Title will outline the principles and requirements for environmental audits and for reporting requirements under the relevant provisions of the Environmental Code. An environmental audit will be a key mechanism to ensure that permit holders and those undertaking development projects are complying with the conditions of approval. This will include EIA, IEE and environmental protection agreements as well as any conditions attached to permits or licenses or ELC.
- The Title will also establish a PROPER system for self-report of pollution by companies and a color-coded registration for environmental compliance. Companies will be designated from Green and Blue (Beyond Compliance) to Black (Compliance) to Yellow and Red (Below Compliance)
- The aim of this Title is not to increase the regulatory burden on the holder of a license or approval but to ensure that environmental and social obligations are carried out in accordance with the approval conditions.

**CHAPTER # -ESTABLISHMENT OF SELF-REPORTING FOR ENVIRONMENTAL  
COMPLIANCE**

Comment [M67]: e.  
g., PRTR

**CHAPTER # ~~–~~OBLIGATION TO REPORT BREACHES OF ENVIRONMENTAL  
CODE**

**CHAPTER # ~~–~~ESTABLISHMENT OF SYSTEM OF ENVIRONMENTAL  
COMPLIANCE**

**CHAPTER # ~~–~~REGISTER OF APPROVALS, PERMITS, LICENSES AND  
MONITORING REPORTS**

**CHAPTER # ~~–~~UNIFIED REGISTER TO BE PUBLICALLY AVAILABLE AND EASILY  
ACCESSIBLE**

**CHAPTER # ~~–~~ENVIRONMENTAL AUDITS**

**Comment [M68]:** Per  
r NGO Forum. Ensure  
mandatory audits.

**CHAPTER # ~~–~~APPOINTMENT AND QUALIFICATIONS OF ENVIRONMENTAL  
AUDITORS**

**CHAPTER # ~~–~~PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL  
AUDITS**

**CHAPTER # ~~–~~PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL  
CERTIFICATION TO INTERNATIONAL STANDARDS**

**CHAPTER # ~~MONITORING REPORTS TO BE REQUIRED FOR SPECIFIC PROJECT AND ACTIVITIES~~**

**Comment [M69]:** Per NGO Forum. Link to risk identification and mitigation plans.

**CHAPTER # ~~MONITORING REPORTS REQUIRED UNDER EIA APPROVALS~~**

**CHAPTER # ~~MONITORING REPORTS TO BE PUBLICALLY AVAILABLE~~**

**CHAPTER # ~~PROMOTING CORPORATE SOCIAL RESPONSIBILITY RIGHTS AND RESPONSIBILITIES TRAINING~~**

**Comment [M70]:** Per NGO Forum. Propose “Responsible Business Conduct”. Will promote better policy coherence with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises

Move Chapter to Book 7 Environmental Education and Awareness?

**BOOK 3 ENVIRONMENTAL MANAGEMENT AND SUSTAINABILITY MECHANISMS**

**TITLE 1 DISASTER RISK REDUCTION AND MANAGEMENT**

- The Title will provide the requirements for reducing disaster risk by proper planning and incorporating risk reduction strategies into natural resource management decisions.

**~~CLIMATE CHANGE~~ CHAPTER # DISASTER MANAGEMENT PLANNING**

**CHAPTER # INCORPORATION OF RISK-REDUCTION PLANNING**

**CHAPTER # DEVELOPMENTS TO TAKE INTO ACCOUNT DISASTER MANAGEMENT PLANNING**

**CHAPTER # PLANNING FOR MAJOR POLLUTION INCIDENTS**

**CHAPTER # RESPONDING TO ENVIRONMENTAL DAMAGE**

**CHAPTER # DISASTER MANAGEMENT FOR PROTECTED AREAS AND HERITAGE LOCATIONS**

**CHAPTER # MANAGEMENT OF DISASTERS AT WASTE FACILITIES**

**CHAPTER # MANAGEMENT OF DISASTERS AT ENERGY PRODUCTION AND**

## STORAGE FACILITIES

### CHAPTER # MANAGEMENT OF DISASTERS AT CHEMICAL FACILITIES

### CHAPTER # OBLIGATION TO REPORT POTENTIAL DISASTERS

## ~~Title 5~~ TITLE 2 CLIMATE CHANGE ADAPTATION AND MITIGATION

- This Title will outline how to mainstream Climate Change assessment into the management of natural resources in Cambodia. Adopting existing strategies to adapt to and mitigate the impacts of climate change in Cambodia, this Title will provide the details on how those matters should be taken into consideration during the EIA process and the natural resource management process.
- The Title will incorporate international climate change mechanisms such as REDD+ CDM and other climate change mechanisms into Cambodia law.
- This Title will outline how to reduce greenhouse gas emissions by Cambodia and the promotion of Green Growth.
- This Title will also link to ~~Book 3 Title 8 – SUSTAINABLE ENERGY and Book 4 Title 1 – ENVIRONMENTAL INCENTIVES, FEES AND CHARGES~~ Title 6 – Sustainable Energy and Book 8 Title 1 – Environmental Incentives.
- It will also address some key issues in relation to other relevant Titles, including building resilience to climate change through planning and construction standards (referencing Book 2 ~~Title 2~~ Book 2 Title 3– Urban Land Use Planning and ~~Book 3 Title 11~~ Title 3– Sustainable Cities)

### CHAPTER # ~~–~~OBLIGATION TO ADDRESS CLIMATE CHANGE

### CHAPTER # ~~–~~INCORPORATING CLIMATE CHANGE MITIGATION IN ALL NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS

### CHAPTER # ~~–~~INCORPORATION OF CLIMATE CHANGE ADAPTATION IN ALL NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS

#### **~~Title 4 — DISASTER RISK REDUCTION AND DISASTER MANAGEMENT~~**

- ~~• The Title will provide the requirements for reducing disaster risk by proper planning and incorporating risk reduction strategies into natural resource management decisions.~~

##### **~~Chapter # — Disaster management planning~~**

##### **~~Chapter # — Incorporation of risk reduction planning~~**

##### **~~Chapter # — Developments to take into account disaster management planning~~**

##### **~~Chapter # — Planning for major pollution incidents~~**

##### **~~Chapter # — Responding to environmental damage~~**

##### **~~Chapter # — Disaster management for protected areas and heritage locations~~**

##### **~~Chapter # — Management of disasters at waste facilities~~**

##### **~~Chapter # — Management of disasters at energy production and storage facilities~~**

##### **~~Chapter # — Management of disasters at chemical facilities~~**

##### **~~Chapter # — Obligation to report potential disasters~~**

#### **~~Book 3 — ENVIRONMENTAL MANAGEMENT AND SUSTAINABILITY MECHANISMS~~**

*[Editorial Note: The subsequent three titles require reorganization and restructuring]*

## ~~Title 1 — ESTABLISHMENT OF NATIONAL CONSERVATION CORRIDORS~~

### TITLE 3 SUSTAINABLE CONSUMPTION AND PRODUCTION

Comment [M71]: Per Z. Fadeeva.

- This Title will ~~establish a system of national conservation corridors. These will be areas with specific legal status and protections. This could include:~~

- National parks

- Urban parks and tree corridors

- Private land with conservation agreements, including eco-resorts, organic agriculture

~~Chapter # — Establishment of National Conservation Corridors, including naming, location and boundary/map reference~~

~~Chapter # — Classification of zones within the National Conservation Corridors~~

~~Chapter # — Activities prohibited in the National Conservation Corridors~~

~~Chapter # — Preparation and approval of management plans for the National Conservation Corridors~~

~~Chapter # — Restoration of damaged habitat or ecosystems in the National Conservation Corridors~~

~~Chapter # — Procedures for adjustments to the boundaries of the National Conservation Corridors~~

## ~~Title 2 — BIODIVERSITY MANAGEMENT AND ENDANGERED SPECIES PROTECTION~~

- ~~This Title will examine the protection, conservation and management of biodiversity, and include different chapters on forests, wetlands, marine ecosystems, endangered species, invasive species and the management of protection areas.~~

- ~~Specific Chapters could address key priority areas including Tonle Sap Lake and the Mekong River.~~

- ~~address~~

~~A submission has been received from some combined NGOs on the policy of Wildlife (or Wild Animal Farming) in Cambodia. The discussion paper raises a number of significant issues and concerns about the possibility of introducing the farming of wild animals in Cambodia. Consideration is being given to the matters raised by the submission.~~

~~Chapter #—Adopting an ecosystems approach to biodiversity management and endangered species protection~~

~~Chapter #—Protection of endangered species~~

~~the issues of resource~~ ~~ARTICLE #—Identification of endangered species~~

~~ARTICLE #—Creation of endangered species management plans~~

~~ARTICLE #—Prohibitions on taking of endangered species~~

~~Chapter #—Protection of wildlife~~

~~Chapter #—Protection of plants and plant communities~~

~~Chapter #—Protection of native plant and wildlife habitat and important ecological communities (including “critical habitat” for endangered plant and animal species)~~

~~Chapter #—Bioregional planning for biodiversity conservation~~

~~Chapter #—Prohibition of export or import of specified flora and fauna and products derived from plants and wildlife~~

~~Chapter #—Prohibition of trade, possession or sale of endangered species~~

~~Chapter #—Enforcement of CITES and other international agreement obligations~~

**Comment [N72]:** W  
WF May 20 suggests  
also enumerate  
Cardamom Mountains,  
Deciduous  
Dipterocarp Forest

**Comment [BR73]:** R  
relationship between  
these two chapters to  
be clarified, or chapter  
combined



~~Chapter #—Scientific and educational uses~~

~~Chapter #—Establishing/classifying protected areas for biodiversity conservation~~

~~Chapter #—Restoration of damaged ecosystems~~

~~Chapter #—Wetlands classification, management and conservation~~

~~Chapter #—Endangered species protection and management plans (includes  
identifying key threatening processes and developing threat  
abatement plans and recovery plans)~~

~~Chapter #—Prohibition on damaging or destroying native vegetation and forest  
protected areas~~

~~Chapter #—Prohibition of hunting in certain areas~~

~~Chapter #—Prohibited activities in protected areas~~

~~Chapter #—Management of invasive species~~

~~Chapter #—Definition of genetically modified organisms~~

~~Chapter #—Prohibition of use of genetically modified organisms, including seeds  
[use](#)~~

~~Chapter #—Management and approvals for use of genetically modified organisms~~

~~Chapter #—Establishment of marine reserves~~

~~Chapter #—Establishment of freshwater production zones~~

~~Title 3——COMMUNITY MANAGEMENT~~

- ~~• The Title would examine options for community use of natural resources, hunting, community fishing and use of land for sustainable community needs.~~
- ~~• To include a revision of current CF and CPA procedures~~
- ~~• This Title will be harmonised with ongoing efforts to create a separate legal instrument on co-management.~~

~~Chapter # – Promotion of Community Forests and Community Protected Areas  
under a unified management framework~~

~~Chapter # – Establishment of co-management as a multi-stakeholder conservation  
tool~~

~~Chapter # – Tenure, scope and duration in co-management~~

~~Chapter # – Mechanisms and elements of co-management~~

~~ARTICLE # Extraction Limits for areas under co-management~~

~~ARTICLE # Protecting natural and cultural heritage through co-management~~

~~Chapter # – Procedures to establishment a co-management zone~~

~~Title 4 ——— CULTURAL AND NATURAL HERITAGE  
MANAGEMENT~~

- ~~• This Title will examine the identification, protection and management of cultural and natural heritage. It will consider the need to protect both tangible and intangible items of cultural heritage.~~
- ~~• This Title will look at the operation of the APSARA Authority and related legislation to ensure a consistent approach to the protection and management of natural, cultural and built heritage, including both tangible and intangible heritage.~~

- ~~• Ministry of Culture and Fine Arts and other authorities related to heritage protection and management.~~

**Comment [N74]:** This chapter will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

**Comment [MB75]:** Recommendations from STWG4

~~• This would examine both World Heritage and Ramsar listed areas, as well as local and national heritage areas.~~

~~• It will regulate key activities in heritage areas, including tourism, research, archeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archeological surveys~~

~~• Other protection mechanisms will include anti trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.~~

### ~~Chapter # National Inventory list of cultural and natural heritage~~

~~Article # The relevant Ministry shall established a National Inventory list of cultural and natural heritage sites~~

~~Article # The National Inventory list shall be updated on a regular basis~~

~~Article # Establishment of local and national heritage zones~~

**Comment [BR76]:** Group 4, 6 April workshop

### ~~Chapter # Identification and designation of cultural and natural heritage sites~~

### ~~Chapter # Damage and Conservation status classifications~~

**Comment [MB77]:** Recommendation from STWG4

### ~~Chapter # Special considerations in EIA for cultural and natural heritage sites~~

### ~~Chapter # Protection for cultural and natural heritage sites from activities not covered by EIA~~

### ~~Chapter # Management plans for sites~~

~~Article # The Minister may require for a Heritage Management Plan to be prepared for a cultural and natural heritage site listed on the National Inventory~~

~~Article # The Heritage Management Plan shall be developed in consultation with the local community and interested stakeholders.~~

~~Article # The Heritage Management Plan shall also establish protected zones and core zones for heritage management of the site.~~

~~Article # Ensuring sustainable use of cultural and natural heritage sites~~

~~Chapter # – Requirements for heritage impact assessment~~

**Comment [N78]:** This chapter will cross-reference the Title on EIA

~~Chapter # – Rescue Archaeology or Salvage Archaeology of threatened or endangered sites~~

~~Chapter # – Order to halt construction or clearing if a site is threatened or endangered~~

~~Chapter # – Impact of protected site on communities~~

**Comment [MB79]:** Recommendation from STWG4

~~Chapter # – Illegal trafficking of artifacts~~

~~ARTICLE # – Illegal trafficking defined~~

~~ARTICLE # – Mechanisms to prevent illegal trafficking~~

~~Chapter # – Education and public awareness of cultural and natural heritage~~

~~Chapter # – Incentives for conservation of cultural and natural heritage~~

~~Chapter # – Funding mechanisms for natural and cultural heritage sites~~

~~ARTICLE # – Entrance fees~~

~~ARTICLE # – Public-private partnerships~~

~~Title 5 – WATER MANAGEMENT~~

~~• This Title will provide details of water management and water planning. Plans for water management should be prepared under the provisions of *Book 2 Title 1 dealing with National, Regional and Local Management Plans*.~~

~~• This will need to consider the benefit sharing arrangements for the use of transboundary watercourses in accordance with international legal obligations.~~

~~• *Waste water and water pollution will be dealt with in Book 3 Title 7 – Solid and Hazardous Substances Control and Contaminated Land.*~~

~~Chapter # – Whole of catchment concerns (including relationships between upper and lower river reaches and between different users)~~

~~Chapter # – Identifying and quantifying (through monitoring and mapping) all surface and ground water sources~~

~~Chapter # – Irrigation system and water supply for agricultural purposes~~

~~Chapter # – Erosion control (riparian vegetation management)~~

~~Chapter # – Man-made waterway~~

~~Chapter # – Water reservoirs for public use (referencing urban planning in Book 2 Title 2)~~

~~Chapter # – Groundwater Management~~

~~ARTICLE # – Establishing requirements for monitoring wells, with triggers for conservation measures if such wells fall below a critical level~~

~~Chapter # – Allocation and trade of entitlements to use water~~

~~ARTICLE # – Groundwater~~

~~ARTICLE # – Rivers, streams and lakes~~

~~Chapter # – Introducing monitoring and reporting systems (in reference to Book 2 Title 6)~~

~~ARTICLE # – Mandatory reporting of normal emissions and effluents.~~

~~ARTICLE # – Mandatory reporting of sudden discharges during maintenance or accidents~~

## ~~Title 6 – COASTAL ZONE MANAGEMENT~~

- ~~• This Title will provide a planning framework for the use and management of the coastal~~

zone:

- It will provide details for the management of tourism and economic development in the coastal zone. It will adopt strong interim controls and safeguards to protect the coastal zone from poor development.
- This will include existing areas receiving special treatment and a system for designating new areas for development, including existing and proposed new institutional management.

## CHAPTER 1: GENERAL PROVISIONS

1) The Kingdom of Cambodia finds that there is a national interest in the effective management, beneficial use, protection, and development of the Coastal Zone.

2) The appropriate ministry shall have the authority to manage natural resources of all waters and lands, both emergent and submerged, in the Coastal Zone of the Kingdom of Cambodia, and to oversee and regulate all development or other activities affecting the waters, lands and associated natural resources of the Coastal Zone.

2) Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, the appropriate ministry shall:

(a) Take full account of and minimize the potential impacts to Coastal Waters by managing natural resources and human activity in the coastal watershed, consisting of the river basins that flow directly to the Gulf of Thailand.

(b) Manage natural resources and human activity in the Coastal Zone in a fully integrated way, in order to avoid or minimize unintended impacts to Coastal Waters.

(c) Actively and comprehensively manage all land based and shoreline sources of solid, liquid and airborne environmental contaminants that may enter Coastal Waters.

3) All activity, development, construction, or other type of projects which have an impact on natural resources in the Coastal Zone shall be subject to an EIA.

## CHAPTER 2: COASTAL SUBZONES

1) The Coastal Zone shall be considered to consist of three subzones:

(a) Coastal Waters—Those waters extending seaward 5 km. from the shoreline, including the associated submerged lands.

(b) Coastal Lands—Those emergent lands extending inland from the shoreline for a distance of 5 km, including the intertidal zone.

~~(c) Coastal Watershed—The entirety of the combined watersheds draining to the marine waters of Cambodia.~~

~~2) The appropriate ministry shall develop regulations appropriate to each subzone in order to manage proposed future development and associated natural resources impacts.~~

### **CHAPTER 3. COASTAL ZONE MANAGEMENT MANDATES**

~~Pursuant to this authority, the appropriate ministry shall:~~

~~1) Consistent with the responsibilities listed in Article 5 of the Royal Decree on The Establishment of a National Committee on Coastal Zone Management and Development of Cambodia *[The status of this committee needs to be considered.]*, undertake the following roles and responsibilities:~~

~~(a) Prepare policies, strategic plans, master plans, action plans, programmes, and various projects pertaining to coastal management and development.~~

~~(b) Produce necessary regulation and guidance to ensure the transparent, equitable, and sustainable management of the Coastal Zone.~~

~~(c) Review and take any necessary action in regard to any passive activities affecting the environment and natural resources of the Coastal Zone.~~

~~(d) Review and evaluate every project proposed for development and implementation in the Coastal Zone to ensure compliance with guidelines for Coastal Zone development issued by the Royal Government.~~

~~(e) Participate in checking and providing comments to competent institutions on investment proposals that may impact the Coastal Zone.~~

~~(f) Review, monitor, and mediate all activities undertaken, or planned to be undertaken, by ministries, institutions, sub-national administrations, national and international organizations, non-government organizations, civil societies, and private sectors that may have impacts in the Coastal Zone so as to ensure that their activities are coordinated in a smooth, effective, and sustainable fashion.~~

~~(g) Provide guidance on laws and regulations governing Coastal Zone development to the sub-national administration, the private sector, and all other relevant stakeholders.~~

~~(h) Submit a yearly report on Coastal Zone management activities for submission to the Royal Government.~~

~~2) Produce and openly distribute maps of the Coastal Zone and its subzones, so that all parties,~~

~~both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.~~

~~3) Ensure that all proposed developments in the Coastal Waters, Coastal Lands, and Coastal Watershed are consistent with the applicable zoning restrictions applying to these lands and waters. Development projects that are found to be inconsistent with such zoning shall not be allowed.~~

~~4) Consistent with the current Law on Fisheries, NS/RKM/506/11, ensure that coral reefs, sea grass and mangroves are designated Coastal Zone aquatic resources of special value, and are accorded protected status, and updated maps of the location and extent of these resources shall be prepared based on the existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014.~~

~~5) Ensure that any activity, construction, or other type of project that results in loss of coral reef, sea grass or mangroves shall be prohibited except under special permit from the appropriate ministry. In issuing such a permit, the following criteria must be applied:~~

~~(a) It must be demonstrated that there is no practical alternative site for the proposed activity, construction, or type of project that would avoid the loss of coral reef, sea grass or mangroves.~~

~~(b) If a certain degree of loss is unavoidable due to the requirements of the activity, construction, or other type of project, then best management practices must be specified in the permit issued by the appropriate ministry that will serve to minimize the total loss of coral reef, sea grass or mangroves. Failure to follow these best management practices shall be considered a permit violation, and the permittee subject to a fine set by the appropriate ministry.~~

~~(c) If an unavoidable loss of coral reef, sea grass, or mangroves is permitted, then the permittee must enter into an agreement with the appropriate ministry to ensure that an equivalent area of the same ecosystem type, and of similar quality, be set aside in permanent protected status as a mitigation offset. Such mitigation offsets may be added to existing protected areas in order to satisfy this requirement.~~

~~6) Produce updated maps of Future Inundation Hazard Areas for the coastal lands of Cambodia, based on existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014. Such Future Inundation Hazard Areas shall consist of all areas of the Cambodian coastal lands that are projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.~~

~~7) Ensure that development of roads, resorts, industrial facilities and other major construction or infrastructure shall not be allowed in Future Inundation Hazard Areas unless it can be demonstrated to the appropriate ministry that such developments are specifically designed to withstand such future inundation. Construction of homes, landfills, and power plants shall not be allowed in such zones.~~

~~9) Regulate the discharge of dredged and fill material into the waters of the coastal watershed through a permitting system. Applicants for such permits must demonstrate that they have taken all reasonable steps to avoid and minimize impacts to streams, wetlands, and marine waters~~



within the Coastal Zone.

10) Evaluate the effects of current and proposed hydropower development projects on the natural resources of the Coastal Zone, and provide recommendations for minimizing or mitigating such impacts.

#### CHAPTER 4. COASTAL ZONE MANAGEMENT DISCRETIONARY AUTHORITIES

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Develop watershed management plans for each major river basin in the Coastal Watershed, including at a minimum the Kampot, Pongrol, Areng, Tatai, and Koh Pao river basins. Such plans shall contain:

- (a) A description and characterization of the watershed.
  - (b) A strategy to control sedimentation and pollution within the watershed.
  - (c) Proposed management measures.
  - (d) Monitoring and evaluation protocols to measure the success of the sedimentation and pollution controls.
- 2) Assist in education and development of human resources to properly address Coastal Zone management and development.

**Chapter #—Planning for climate change in coastal zone management**

**Chapter #—Roles and responsibilities of Ministries**

**Chapter #—Roles of citizen and communities**

**Chapter #—Requirements for public consultation**

**Chapter #—Promotion of sustainable development in the coastal zone**

**—Solid and hazardous substances Control and contaminated land**

- The *Title will reexamine* the provisions of the Sub-Decree on Solid Waste Management 36 ANRK.BK 1999. It will update the relevant provisions about solid waste and hazardous waste management. It will also update and incorporate the provisions dealing with the Sub-Decree on Water Pollution 27 ANRK.BK 1999
- *This Title will include environmental controls on agricultural practices, including fertilizer, pesticide and herbicide use.*
- *Fees and charges will be provided in accordance with Book 4 Title 1.*

Comment [N80]: Moved up

• ~~Reporting and monitoring requirements, including public disclosure, will be dealt with in Book 2 Title 6.~~

- ~~Procedures for investigation on breaches and offences will be dealt with in Book 4 Title 4. The aim is that investigations and proceedings for all waste management and pollution offences will be the same as for other offences and breaches of the Environmental Code.~~

a. ~~Chapter # Promoting waste avoidance and reduction~~

ARTICLE # ~~Packaging regulations~~

ARTICLE # ~~Industrial waste reduction through regulations, financial incentives and other mechanisms.~~

ARTICLE # ~~Reducing the use of plastic bags~~

**Comment [N81]:** To be harmonised with prakas under development.

b.a. ~~Chapter # Encouraging and facilitating recycling (including regulating recycling businesses)~~

ARTICLE # ~~Establishing pilot paper and glass recycling programmes.~~

ARTICLE # ~~Improving capacity for and use of plastic recycling.~~

ARTICLE # ~~Encouraging public-private partnerships in recycling.~~

~~Chapter # Roles and responsibilities of government, private sector and citizens in recycling, waste reduction, and waste management~~

ARTICLE # ~~Manufacturer responsibility over the lifetime of the product~~

ARTICLE # ~~Manufacturer responsibility for industrial waste~~

ARTICLE # ~~Ownership and operation of municipal solid waste facilities and landfill~~

ARTICLE # ~~Permitting requirements for private waste management facilities.~~

~~ARTICLE # – Bidding process for award of municipal solid waste collection contracts.~~

~~ARTICLE # – Responsibilities of national, regional and sub-regional governments in waste reduction and management.~~

~~ARTICLE # – Setting of rules and conditions of separating solid waste according to classification (e.g. organic, recyclable, non-recyclable, hazardous) at source.~~

**Comment [N82]:** Per STWG 2.

### ~~Chapter # – Labeling of waste~~

~~Chapter # – Identification, management and rehabilitation and remediation of contaminated land~~

**Comment [N83]:** per M. Desrousseaux  
Comment

~~Chapter # – Regulation of waste management facilities, including rubbish dumps~~

~~ARTICLE # – Waste management and treatment facilities subject to EIA approval~~

~~ARTICLE # – Integrating risk management into the planning and licensing process for waste management facilities~~

### ~~Chapter # – Standards for classification of waste~~

~~ARTICLE # – International best practices for defining hazardous waste and appropriate subcategories (hazardous chemicals, medical waste, etc.)~~

**Comment [N84]:** Defining and treating industrial non-hazardous waste and household waste separately?

### ~~Chapter # – Management of waste incinerators~~

~~ARTICLE # – Capture requirements~~

~~ARTICLE # – Obtaining energy from waste incineration~~

**Comment [N85]:** Note: Definitions possibly go in "definitions" glossary.

### ~~Chapter # – Solid Waste management and disposal~~

~~ARTICLE # – Identifying and promoting alternatives to landfills~~

~~ARTICLE # – Operation of landfills including monitoring and reporting requirements~~

~~ARTICLE # – Operation of waste incinerators including monitoring and reporting requirements~~

Comment [N86]: Per STWG2

### ~~Chapter # – Hazardous waste management~~

~~ARTICLE # – Collection of Radiological and biological waste from medical facilities~~

~~ARTICLE # – Treatment and proper storage of medical and biological waste~~

~~ARTICLE # – Requirements for the operation of Electronic waste facilities~~

~~ARTICLE # – Promoting proper disposal of electronic waste.~~

~~ARTICLE # – Immediate reporting requirements for any spills, leaks or discharges.~~

### ~~Chapter # – Transportation of waste~~

i. ~~ARTICLE # – Collection and transport divided based on waste types~~

~~ARTICLE # – Setting rules and regulations for transport, loading of municipal solid waste, hazardous waste.~~

Comment [N87]: per STWG 2.

### ~~Chapter # – Public drainage system, rain water drainage~~

### ~~Chapter # – Sewage treatment system~~

~~ARTICLE # – Improving rural sewage treatment~~

~~ARTICLE # – Improving urban sewage treatment~~

~~ARTICLE # – Improving coastal sewage treatment~~

~~ARTICLE # – Seasonal adaptations in sewage treatment~~

~~ARTICLE # – Separation of storm water drainage and sewage infrastructure~~

~~ARTICLE # – Understanding and supporting the role of wetlands in waste filtration and preserving wetlands~~

~~ARTICLE # – Promoting and regulating private septic tanks~~

~~ARTICLE # – Mandatory reporting of normal discharge, effluents and sudden discharge.~~

### ~~Chapter # – Import and export of waste~~

~~ARTICLE # – Restrictions on the import and export of hazardous or e-waste materials~~

~~ARTICLE # – Restrictions on the import and export of solid waste~~

### ~~Chapter # – Application of international conventions on waste~~

### ~~Chapter # – Contaminated Land~~

### ~~Chapter # – Management of Chemical Substances~~

#### ~~General Provision~~

~~Editorial note: The use of the terms “chemical substance,” “chemical product,” and “chemical” in the following articles needs to be analysed and rationalised.~~

#### ~~Article 1.~~

~~This Law has the following objectives:~~

- ~~1. To promote effective management and safe use of hazardous chemical substances and hazardous chemical products in Cambodia;~~
- ~~2.1 To ensure proper registration, classification and labeling of chemical substances and chemical products in order to prevent misuse and to promote safe handling in the work place;~~
- ~~3.1 To enhance public awareness and access to information on safety and mitigation of risks throughout chemical life cycle, including production, storage, transportation, use and disposal;~~

**Comment [MB88]:** New Chapters inserted from Draft.

**Comment [BR89]:** The following text, Articles 1-36, is from a draft law on the management of chemical substances. This text will be carefully reviewed for any possible amendments and overall coherence within the overall framework of the Code, as well as whether agricultural chemicals (pesticides, fertilizers, and PRTR etc.) fall within it.

**Comment [BR90]:** Need to address periodic review of emission standards M Ramasamy

~~4.1. To set up appropriate institutional coordination mechanism and information system for effective management and control of hazardous substances and hazardous chemical products in all stages of chemical life cycle;~~

~~5.1. To ensure an operational national system to incorporate cleaner production solutions in all manufacturing and service sectors, as well as in households.~~

~~(2)(1)-~~

## ~~Article 2.~~

~~This law has the goal of protecting the social infrastructure, human life, animals and environment from risks and hazards caused by misuse and mishandling of hazardous chemical substances and hazardous chemical products throughout chemical life cycle;~~

## ~~Article 3.~~

~~This law covers all hazardous chemical substances or hazardous chemical products and applies to all organizations or individuals that produce, transport, purchase, sell, use, store, release or discard these chemical substances and their chemical derivatives at different stages of their life cycles.~~

~~This law does not apply to radioactive substances, pharmaceuticals, cosmetics, food additives, food products and household appliances or toys that are governed by separate law and regulations.~~

## ~~Article 4.~~

~~The definitions of the main technical terms related to hazardous chemicals are provided in annex 1.~~

## ~~Chapter 2~~

### ~~1. Institutional Responsibility~~

## **ARTICLE 5**

~~The Ministry of Environment is responsible for administration and implementation of this law in cooperation with relevant ministries and institutions, and in harmonization with existing laws and regulations related to the management of chemicals and chemical wastes in Cambodia.~~

#### **ARTICLE 6**

~~The Royal Government of Cambodia shall set up appropriate mechanisms for effective management and control of hazardous chemicals through its life cycle, especially for information sharing, inspection, classification, and hazard communication and risk assessment of registered and new hazardous chemicals circulating in Cambodia.~~

#### **ARTICLE 7**

~~The Ministry of Environment shall coordinate implementation of international treaties or conventions relevant to hazardous chemical substances.~~

#### **ARTICLE 8**

No person shall undertake the following activities:

- ~~(a) The introduction or delivery of any misbranded hazardous substance or banned hazardous substance.~~
- ~~(b) The alteration, destruction, or removal of the whole or any part of the label of any hazardous substance during shipment or sale (whether or not the first sale).~~
- ~~(c) The receipt of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.~~

#### **ARTICLE 9**

~~No person can manufacture, use and distribute persistent organic pollutants (POP) totally banned by Stockholm Convention as listed in the annex 2 of this Law. This list shall be updated according to the revised decision of COP under the Stockholm Convention to which the Royal Government of Cambodia is a party.~~

#### **ARTICLE 10**

~~Any misbranded hazardous chemical substance or hazardous chemical product or banned hazardous substance or hazardous chemical product shall be subject to confiscation and seizure.~~

#### **ARTICLE 11**

~~No person shall manufacture, possess, handle, store, transport, import, export, distribute or use a hazardous chemical substance or hazardous chemical product that is not registered under Sub-decree dated October 2009 on “Management of Classification and Labeling of Chemicals”.~~

#### **ARTICLE 12**

~~No person shall store, import, export or distribute a hazardous chemical that is not packaged in accordance with the regulations and the conditions of registration.~~

#### **ARTICLE 13**

~~No person shall package or advertise a hazardous chemical in a way that is false, misleading or likely to create an erroneous impression regarding its character, value, quantity, composition, safety or registration.~~

#### **ARTICLE 14**

~~No person is allowed to use chemical substances such as acid, gasoline, or toxic chemicals that can cause corrosion, burn, oxidation, injury and destruction of human organs implicating health and human life, except in accordance with international safety standards. In the case of chemical reactions, burns or oxidation causing damage to human or environmental health, responsible legal entities or natural persons shall pay a fine and compensation for the damages.~~

### **Chapter 4**

#### **Registration and Information Disclosure**

##### **Article 15**

~~Organizations and individuals shall have the duty to hold valid official registration of any~~

**Comment [N92]:**  
per N. Sheridan  
comment May 19



~~hazardous chemical substances and hazardous chemical products intended for manufacture, distribution, sale and use in Cambodia.~~

Comment [N93]: per N. Sheridan comment May 19

#### **ARTICLE 16**

~~An application for registration shall be submitted to the respective agencies with at least a minimum information on the manufacturing company, name of chemicals, hazard classification, amount, purpose of import or use, safety data sheets, hazard statement, potential risks to human health and address of delivery.~~

#### **ARTICLE 17**

~~Information on hazardous chemicals shall be reviewed and endorsed by the Ministry of Environment before submission to the respective ministry for approval. The Ministry of Environment in cooperation with respective agencies may conduct additional tests and consultation to verify the correctness of information provided.~~

#### **ARTICLE 18**

~~The relevant ministries having the mandate to approve registration shall provide information on all hazardous chemical substances and products to the Ministry of Environment for inventory, monitoring, risk assessment and inspection purposes.~~

#### **ARTICLE 19**

~~Following official registration, organization or individual shall prepare appropriate action plan for prevention, emergency response, mitigation, monitoring and risk management for hazardous chemical substances. He or she shall act in good faith to provide accurate information on hazardous chemical substances to the responsible agencies when requested.~~

### **Chapter 5** **Classification and Labeling**

## **ARTICLE 20**

~~Classification and labeling of hazardous chemical substances shall follow regulations specified by the Sub-decree No 180 dated 20 October 2009 on Management of Classification and Labeling of Chemicals.~~

## **ARTICLE 21**

~~Hazard criteria for physical hazards, health hazards and environmental hazards shall be specified by an inter-ministerial task force with members designated from line agencies and universities following the Globally Harmonized System for Classification and Labeling (GHS). Role and functions of this inter-ministerial task force shall be specified by a sub-decree.~~

## **Article 22**

~~Organizations or individuals involved in packaging, distribution, transportation, and sale of hazardous chemical substances or products shall put correct labeling on hazard substances and chemical products following regulations specified in the Sub-decree No 180 dated 20 October 2009 before distribution, transportation or sale.~~

## **Article 23**

~~Organizations or individuals shall publish brochures or newsletters on safety data sheet, hazards prevention and mitigation, and health risks for all hazardous substances intended for distribution and sale in Cambodia.~~

## **Chapter 6 Transportation**

## **ARTICLE 24**

~~An organization or individual that transports hazardous chemicals shall abide by the provisions on transportation of hazardous chemical substances or products as prescribed in this Law and other relevant laws.~~

~~Transport operators and transport owners shall prepare staff health and safety plans and response plans for substance specific hazardous materials incident response plans in order to:~~

~~(a) Identify and take necessary measures to minimize potential incidents and remedy consequences if they take place, including training all staff involved in transportation in safety measures and response plans, and~~

~~(b) Identify and notify the nearest local authorities and concerned ministries about the incident if an incident occurs en route either on road, inland waterway, railway, air or sea transport.~~

**Comment [N94]:** Per N. Sheridan  
Comment May 19

~~Transport operators and transport owners shall ensure that any vehicle used in the transport of hazardous chemical substances or products is suitable for the transport of that substance or product and that the vehicle is visibly marked with the appropriate hazard warning marks and symbols.~~

## **ARTICLE 25**

~~The Ministry of Environment shall coordinate with the Ministry of Public Works and Transport, concerned ministries and competent agencies to formulate additional technical regulations on transportation of hazardous chemical substances or hazardous chemical products.~~

## **Chapter 7** **Use and Disposal**

## **ARTICLE 26**

~~All Cambodian people have the rights to use hazardous chemicals according to regulations stipulated by this law and shall follow technical specifications, labeled description and safety instructions of any hazardous substance.~~

## **Article 27**

~~Organization or individual that uses hazardous substances for manufacturing or production of goods and products shall be responsible for compensation or rehabilitation of the social infrastructure, human health, animal health and the environment damage caused by chemical hazards and accidents for which they have been deemed responsible.~~

## **ARTICLE 28**

~~No person can burn and dispose of any part or whole of chemical substances or chemical waste into the environment, including water, soil and air without the approval of the Ministry of~~

#### **Environment.**

~~Disposal of any part of hazardous chemical and its package shall follow regulations and guidelines specified by the sub-decree No 36 ANRK.BK dated 27 April 1999 on Solid Waste Management and the Sub-decree No 27 ANRK.BK dated 06 April 1999.~~

~~Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a Prakas of the Ministry of Environment.~~

#### **Article 29**

~~Organization or individual using hazardous chemicals for scientific research shall have the following duty:~~

- ~~• Use of hazardous chemical substances following regulations stipulated by this Law;~~
- ~~• Laboratory shall have sufficient equipment for safe storage and handling of hazardous chemical substances and personal protective equipment for workers;~~
- ~~• Hazardous substances shall have correct labeling according to the regulations specified by the Sub-decree dated October 2009;~~
- ~~• The Laboratory shall have an appropriate filing systems and records of hazardous chemical substances being used;~~
- ~~• Disposal of hazardous substance or chemical wastes shall follow regulations specified under Article 25 of this Law.~~
- ~~• Identifying and minimizing any potential hazards which may be caused by the use and disposal of hazardous substance or chemical wastes through setting up effective mechanisms to minimize risk and mitigate effects of any hazard which may occur.~~

#### **ARTICLE 30**

~~No person shall use hazardous chemical substances in food products, cosmetics, and toys that can cause direct health hazards to human beings.~~

### **Chapter 8** **Chemical Industry**

#### **ARTICLE 31**

~~Organization or individual engaged in production of chemical substances shall have technical capacity for environmental and social safeguarding as shown below:~~

- ~~• Workshops, storehouse and technological equipment;~~
- ~~• Safety equipment and devices, equipment and devices for prevention and fighting of fire, explosions, lightning, chemical leakages or dispersal and other chemical incidents;~~
- ~~• Labor protection equipment and devices;~~
- ~~• Environmental protection equipment and devices;~~
- ~~• Waste disposal and treatment systems;~~
- ~~• Prevention and response plan, including posting visible hazard pictogram and hazard communication;~~

#### **INCLUSIVE MANUFACTURING, ARTICLE 32**

~~Organizations and individuals engaged in production of chemical substances shall have professional staff with qualifications relevant to the scope, type, and scale of the chemical-related activity along with thorough knowledge about technologies and chemical safety plans and measures.~~

#### **ARTICLE 33**

- ~~• Organizations or individuals are encouraged to review manufacturing processes that can produce chemical substances or products involving less green house gases emission, less energy consumption, and minimal hazard and toxicity to the environment and human.~~
- consumption, product requirements, public procurement, etc.

**Comment [N95]:** deleted “green” per Dian Turnheim

#### **ARTICLE 34**

~~Organizations or individuals engaged in production of chemical substances or products shall have proper registration of the substances and manufacturing permits issued by relevant responsible ministry or authority.~~

## **ARTICLE 35**

~~In case of production of hazardous chemicals or hazardous chemical products, organization or individual shall provide annual report on manufacturing processes, the amount of hazardous ingredients, intended use, point of delivery, waste disposal and treatment systems, and safety plan and measures to the respective ministries and the Ministry of Environment. The format of reports shall be developed by responsible Ministry in cooperation with the Ministry of Environment.~~

## **Chapter 9** **Prevention and Response**

### **Article 36**

~~Organizations or individuals shall have the duty to:~~

- ~~● Strictly follow technical specification, labeling and safety instruction defined by each hazardous substance;~~
- ~~● Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;~~
- ~~● Organize training on safe use and safe handling of hazardous substances, including a safe drill toward the occurrence of hazard to human health and/or the environment;~~
- ~~● Set up a chemical emergency response.~~

## **ARTICLE #**

~~In case of accidents caused by hazardous chemical substances, organization or individual shall cease immediately the activities in question and immediately inform the relevant authorities and the Ministry of Environment. Adequate action shall be taken according to the prevention and emergency response plan aiming for reducing hazards and damage to human health, environment and the property.~~

~~Any organization or individual directly involved in the accident shall immediately inform any local members of the public who may be affected by the accident of the exact risks posed to the public's health and property by the accident and advise the public on measures to mitigate those risks.~~

**Comment [N96]:** per N. Sheridan  
comment May 19

## **ARTICLE #**

~~A Hazard Chemical Insurance Mechanism shall be set up by a financing mechanism for prevention, response and compensation of hazards or accidents associated with hazard substances. The regulations and operation of this insurance shall be specified by a Sub-decree.~~

## **Chapter 10 Public Awareness**

### **Article #**

~~Organization or individual involved in distribution, sale and use of hazardous chemical substances shall provide all information related to safety data sheets, hazard communication, prevention and mitigation measures to the responsible ministries, the users and the public.~~

## **Title 7 — AIR POLLUTION CONTROL AND MANAGEMENT**

- ~~• This chapter will revise and incorporate the Control of Air Pollution and Noise Disturbance 42 ANRK 2000.~~

**Chapter # – Types of pollution to be covered by this Title: air, noise, smell, smoke, haze, vibration, light, ozone**

### **Chapter # – Polluter Reporting of emissions**

**ARTICLE # – Increasing compliance with mandatory emitter self-monitoring and reporting of emissions**

**ARTICLE # – Mandatory reporting for sudden discharges during maintenance or accidents**

~~Chapter # – Regulating emissions from burning agricultural byproducts and promoting alternative uses of organic material~~

~~Chapter # – Ensuring Cambodian compliance with the Montreal Protocol on Substances that Deplete the Ozone Layer~~

~~Chapter # – Vehicular emissions/Motor Vehicle~~

~~Article # – Ensuring foreign manufactured cars meet Cambodian vehicle emissions standards~~

~~Chapter # – Transboundary pollution~~

~~Chapter # – Haze pollution~~

~~Title 8 – ENERGY~~

- ~~• This Title will set goals and standards for the development of sustainable energy for Cambodia.~~

- ~~• It will detail the mechanism to achieve the rapid development of energy sources in Cambodia such as hydropower, wind energy, solar energy, biogas, geothermal, tidal energy and nuclear energy.~~
- ~~• It will also examine the development of oil and gas in a manner that promotes sustainable development and transparency.~~

~~Chapter # – Sustainable Energy Plan~~

~~Title 6~~ TITLE 4 ~~ARTICLE # – PROCEDURES FOR DEVELOPING A SUSTAINABLE ENERGY PLAN~~ CITIES

~~ARTICLE # – Setting targets for percentage of renewable and nonrenewable energy production sources~~



~~Chapter # – Standards and technology for sustainable energy~~

~~ARTICLE # – Standards for approval of proposed hydropower projects~~

~~ARTICLE # – Issuing of permits for hydropower projects~~

~~ARTICLE # – Standards for management of hydropower projects~~

~~ARTICLE # – Standards for approval of proposed wind and solar projects~~

~~ARTICLE # – Issuing of permits for wind and solar projects~~

~~ARTICLE # – Standards for management of wind and solar projects~~

~~ARTICLE # – Promoting the diffusion of sustainable energy technology~~

~~Chapter # – Standards and technology for coal-fired power plants~~

~~ARTICLE # – Standards for approval of proposed coal-fired power plants~~

~~ARTICLE # – Issuing of permits for coal-fired power plants~~

~~ARTICLE # – Standards for management of coal-fired power plants~~

~~Chapter # – Standards and technology for natural gas-fired power plants~~

~~ARTICLE # – Standards for approval of proposed natural gas-fired power plants~~

~~ARTICLE # – Issuing of permits for natural gas-fired power plants~~

~~ARTICLE # – Standards for management of natural gas-fired power plants~~

~~Chapter # – Provision of clean energy for rural communities~~

~~ARTICLE # – Extending the energy grid~~

~~Chapter # – Development of micro and mini-grid systems~~

~~Title 9 – EXTRACTIVE INDUSTRIES~~

- ~~• This Title will examine the Laws relating to Mining in the provision of sustainable economic benefits to Cambodia.~~
- ~~• This will link to the Title on EIA, to promote efficient and effective extractive industry development in Cambodia.~~

~~Chapter # – Extractive Industries Transparency Initiative (ETI) requirements and standards~~

~~Chapter # – Adoption of best practice in extractive industry~~

~~Chapter # – Financial and economic arrangements to ensure proper site management~~

~~Chapter # – Provisions for closure and remediation and restoration of extractive industry sites~~

~~Chapter # – Licensing and permitting system following EIA approval~~

~~Chapter # – Sand mining~~

~~Chapter # – Rock and aggregate mining~~

~~Chapter # – Minerals~~

~~Chapter # – Metal mining~~

~~Chapter # – Oil and Gas~~

Comment [BR97]: P  
er R. Deau

~~Chapter # – Rehabilitation and closure plans~~

~~Chapter # – Financing remediation and restoration for extractive industry~~

~~ARTICLE # – Establishment of a Superfund~~

~~Title 10 – SUSTAINABLE CITIES~~

- This Title will require that land use planning and management for urban areas be conducted to promote sustainable and resilient cities.
- It will ensure that planning takes into account long-term impacts on urban areas, including climate change, energy, water, population and economic development.
- It will also examine the management of trees along public roads and the development of people and nature friendly cities, including the promotion of renewable energy in urban areas.
- Establishment of special institution to promote capacity building and technical education on sustainable cities

~~CHAPTER # – DEVELOPMENT OF SUSTAINABLE URBAN CENTERS~~ CENTRES

~~CHAPTER # – MAKING A SUSTAINABLE CITY PLAN~~

~~ARTICLE # –~~

Measuring progress towards sustainability

~~CHAPTER # – ESTABLISHMENT OF RECYCLING PLANS FOR URBAN AREAS~~

**CHAPTER # –PROMOTING ENERGY EFFICIENCY**

**CHAPTER # –SETTING OF ENERGY EFFICIENCY STANDARDS**

**CHAPTER # –SETTING OF STANDARDS FOR GREEN BUILDINGS**

**CHAPTER # –INTERIM ADOPTION OF INTERNATIONAL STANDARDS**

**CHAPTER # –CREATION OF SUSTAINABLE AND BETTER HOUSING**

**ARTICLE #–**

Identifying and remedying threats to human and environmental health in existing housing stock

**ARTICLE #–I**

IImplementing an environmentally sound, sustainable and affordable social housing programme

**CHAPTER # –OPEN SPACE, PUBLIC PARKS AND GREEN SPACES**

**CHAPTER # –ENSURING CLIMATE RESILIENCE IN URBAN AREAS**

**~~Title 7~~TITLE 5 –SUSTAINABLE TOURISM AND ~~ECO-TOURISM~~ECO-TOURISM**

- This Title will create a framework for encouraging appropriate eco-tourism activities in

Cambodia.

- Eco-tourism activities include small scale, community based tourism opportunities.
- This Title will also create a framework to promote sustainable tourism in general, including larger scale tourism with reduced environmental impact.

## **CHAPTER # –PROMOTION OF ECOTOURISM AND SUSTAINABLE TOURISM AS DEVELOPMENT PRIORITIES**

### **CHAPTER # –DESIGNATION OF SPECIAL ECOTOURISM AREAS**

#### **ARTICLE #–**

Ecotourism in protected areas or wildlife reserves

#### **ARTICLE #–**

Zoning for ecotourism

### **CHAPTER # –FINANCIAL INCENTIVES FOR ECOTOURISM OPERATIONS**

### **CHAPTER #– ECOTOURISM OPERATIONAL STANDARDS (COMMUNITY GUIDELINES, COMMUNITY MANAGEMENT, COMMUNITY FUND, ETC.)**

#### **ARTICLE #–**

Standards for ecotourism benefits to the local economy

#### **ARTICLE #–**

Protecting cultural heritage

**ARTICLE #**

Independent Certification of Ecotourism

**CHAPTER # -MARKETING AND PROMOTION OF ECOTOURISM**

**ARTICLE #**

Regulating false claims in ecotourism

**CHAPTER # -SUSTAINABLE TOURISM: DEVELOPING STANDARDS,  
GUIDELINES, AND APPLICATION FOR THE GENERAL TOURISM  
SECTOR**

**ARTICLE #**

Independent certification for sustainable tourism

**CHAPTER # -CODE OF CONDUCT FOR ECO-TOURISM DEVELOPMENT**

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**~~Title 8~~ TITLE 6 SUSTAINABLE ~~FORESTRY~~ ENERGY**

Comment [M98]: Per STWG 3/5 Members.

- This Title will set goals and standards for the development of sustainable energy for Cambodia.
- ~~As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable timber management.~~
- This Title will address sustainable energy for all aspects of energy issues, including

access, efficiency, and renewables.

**Comment [M99]:** Per Z. Fadeeva.

- It will detail the mechanism to achieve the rapid development of energy sources in Cambodia, with a focus on alternative, carbon-free or low carbon energy sources, such as hydropower, wind energy, solar energy, biogas, geothermal, tidal energy and nuclear energy.
- It will also examine the development of oil and gas as energy sources in a manner that promotes sustainable development and transparency.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

**Comment [M100]:** Per NGO Forum.

## **CHAPTER # SUSTAINABLE ENERGY PLAN**

### **ARTICLE #**

Procedures for developing a Sustainable Energy Plan

### **ARTICLE #**

Setting targets for percentage of renewable and non-renewable energy production sources

## **CHAPTER # STANDARDS AND TECHNOLOGY FOR SUSTAINABLE ENERGY**

### **ARTICLE #**

Standards for approval of proposed hydropower projects

### **ARTICLE #**

Issuing of permits for hydropower projects

### **ARTICLE #**

Standards for management of hydropower projects

### **ARTICLE #**

Standards for approval of proposed wind and solar projects

### **ARTICLE #**

**Comment [M101]:** Per NGO Forum. Limit large- and medium-scale hydropower with preference for small-scale projects.

**Comment [M102]:** Per NGO Forum. Reference HSAF and HSAP.

Issuing of permits for wind and solar projects

**ARTICLE #**

Standards for management of wind and solar projects

**ARTICLE #**

Promoting the diffusion of sustainable energy technology

**CHAPTER # STANDARDS AND TECHNOLOGY FOR COAL-FIRED POWER  
PLANTS**

**ARTICLE #**

Standards for approval of proposed coal-fired power plants

**ARTICLE #**

Issuing of permits for coal-fired power plants

**ARTICLE #**

Standards for management of coal-fired power plants

**CHAPTER # STANDARDS AND TECHNOLOGY FOR NATURAL GAS-FIRED  
POWER PLANTS**

**ARTICLE #**

Standards for approval of proposed natural gas-fired power plants

**ARTICLE #**

Issuing of permits for natural gas-fired power plants

**ARTICLE #**

Standards for management of natural gas-fired power plants

**CHAPTER # PROVISION OF CLEAN ENERGY FOR RURAL COMMUNITIES**

**Comment [M103]:** P  
er NGO Forum.  
Recommend  
Cambodia follow  
international trend of  
practices and  
standards that limit the  
use of coal.



## ARTICLE #

Extending the energy grid and promoting smaller-scale energy production.

**Comment [M104]:** P  
er NGO Forum.

### CHAPTER # DEVELOPMENT OF MICRO AND MINI-GRID SYSTEMS

#### TITLE 7 SUSTAINABLE EXTRACTIVE INDUSTRIES

- This Title will examine the Laws relating to Mining in the provision of sustainable economic benefits to Cambodia.
- This will link to the Title on EIA, to promote efficient and effective extractive industry development in Cambodia.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

**Comment [M105]:** P  
er STWG 3/5  
Members.

**Comment [M106]:** P  
er NGO Forum.  
Review of translation  
needed per 6 April  
Workshop comments.

Frame Title within  
“Do No Harm” and  
rights-based, due  
diligence framework.

Link to newly  
established Extractive  
Industry Governance  
Framework Platform.

**Comment [M107]:** N  
GO Forum.  
References for best  
practices in extractives  
provided in comment.

### CHAPTER # ADOPTION OF BEST PRACTICE IN EXTRACTIVE INDUSTRY

This chapter will include, but is not limited to, best practices related to assessment of gender impacts, resettlement, FPIC, human rights impacts and due diligence (including access to remedy), meaningful stakeholder engagement (including access to information and participatory decision making, use of security personnel, waste management (tailings management, riverine waste disposal, water usage and treatment, corruption, bribery, facilitation payments, and extractives infrastructure (road, rail, ports, energy grids).

**Comment [M108]:** P  
er NGO Forum.

## ARTICLE #

Extractive Industries Transparency Initiative (EITI) requirements and standards

### CHAPTER # ADDRESSING CUMULATIVE IMPACTS

### CHAPTER # FINANCIAL AND ECONOMIC ARRANGEMENTS TO ENSURE PROPER SITE MANAGEMENT

### CHAPTER # PROVISIONS AND FINANCING FOR CLOSURE (INCLUDING PLANS) AND REHABILITATION, REMEDIATION AND RESTORATION OF EXTRACTIVE INDUSTRY SITES

### CHAPTER # LICENSING AND PERMITTING SYSTEM FOLLOWING EIA APPROVAL

**Comment [M109]:** P  
er NGO Forum.  
Cambodia is not an  
“EITI Candidate  
Country”.

**Comment [M110]:** P  
er NGO Forum. Link  
to EIA section.

**Comment [M111]:** P  
er NGO Forum.  
Including required  
insurance, bond or  
fund for  
decommissioning  
costs.

CHAPTER # SAND MINING

CHAPTER # ROCK AND AGGREGATE MINING

CHAPTER # MINERALS

CHAPTER # METAL MINING

CHAPTER # OIL AND GAS

BOOK 4 SUSTAINABLE MANAGEMENT OF  
NATURAL RESOURCES AND ECOSYSTEMS

TITLE 1 COLLABORATIVE MANAGEMENT OF NATURAL  
RESOURCES

- The Title would examine options for community use of natural resources, hunting, community fishing and use of land for sustainable community needs.
- To include a revision of current CF and CPA procedures. Address CFi and CBET (provisions for ecotourism under development) under a unified management framework.
- This title will contain or reference the outcome of an ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.
- This Title will include provisions as relates to the Title on Collaborative Management of Conservation Landscapes in the Book on Conservation and Protection of Biodiversity and Cultural Heritage (as relates to the ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources).

TITLE 2 SUSTAINABLE WATER RESOURCES MANAGEMENT

- This Title will provide details of water management and water planning. Plans for water management should be prepared under the provisions of Book 2 Title 1 dealing with National, Regional and Local Management Plans.
- This will need to consider the benefit-sharing arrangements for the use of transboundary

**Comment [M112]:** P per STWG 3/5. New Book.

**Comment [M113]:** P er Mang M. Recommend applying decentralization and deconcentration reform to speed up lengthy 11-step process for establishing Community Forestry as outlined in the 2006 Prakas on CF. Need translation.

**Comment [M114]:** P er Mang. M.

**Comment [M115]:** W ill modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the ...

**Comment [M116]:** P roposed revision to “co-management” by STWG 3/5 is “collaborative management.”

**Comment [M117]:** W ill modify current tenure duration limits in Community Forests and Community Protected Areas and ...

**Comment [M118]:** STWG 3/5 proposes the term “collaborative management” (easier to understand in Khmer and English) ...

**Comment [M119]:** P er STWG 3/5 Members.

watercourses in accordance with international legal obligations.

- Waste water and water pollution will be dealt with in Book 6 Waste and Pollution Management and Sustainable Production.

**CHAPTER # WHOLE-OF-CATCHMENT CONCERNS (INCLUDING  
RELATIONSHIPS BETWEEN UPPER AND LOWER RIVER REACHES AND  
BETWEEN DIFFERENT USERS)**

**CHAPTER # IDENTIFYING AND QUANTIFYING (THROUGH MONITORING AND  
MAPPING) ALL SURFACE AND GROUND WATER SOURCES**

**CHAPTER # IRRIGATION SYSTEM AND WATER SUPPLY FOR AGRICULTURAL  
PURPOSES**

**CHAPTER # EROSION CONTROL (RIPARIAN AND WETLAND VEGETATION  
MANAGEMENT)**

**CHAPTER # MAN-MADE WATERWAY**

**CHAPTER # WATER RESERVOIRS FOR PUBLIC USE (REFERENCING URBAN  
PLANNING IN BOOK 2 TITLE 3)**

**CHAPTER # GROUNDWATER MANAGEMENT**

**ARTICLE #**

Establishing requirements for monitoring wells, with triggers for conservation measures if such wells fall below a critical level

**CHAPTER # ALLOCATION AND TRADE OF ENTITLEMENTS TO USE WATER**

**ARTICLE #**

Groundwater

**ARTICLE #**

Rivers, streams and lakes

**CHAPTER # INTRODUCING MONITORING AND REPORTING SYSTEMS (IN  
REFERENCE TO BOOK 2 TITLE 8 ENVIRONMENTAL AUDITS AND**

**Comment [M120]:** P  
er NGO Forum.  
Ensure irrigation  
systems do not capture  
rice field water.

**Comment [M121]:** P  
er NGO Forum.  
Including wetland  
rehabilitation and  
policies to preserve  
remaining wetlands.

Link to Protection of  
Plants, Important  
Habitats and  
Significant  
Ecosystems Title.

**Comment [M122]:** N  
GO Forum. Include  
community  
participation and  
regional planning for  
wells.

**Comment [M123]:** P  
er NGO Forum. Clear  
and precise definition  
required.

## ENVIRONMENTAL MANAGEMENT REPORTING)

### ARTICLE #

Mandatory reporting of normal emissions and effluents.

### ARTICLE #

Mandatory reporting of sudden discharges during maintenance or accidents

## TITLE 3 COASTAL ZONE MANAGEMENT

- This Title will provide a planning framework for the use and management of the coastal zone.
- It will provide details for the management of tourism and economic development in the coastal zone. It will adopt strong interim controls and safeguards to protect the coastal zone from poor development.
- This will include existing areas receiving special treatment and a system for designating new areas for development, including existing and proposed new institutional management.

## CHAPTER 1. GENERAL PROVISIONS

1) The Kingdom of Cambodia finds that there is a national interest in the effective management, beneficial use, protection, and development of the Coastal Zone.

2) The appropriate ministry shall have the authority to manage natural resources of all waters and lands, both emergent and submerged, in the Coastal Zone of the Kingdom of Cambodia, and to oversee and regulate all development or other activities affecting the waters, lands and associated natural resources of the Coastal Zone.

2) Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, the appropriate ministry shall:

(a) Take full account of and minimize the potential impacts to Coastal Waters by managing natural resources and human activity in the coastal watershed, consisting of the river basins that flow directly to the Gulf of Thailand.

(b) Manage natural resources and human activity in the Coastal Zone in a fully integrated way, in

order to avoid or minimize unintended impacts to Coastal Waters.

(c) Actively and comprehensively manage all land-based and shoreline sources of solid, liquid and airborne environmental contaminants that may enter Coastal Waters.

3) All activity, development, construction, or other type of projects which have an impact on natural resources in the Coastal Zone shall be subject to an EIA.

## **CHAPTER 2: COASTAL SUBZONES**

1) The Coastal Zone shall be considered to consist of three subzones:

(a) Coastal Waters – Those waters extending seaward 5 km. from the shoreline, including the associated submerged lands.

(b) Coastal Lands – Those emergent lands extending inland from the shoreline for a distance of 5 km, including the intertidal zone.

(c) Coastal Watershed – The entirety of the combined watersheds draining to the marine waters of Cambodia.

2) The appropriate ministry shall develop regulations appropriate to each subzone in order to manage proposed future development and associated natural resources impacts.

## **CHAPTER 3. COASTAL ZONE MANAGEMENT MANDATES**

Pursuant to this authority, the appropriate ministry shall:

1) Consistent with the responsibilities listed in Article 5 of the Royal Decree on The Establishment of a National Committee on Coastal Zone Management and Development of Cambodia *[The status of this committee needs to be considered]*, undertake the following roles and responsibilities:

(a) Prepare policies, strategic plans, master plans, action plans, programmes, and various projects pertaining to coastal management and development.

(b) Produce necessary regulation and guidance to ensure the transparent, equitable, and sustainable management of the Coastal Zone.

(c) Review and take any necessary action in regard to any passive activities affecting the

environment and natural resources of the Coastal Zone.

(d) Review and evaluate every project proposed for development and implementation in the Coastal Zone to ensure compliance with guidelines for Coastal Zone development issued by the Royal Government.

(e) Participate in checking and providing comments to competent institutions on investment proposals that may impact the Coastal Zone.

(f) Review, monitor, and mediate all activities undertaken, or planned to be undertaken, by ministries, institutions, sub-national administrations, national and international organisations, non-government organisations, civil societies, and private sectors that may have impacts in the Coastal Zone so as to ensure that their activities are coordinated in a smooth, effective, and sustainable fashion.

(g) Provide guidance on laws and regulations governing Coastal Zone development to the sub-national administration, the private sector, and all other relevant stakeholders.

(h) Submit a yearly report on Coastal Zone management activities for submission to the Royal Government.

2) Produce and openly distribute maps of the Coastal Zone and its subzones, so that all parties, both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.

3) Ensure that all proposed developments in the Coastal Waters, Coastal Lands, and Coastal Watershed are consistent with the applicable zoning restrictions applying to these lands and waters. Development projects that are found to be inconsistent with such zoning shall not be allowed.

4) Consistent with the current Law on Fisheries, NS/RKM/506/11, ensure that coral reefs, sea grass and mangroves are designated Coastal Zone aquatic resources of special value, and are accorded protected status, and updated maps of the location and extent of these resources shall be prepared based on the existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014.

5) Ensure that any activity, construction, or other type of project that results in loss of coral reef, sea grass or mangroves shall be prohibited except under special permit from the appropriate ministry. In issuing such a permit, the following criteria must be applied:

**Comment [M124]:** Link to process and system for access to and distribution of other environmental information, e.g., environmental information data repository.

(a) It must be demonstrated that there is no practical alternative site for the proposed activity, construction, or type of project that would avoid the loss of coral reef, sea grass or mangroves.

(b) If a certain degree of loss is unavoidable due to the requirements of the activity, construction, or other type of project, then best management practices must be specified in the permit issued by the appropriate ministry that will serve to minimize the total loss of coral reef, sea grass or mangroves. Failure to follow these best management practices shall be considered a permit violation, and the permittee subject to a fine set by the appropriate ministry.

(c) If an unavoidable loss of coral reef, sea grass, or mangroves is permitted, then the permittee must enter into an agreement with the appropriate ministry to ensure that an area of the same ecosystem type, and of same or greater quality, be set aside in permanent protected status as a mitigation offset. Because the benefit stream from protection of the mitigation area is probabilistic, a function of the year by year likelihood the habitat would be lost if not protected and not certain to be lost otherwise, a ratio of three times shall be applied on an areal basis. Such mitigation offsets may be added to existing protected areas in order to satisfy this requirement.

**Comment [M125]:** P  
er M. Barash.

**Comment [M126]:** P  
er M. Barash. New  
text and mitigation  
ratio.

6) Produce updated maps of Future Inundation Hazard Areas for the coastal lands of Cambodia, based on existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014. Such Future Inundation Hazard Areas shall consist of all areas of the Cambodian coastal lands that are projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

7) Ensure that development of roads, resorts, industrial facilities and other major construction or infrastructure shall not be allowed in Future Inundation Hazard Areas unless it can be demonstrated to the appropriate ministry that such developments are specifically designed to withstand such future inundation. Construction of homes, landfills, and power plants shall not be allowed in such zones.

8) Regulate the discharge of dredged and fill material into the waters of the coastal watershed through a permitting system. Applicants for such permits must demonstrate that they have taken all reasonable steps to avoid and minimize impacts to streams, wetlands, and marine waters within the Coastal Zone.

9) Evaluate the effects of current and proposed hydropower development projects on the natural resources of the Coastal Zone, and provide recommendations for minimizing or mitigating such impacts.

## **CHAPTER 4. COASTAL ZONE MANAGEMENT DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Develop watershed management plans for each major river basin in the Coastal Watershed, including at a minimum the Kampot, Pongrol, Areng, Tatai, and Koh Pao river basins. Such plans shall contain:

(a) A description and characterization of the watershed.

(b) A strategy to control sedimentation and pollution within the watershed.

(c) Proposed management measures.

(d) Monitoring and evaluation protocols to measure the success of the sedimentation and pollution controls.

2) Assist in education and development of human resources to properly address Coastal Zone management and development.

## **CHAPTER # PLANNING FOR CLIMATE CHANGE IN COASTAL ZONE MANAGEMENT**

## **CHAPTER # ROLES AND RESPONSIBILITIES OF MINISTRIES**

## **CHAPTER # ROLES OF CITIZEN AND COMMUNITIES**

## **CHAPTER # REQUIREMENTS FOR PUBLIC CONSULTATION**

## **CHAPTER # PROMOTION OF SUSTAINABLE DEVELOPMENT IN THE COASTAL ZONE**

## **TITLE 4 SUSTAINABLE LAND MANAGEMENT**

- This Title will review the role and functions of Economic Land Concessions and the implementation of projects on ELCs.
- This title will also include selected revisions of the current Cambodian Land Management Framework.

**Comment [M127]:** P  
er STWG 3/5  
Members.



- This title will establish a framework for soil protection and management

## CHAPTER # PROCEDURES FOR GRANTING, MONITORING AND TERMINATING ELCS

## CHAPTER # MANAGEMENT OF ELCS, INCLUDING MANAGEMENT PLANS, TRANSPARENCY, AND RELATION TO SUSTAINABLE TIMBER PRODUCTION AND BIODIVERSITY RESTORATION

## CHAPTER # – REVISIONS OF THE CURRENT CAMBODIAN LAND MANAGEMENT FRAMEWORK.

### ARTICLE #

Reviewing land cadastral system and making changes as needed (considering problems of transference of title, mistaken title, etc.).

### ARTICLE #

Procedures for expedited land titling.

### ARTICLE #

Increasing land security among the poor, including streamlining and clarification of indigenous peoples' communal land rights and possession rights.

### ARTICLE #

Consistent land tenure approaches for Community Protected Areas, Community Forests and Co-management areas.

### ARTICLE #

Formalizing and regulating informal settlements.

## CHAPTER # – SOIL PROTECTION AND MANAGEMENT

- This Chapter will set out the procedures for developing a national policy of soil protection and management.
- Soil is generally a forgotten element of environmental law. Where water resource, air or biodiversity benefit from a status of protection, soil issues are split into different branches

**Comment [M128]:** Per STWG 3/5 Members. Revise Title to Chapter for Soil Protection and Management within Title for Land Management.

of the law, regarding different activities. Therefore, land degradation and land restoration mechanisms are not built according to a standard of environmental quality, but according to the uses planned by different stakeholders. This chapter will provide a proper soil status in environmental law.

Comment [M129]: P  
er M. Descrousseaux.

- It will include provisions on the use of fertilizers, pesticides, herbicides and other agricultural chemicals.
- It will also include provisions to create a programme to monitor soil health.

### ARTICLE 1 SUBJECT-MATTER AND SCOPE

This Chapter establishes a framework for the protection of soil and the preservation of the capacity of soil to perform any of the following environmental, economic, social and cultural functions:

- (a) Biomass production, including in agriculture and forestry;
- (b) Storing, filtering and transforming nutrients, substances and water;
- (c) Biodiversity pool, such as habitats, species and genes;
- (d) Physical and cultural environment for humans and human activities;
- (e) Source of raw materials;
- (f) Acting as carbon pool;
- (g) Archive of geological and archeological heritage.

To that end, it lays down measures for the prevention of soil degradation processes, both occurring naturally and caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. Such measures include the mitigation of the effects of those processes, and the restoration and remediation of degraded soils to a level of functionality consistent at least with the current and approved future use.

### ARTICLE 2

Soil is a common heritage, and its protection is in the public interest.

### ARTICLE 3

Land planning policies must take into account the scarcity of the soil and integrate soil functions and services in order to ensure the appropriate and economic use of the land and its properly ordered settlement.

### ARTICLE 4

Obligations to Prevent Hazards:

(1) Any person who is by his action affecting the soil shall act in such a manner that harmful soil changes do not occur.

(2) The property owner and the occupant of a real property shall be obligated to take measures to prevent harmful soil changes originating from their property.

(3) The party who caused a harmful soil change or a contaminated site, and his universal successor, as well as the relevant property owner and the occupant of the relevant real property, shall be obligated to remediate the soil and contaminated sites, and any water pollution caused by harmful soil changes or contaminated sites, in such a manner that no hazards, considerable disadvantages or considerable nuisances for individuals or the general public occur in the long term. In cases of burdens from pollutants, in addition to decontamination measures also securing measures are to be taken into consideration, that permanently prevent spread of pollutants. Where such measures are not possible or cannot be reasonably required, other protection and restriction measures shall be carried out. Persons who, for reasons of commercial law or company law, are required to answer for a legal entity that owns a real property that is encumbered with harmful soil changes to the soil or site contamination, and persons who give up ownership of such properties, is also obliged to carry out remediation.

(4) As part of fulfilment of obligations relative to the soil and to contaminated sites, pursuant to paragraphs (1) through (3), the permissible use of the piece of land under planning law, and the resulting protection requirements, shall be taken into account, as far as this is compatible with the protection of the soil functions. If relevant determinations under planning law are lacking, the nature of the relevant area, taking into account its expected development, shall determine the requirements for protection. The requirements to be fulfilled in connection with rehabilitation of bodies of water shall be determined by law pertaining to water.

(5) If harmful soil changes or contaminated sites have occurred after *(to be determined)*, pollutants shall be eliminated, where this is a reasonable requirement with respect to the previous soil pollution. This shall not apply to a party who, at the time the pollution was caused, expected that such impacts to the soil would not occur because he had fulfilled the applicable legal requirements, and whose good faith is worthy of protection, taking the circumstances of the relevant individual case into account.

(6) The former owner of a real property is obligated to carry out remediation if he has transferred his property after *(to be determined)*, and if he was aware of, or should have been aware of the relevant harmful soil change or site contamination. This shall not apply to a party who, when

purchasing the real property, confided that such harmful soil changes or contaminated sites would not be present, and whose confidence is worthy of protection, taking the circumstances of the relevant individual case into account.

## **TITLE 5 SUSTAINABLE FORESTRY**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable timber management.

### **-CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FORESTRY SECTOR; OBJECTIVES AND LIMITATIONS OF SUSTAINABLE TIMBER MANAGEMENT**

#### **CHAPTER #- DEVELOPMENT OF SUSTAINABLE FORESTRY MANAGEMENT PLANS**

#### **CHAPTER #- PROHIBITION OF THE CUTTING, REMOVAL, TRANSPORT, EXPORT AND USE OF TIMBER WITHOUT A PERMIT GRANTED IN ACCORDANCE WITH THE CODE**

#### **CHAPTER #- ASSESSMENT OF APPLICATIONS FOR PERMITS TO HARVEST TIMBER OR EXPORT OF TIMBER**

#### **CHAPTER #- PROHIBITION OF REMOVAL OF TIMBER ON ECONOMIC LAND CONCESSIONS WITHOUT THE PROPER PERMIT**

#### **CHAPTER #- PERMIT TO CUT OR REMOVE TIMBER ONLY TO BE GRANTED FOLLOWING ENVIRONMENTAL ASSESSMENT OF THE ACTIVITY**

**CHAPTER # – SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-TIMBER FOREST PRODUCTS IN FOREST PRODUCTION ZONES;  
INCLUDING INTERNATIONAL CERTIFICATION MECHANISMS**

**CHAPTER # – SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-TIMBER FOREST PRODUCTS FROM COMMUNITY FORESTS,  
COMMUNITY CO-MANAGEMENT AREAS  
AND INDIGENOUS COMMUNAL TITLED LANDS**

**CHAPTER # – GOVERNMENT AND CITIZEN ROLES IN MONITORING AND  
OVERSIGHT OF SUSTAINABLE TIMBER MANAGEMENT OPERATIONS**

**CHAPTER # – RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS**

**~~Title 9~~ TITLE 6 – SUSTAINABLE MARINE ~~F~~FISHERIES**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable marine fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on marine fishery landings, regulate fishing gear and other aspects of marine fishing.
- ~~As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable marine fisheries management.~~
- ~~This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on marine fishery landings, regulate fishing gear and other aspects of marine fishing.~~

**Comment [M130]:** Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

**CHAPTER 1 – GENERAL PROVISIONS**

The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive fishery

management authority over all fish and other marine fishery resources within its Exclusive Economic Zone.

The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to all types of fishing, both commercial and non-commercial, for marine fishery resources in the Exclusive Economic Zone of the Kingdom of Cambodia, including intertidal zones, also referred to collectively as the Marine Fishery Domain.

The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence, and shall prevent overfishing while achieving on a continuing basis the optimum yield for any given fishery stock or stock complex. To the extent possible, individual fishery stocks shall be managed as a single unit throughout their entire range in the Marine Fishery Domain of Cambodia, rather than as individual stocks within individual provinces.

~~The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive fishery management authority over all fish and other marine fishery resources within its Exclusive Economic Zone.~~

~~The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to all types of fishing, both commercial and non-commercial, for marine fishery resources in the Exclusive Economic Zone of the Kingdom of Cambodia, including intertidal zones, also referred to collectively as the Marine Fishery Domain.~~

~~The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence, and shall prevent overfishing while achieving on a continuing basis the optimum yield for any given fishery stock or stock complex. To the extent possible, individual fishery stocks shall be managed as a single unit throughout their entire range in the Marine Fishery Domain of Cambodia, rather than as individual stocks within individual provinces.~~

## **CHAPTER 2– MARINE FISHERIES MANDATES**

Pursuant to this authority, the appropriate ministry shall:

1) Require a license for all fishing activities in the Marine Fishery Domain, consistent with Article 32 of the Law on Fisheries, NS/RKM/506/11.

~~Pursuant to this authority, the appropriate ministry shall:~~

1) ~~Require a license for all fishing activities in the Marine Fishery Domain, consistent with Article 32 of the Law on Fisheries, NS/RKM/506/11.~~ This license shall include an annual fee in order to help support the fishery research and management activities of the appropriate ministry. The amount of the annual fee shall be determined by the appropriate ministry. Fishing without obtaining such a license shall result in a notice of violation and fine.

**Comment [M131]:** P  
er NGO Forum.  
Subsistence vs.  
commercial?

2) Require that all motorized fishing vessels with motors greater than 5 horsepower, if used in whole or in part for fishing purposes in the Marine Fishery Domain, be registered with the appropriate ministry. This registration shall include an annual fee. The amount of the annual fee shall be determined by the appropriate ministry. Failure to register such a vessel shall result in a notice of violation and fine. For vessels operating in the Marine Fishery Domain, this provision shall replace the registration requirement in Article 33 of the Law on Fisheries, NS/RKM/506/11.

3) Require that data on marine fishery landings be collected from all entities or individuals who purchase marine fishery resources harvested in the Marine Fishery Domain. This data collection shall take the form of a monthly report to the appropriate ministry detailing the individual types of marine fishery resources purchased (preferably identified to the level of species), the number of pieces of each type purchased, the total pounds of each type purchased, the sources from which the fishery resources were purchased, including those sources' license numbers, and the port or ports of landing for each type of purchase. This report shall be filed on a form provided by the appropriate ministry. Failure to file this report within 30 days of the end of each month shall result in a notice of violation and fine of not less than US\$100. Failure to file such a report for three consecutive months shall result in a notice of violation and fine of not less than US\$500. Failure to file such a report for more than three months shall result in a notice of violation and revocation of the company's or individual's business license. For the Marine Fishery Domain, this provision shall replace the daily logbook requirement in Articles 34 and 45 of the Law on Fisheries, NS/RKM/506/11, with Article 45 being hereby repealed.

4) Issue an updated and revised list of all fishing gear types prohibited for sale, possession, or use in the Marine Fishery Domain, consistent with gears already banned as per Articles 20 and 21 of the Law on Fisheries, NS/RKM/506/11. In addition to the banned gears already listed in Articles 20 and 21, use of trawl gears and take of fish by spear while using SCUBA shall both also be prohibited in the Marine Fishery Domain. Any types of fishing gear not included on the prohibited list produced by the appropriate ministry shall be presumed to be allowed unless specifically designated otherwise.

5) In cooperation with the Ministry of Foreign Affairs, establish a system by which foreign

fishing vessels may purchase fishing rights to harvest marine resources in the Exclusive Economic Zone of the Kingdom of Cambodia. The amount of the annual fee for obtaining such fishing rights shall be determined by the appropriate ministry. Continued retention of such fishing rights by any foreign fishing vessel shall be contingent upon the maintenance of a daily logbook detailing the number of daily gear sets, and the weight and type of daily catch, with the logbook open to examination by the appropriate ministry upon request; and the filing of a monthly catch report with the appropriate ministry detailing the individual types of marine fishery resources harvested (preferably identified to the level of species), the number of the total pounds of each type harvested, and the port or ports of landing for the catch. Foreign fishing vessels purchasing fishing rights in the EEZ of the Kingdom of Cambodia must also comply with the following terms and conditions:

(a) The owner and operator of any foreign fishing vessel will abide by all laws of the Kingdom of Cambodia;

(b) Any officer authorized to enforce the laws of the Kingdom of Cambodia shall be permitted to board, search and inspect any foreign fishing vessel at any time, and to make arrests, and seizures whenever such officer has reasonable cause to believe, as a result of such search or inspection, that the vessel or any person upon it has violated the laws of the Kingdom of Cambodia;

(c) The owner or operator of the foreign fishing vessel shall not, in any year, harvest an amount of fish or other marine life which exceeds any limits on harvest that may be set by the appropriate ministry of the Kingdom of Cambodia.

6) Designate and delineate marine zones in which various types of fishing activities are allowed, specially managed, or banned. Such zoning shall include a coastal waters zone extending from the shoreline to 5 km offshore, which shall supersede the definition of a nearshore zone extending from the shoreline to 20 m depth. Community Fishing Areas may be established within this nearshore zone, consistent with the ~~Subdecree~~[Sub-Decree](#) on Community Fisheries Management. Such zoning shall also include an exclusion zone in the inshore waters of the Marine Fishery Domain for vessels using large-scale fishing gears as defined in Article 31 of the Law on Fisheries, NS/RKM/506/11, such that gears of this type may not be used in areas lying within 25 km of the shoreline. Such an exclusion zone shall also apply uniformly to foreign fishing vessels of any size which have purchased annual fishing rights in the Exclusive Economic Zone of the Kingdom of Cambodia.

7) In relation to highly migratory fishery stocks, cooperate directly or through appropriate international organizations, such as the South East Asian Fisheries Development Centre, with



those nations involved in fisheries harvesting such species with a view to ensuring conservation and to promote the achievement of optimum sustainable yield of such species throughout their ranges, both with and beyond the EEZ of the Kingdom of Cambodia.

8) Issue an updated and revised list of all activities prohibited in the Marine Fishery Domain, consistent with activities already prohibited as per Article 52 of the Law on Fisheries, NS/RKM/506/11. In addition to the prohibited activities already listed in Article 52, the harvest and landing of sharks or shark products (such as shark fins), as well as the harvest and landing of sea turtles or sea turtle products (such as shells or portions thereof) shall be specifically prohibited.

9) Issue an updated and revised list of all activities that may be undertaken in the Marine Fishery Domain under a permit from the appropriate ministry, consistent with those listed in Article 23 of the Law on Fisheries, NS/RKM/506/11.

10) Ensure that fishery management in the Marine Fishery Domain is based upon the best available scientific information, and undertake fishery research that adds to this base of scientific knowledge.

11) Undertake a programme to produce updated maps of the distributions of species harvested and the location and extent of key marine fishery resources in the Marine Fishery Domain, with special reference to coral reefs, seagrass beds, and mangroves.

12) Monitor and issue an annual summary of changes to marine fishery resources, with special reference to coral reefs, seagrass beds, and mangroves, and analysing links to climate change and other driving factors.

13) Regulate aquaculture in the Marine Fishery Domain consistent with the provisions in Articles 53-58 of the Law on Fisheries, NS/RKM/506/11.

14) Regulate the landing, transport, and international trans-shipment of marine fishery resources harvested in the Exclusive Economic Zone of the Kingdom of Cambodia, consistent with the provisions in Articles 64-69 of the Law on Fisheries, NS/RKM/506/11.

15) Regulate the import into Cambodia of marine fishery resources harvested in the waters of a foreign nation, and require importers to certify that such resources have been harvested in accordance with the fishery laws prevailing in their countries of origin.

16) Undertake measures to combat illegal, unreported, and unregulated fishing, including

market-based measures to prevent the trade or importation of fish or other marine life caught by vessels identified as having engaged in such unauthorized fishing;

17) Develop a National Fishery Management Plan as per Article 15 of the Law on Fisheries, NS/RKM/506/11. This plan shall be reviewed and amended as necessary every 5 years.

18) Undertake enforcement actions against those entities or individuals who violate fishery laws in the Marine Fishery Domain, as per Articles 72-85 of the Law on Fisheries, NS/RKM/506/11.

19) Assess penalties against those entities or individuals found guilty of violating fishery laws in the Marine Fishery Domain, as per Articles 86-107 of the Law on Fisheries, NS/RKM/506/11.

### **CHAPTER 3- MARINE FISHERIES DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Utilize the following conservation and management measures in order to ensure sustainability of marine fishery resources in the Marine Fishery Domain, depending on which method is most appropriate to the species and circumstances involved:

(a) Set daily individual fisher bag limits for any species of marine life, or for the combined catch from any stock complex consisting of multiple species;

(b) Set minimum or maximum size limits for any species of marine life, below or above which harvest is not permitted;

(c) Set a total allowable catch for any given species of fish or marine life, or for any defined fishery stock or stock complex, during the course of a year, or any other period of time;

(d) Create limited entry systems in relation to a harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(e) Allocate non-transferable individual fishing quotas over a given period of time for any particular marine fishery resource, stock or stock complex;

(f) Implement seasonal closures for any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

- (g) Implement permanent or temporary area closures for the harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;
- (h) Implement restrictions on the type, size and amount of gear used to harvest any particular marine fishery resource, or their use in any particular geographic area.

2) Implement spatially-based management by designating various types of Marine Managed Areas in the Marine Fishery Domain, including:

(a) Marine National Park (MNP) – Such areas shall fall under strict protected status, with all entry and activities controlled by a permit from the appropriate ministry. Such areas may be established consistent with the Protected Areas Law, NS/RKM/0208/007, and with Article 19 of the Law on Fisheries, NS/RKM/506/11, such that no fishing of any type shall be allowed, no entry for navigation shall be allowed without a permit except by the appropriate ministry's enforcement agents or within strictly defined transit corridors, and no new settlements shall be allowed within 2 km of the boundaries of such areas. Such MNP areas may have subzones, including those established for non-commercial community subsistence fishing purposes consistent with the ~~Subdeeree~~[Sub-Decree](#) on Community Fisheries Management.

(b) Marine Life Conservation Area (MLCA) – Such areas may be established consistent with Articles 18, 19 and 26-29 of the Law on Fisheries, NS/RKM/506/11, and shall be used to protect marine resources of particular importance to fishery recruitment, including but not limited to mangrove, seagrass and coral reef. Fishing may be prohibited in such areas, whereas freedom of navigation is allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the ~~Subdeeree~~[Sub-Decree](#) on Community Fisheries Management.

(c) Fishery Management Area (FMA) – Such areas shall be used to implement management measures for designated fishery stocks or stock complexes. Fishing shall be allowed, although there may be harvest restrictions or prohibition of take imposed for certain species in need of special management to ensure long-term sustainability. Freedom of navigation shall be allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the ~~Subdeeree~~[Sub-Decree](#) on Community Fisheries Management.

3) Implement community-based sub-zoning, for non-commercial subsistence fishery purposes only, within Marine Reserves or Marine Life Conservation Areas as described above. Such

community-based subzones shall have restrictions on the types of fishing gears allowed for use. Such gear restrictions shall be determined by the appropriate ministry, which may restrict allowable gear types to pole-and-line, handline, cast net, and fish traps.

4) Set limits on the number, size and type of vessels that may participate in any given fishery, or that may enter designated marine zones or marine managed areas, so as to adequately control fishing effort and ensure sustainability of harvest for any given stock or stock complex.

5) Based on the best available scientific information, create Fishery Management Plans for individual fisheries. Such plans shall be deemed sufficient to justify any management measures applied within any given fishery, and should contain at a minimum:

(a) A description of the fishery in question, including the number of vessels involved, the type of quantity of fishing gear used, the species of marine life harvested, and the geographic extent of the fishery;

(b) An estimate of optimum sustainable yield from the fishery and its probable future condition, including a summary of the information used in making this determination;

(c) A description of the conservation and management measures that can be best applied to the fishery to prevent overfishing while achieving, on a continuing basis, the estimated optimum yield.

6) Enact measures to limit fishery bycatch of non-target species such as seabirds, marine mammals and sea turtles.

7) Create special licensing, vessel registration and catch reporting provisions for sport charter fishing vessels, with daily limits on catch of individual species, and daily special license fees for fishers. Such fees may be set higher at higher levels for citizens of foreign countries in comparison to those charged to citizens of the Kingdom of Cambodia.

8) Issue permits for marine fisheries research, and for the collection and export of specimens related to such research.

## CHAPTER # ~~A~~AQUACULTURE

**CHAPTER # –TENURE OF FISHERIES**

**CHAPTER # –IDENTIFICATION OF AQUATIC ORGANISMS**

**CHAPTER # –COMMUNITY FISHERIES**

**CHAPTER # –PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS  
WITHOUT A PERMIT**

**CHAPTER # –PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE  
GRANTED IF SUSTAINABLE**

**CHAPTER # –CITIZEN ROLES IN MONITORING AND OVERSIGHT OF  
SUSTAINABLE FISHERIES MANAGEMENT OPERATIONS**

**CHAPTER # –RESTORATION OF DAMAGED FISHERIES HABITAT OR AQUATIC  
ECOSYSTEMS**

**~~Title 10~~ TITLE 7 –SUSTAINABLE FRESHWATER ~~F~~AFISHERIES AND  
AAQUACULTURE**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable freshwater fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on freshwater fishery landings, and regulate all aspects of freshwater

**Comment [M132]:** Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

fisheries and aquaculture.

**CHAPTER # ~~ESTABLISHMENT OF A SUSTAINABLE FISHERIES INDUSTRY~~**

**CHAPTER # ~~PROVISION FOR CAPTURE FISHERIES AND AQUACULTURE AND  
FISHERIES PROTECTION AREAS~~**

**CHAPTER # ~~PROTECTION OF FISHERIES AND AQUATIC ECOSYSTEMS~~**

**CHAPTER # ~~TENURE OF FISHERIES AND AQUACULTURE OPERATIONS~~**

**CHAPTER # ~~IDENTIFICATION OF AQUATIC ORGANISMS~~**

**CHAPTER # ~~PROHIBITION ON COMMERCIAL FISHING THAT IS NOT  
SUSTAINABLE~~**

**CHAPTER # ~~ASSESSMENT OF APPLICATIONS FOR COMMERCIAL FISHING~~**

**CHAPTER # ~~COMMUNITY FISHERIES~~**

**CHAPTER # ~~PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS  
WITHOUT A PERMIT~~**

**CHAPTER # ~~PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE GRANTED IF SUSTAINABLE~~**

**CHAPTER # ~~SUSTAINABLE MANAGEMENT OF FISHERIES AND FISH BREEDING AREAS~~**

**CHAPTER # ~~GOVERNMENT AND CITIZEN ROLES IN MONITORING AND OVERSIGHT OF SUSTAINABLE FISHERIES MANAGEMENT OPERATIONS~~**

**CHAPTER # ~~RESTORATION OF DAMAGED FISHERIES HABITATS OR AQUATIC ECOSYSTEMS~~**

**CHAPTER # ~~MANAGEMENT OF ACTIVITIES THAT IMPACT FISHERIES AND AQUATIC ECOSYSTEMS~~**

**CHAPTER # ~~ESTABLISHMENT OF FRESHWATER FISHERIES RESERVES~~**

**CHAPTER # ~~ESTABLISHING REGULATIONS FOR AQUACULTURE OPERATIONS INCLUDING PERMITTING, MONITORING AND ENFORCEMENT~~**

**~~Title 11~~ TITLE 1 ~~LAND MANAGEMENT~~**

- ~~• This Title will review the role and functions of Economic Land Concessions and the implementation of projects on ELCs.~~
- ~~• This title will also include selected revisions of the current Cambodian Land Management Framework.~~

- ~~This title will establish a framework for soil protection and management~~

### ~~Chapter #—Procedures for granting, monitoring and terminating ELCs~~

### ~~Chapter #—Management of ELCs, including management plans, transparency, and relation to sustainable timber production and biodiversity restoration~~

## ~~CHAPTER #—REVISIONS OF THE CURRENT CAMBODIAN LAND MANAGEMENT FRAMEWORK.~~

~~ARTICLE #—Reviewing land cadastral system and making changes as needed (considering problems of transference of title, mistaken title, etc.).~~

~~ARTICLE #—Procedures for expedited land titling.~~

~~ARTICLE #—Increasing land security among the poor, including streamlining and clarification of indigenous peoples' communal land rights and possession rights.~~

~~ARTICLE #—Consistent land tenure approaches for Community Protected Areas, Community Forests and Co-management areas.~~

~~ARTICLE #—formalizing and regulating informal settlements~~

Comment [BR133]: Perhaps include in Land Management Book

## ~~Title 11—SOIL PROTECTION AND MANAGEMENT~~

- ~~This Title will set out the procedures for developing a national policy of soil protection and management.~~

- ~~It will include provisions on the use of fertilizers, pesticides, herbicides and other agricultural chemicals.~~

- ~~It will also include provisions to create a programme to monitor soil health.~~

## BOOK 5 CONSERVATION AND PROTECTION OF BIODIVERSITY AND CULTURAL HERITAGE

Comment [M134]: Perhaps include in Land Management Book.



- This Book will examine the conservation, protection, and management of biodiversity, and include different Titles on conservation landscapes/corridors; protected areas; wildlife; plants, habitat, and ecosystems; and cultural heritage.
- Specific Titles or Chapters could address key priority areas including Tonle Sap Lake, the Mekong River, and the Sesan River.

## **TITLE 1 COLLABORATIVE MANAGEMENT OF CONSERVATION LANDSCAPES**

- This ~~Education~~ title will contain the outcome of an ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.
- This Title will link to Title on Collaborative Management of Natural Resources in Book on Sustainable Management of Natural Resources and Ecosystems.

## **TITLE 2 PROTECTED AREAS MANAGEMENT**

### **CHAPTER 1: GENERAL PROVISIONS**

### **CHAPTER 2: MINISTRY OF ENVIRONMENT/RESPONSIBLE INSTITUTIONS**

### **CHAPTER 3: ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS**

### **CHAPTER 4: ZONING OF PROTECTED AREAS**

### **CHAPTER 5: PROTECTED AREAS MANAGEMENT PLANS**

### **CHAPTER 6: ACCESS AND USER RIGHTS OF LOCAL COMMUNITIES AND INDIGENOUS ETHNIC MINORITY COMMUNITIES**

### **CHAPTER 7: PROHIBITED ACTIVITIES IN PROTECTED AREAS**

### **CHAPTER 8: PERMITS AND AUTHORITIES**

### **CHAPTER 9: ENFORCEMENT AND AWARENESS PROTECTION**

**Comment [M135]:** P  
er NGO Forum.

**Comment [M136]:** P  
er STWG 3/5  
Members. New Title.

**Comment [M137]:** P  
er STWG 3/5  
Members. Revised  
Title heading  
("community  
management" implies  
management of  
communities).

**Comment [M138]:** P  
roposed revision to  
"co-management" by  
STWG 3/5 is  
"collaborative  
management."

**Comment [M139]:** S  
ome sections under  
Community-Based  
NRM Title in the  
Sustainable  
Management of NR...

**Comment [M140]:** W  
ill modify current  
tenure duration limits  
in Community Fore...

**Comment [M141]:** P  
er STWG 3/5  
Protected Areas group.  
New Title and ...

**Comment [M142]:** T  
o refer to co-  
management  
(collaborative ...

**Comment [M143]:** S  
TWG 3/5 recommends  
that the number and  
name of zones for C...

**Comment [M144]:** P  
er NGO Forum.  
Projects must not be  
implemented inside...

**Comment [M145]:** T  
his will include  
reference to the title  
on wildlife/species ...

**Comment [M146]:** P  
ermitting process for  
all controlled  
activities/access ins...

**CHAPTER 10: MONITORING AND EVALUATION OF EFFECTIVENESS**

**CHAPTER 11: STAFFING OF PROTECTED AREAS**

**CHAPTER 12: PROTECTED AREAS BUDGETS AND FINANCING**

**CHAPTER 13: PROCEDURES TO RESOLVE OFFENCES**

**CHAPTER 14: OFFENCES AND LEGAL PENALTIES**

**CHAPTER 15: IMPLEMENTATION OF COURT VERDICT**

**CHAPTER 16: FINAL PROVISIONS**

DEFINITIONS

**CHAPTER # ESTABLISHMENT OF FRESHWATER PRODUCTION ZONES**

**CHAPTER # ESTABLISHMENT OF MARINE RESERVES**

**TITLE 3 WILDLIFE PROTECTION, CONSERVATION AND  
MANAGEMENT**

**CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO BIODIVERSITY  
MANAGEMENT AND ENDANGERED SPECIES PROTECTION**

**CHAPTER # BIOREGIONAL PLANNING FOR BIODIVERSITY CONSERVATION**

**CHAPTER 1: GENERAL PROVISIONS**

**CHAPTER 2: RESPONSIBLE INSTITUTIONS**

**CHAPTER 3: CLASSIFICATION OF WILDLIFE SPECIES**

**CHAPTER 4: PROHIBITIONS ON HUNTING**

**CHAPTER 5: SPECIAL EXCEPTIONS ON HUNTING OF WILD ANIMALS**

**CHAPTER 6: GRANTING OF PERMITS FOR SPECIAL PURPOSES (INCLUDING  
FOR SCIENTIFIC AND EDUCATIONAL PURPOSES)**

**CHAPTER 7: SUSPENSION OR CANCELLATION OF PERMITS**

Comment [M147]: Per STWG 3/5 Members. New Title heading.

**CHAPTER 8. PROHIBITION OF TRADE (DOMESTIC AND INTERNATIONAL),  
TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES,  
ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS**

**CHAPTER 9: ADHERENCE TO OTHER INTERNATIONAL CONVENTIONS AND  
AGREEMENTS**

**CHAPTER 10: MANAGEMENT OF CONFISCATED WILDLIFE**

**CHAPTER 11: MANAGEMENT OF CAPTIVE BREEDING, WILDLIFE RESCUE  
CENTRES AND ZOOLOGICAL INSTITUTIONS**

**CHAPTER 12: MANAGEMENT OF WILDLIFE FARMS\*\*\***

**CHAPTER 13: SPECIES MANAGEMENT AND RECOVERY PLANS (INCLUDES  
IDENTIFYING KEY THREATENING PROCESSES AND DEVELOPING  
THREAT ABATEMENT PLANS AND RECOVERY PLANS)**

**CHAPTER XX: MANAGEMENT OF INVASIVE SPECIES**

**CHAPTER 14: PROCEDURES TO RESOLVE OFFENCES**

**CHAPTER 15: OFFENCES AND LEGAL PENALTIES**

**CHAPTER 16: IMPLEMENTATION OF COURT VERDICT**

**CHAPTER 17: FINAL PROVISIONS**

\*\*\*A submission has been received from some combined NGOs on the policy of Wildlife (or Wild Animal Farming) in Cambodia. The discussion paper raises a number of significant issues and concerns about the possibility of introducing the farming of wild animals in Cambodia. Consideration is being given to the matters raised by the submission.

**CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE  
OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS**

(Definition of Genetically Modified Organisms to be included in Code Definition Section)

**TITLE 4 PROTECTION OF PLANTS, IMPORTANT HABITATS  
AND SIGNIFICANT ECOSYSTEMS**

- This title will address the protection of plant species, important habitats for both plants

**Comment [M148]:** To include CITES, international and regional resolutions, mechanisms for inter-agency and international collaboration on wildlife trafficking.

**Comment [M149]:** Per STWG 3/5 Protected Areas Group. Proposed headings/structure.

**Comment [M150]:** Per STWG 3/5 Members. New Title.

and wildlife, and significant ecosystems in Cambodia. The structure will likely be similar to the structure for the Title for Wildlife Protection, Conservation and Management, but will need to include additional chapters.

**CHAPTER # PROTECTION OF PLANTS AND PLANT COMMUNITIES**

**CHAPTER # PROTECTION OF NATIVE PLANT AND WILDLIFE HABITAT AND  
IMPORTANT ECOLOGICAL COMMUNITIES (INCLUDING “CRITICAL  
HABITAT” FOR ENDANGERED PLANT AND ANIMAL SPECIES)**

**CHAPTER # WETLANDS CLASSIFICATION, MANAGEMENT AND  
CONSERVATION**

**CHAPTER # PROHIBITION ON DAMAGING OR DESTROYING NATIVE  
VEGETATION AND FOREST PROTECTED AREAS**

**CHAPTER # RESTORATION OF DAMAGED ECOSYSTEMS**

**CHAPTER # MANAGEMENT OF INVASIVE SPECIES**

**CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE  
OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS  
(DEFINITION OF GENETICALLY MODIFIED ORGANISMS TO BE  
INCLUDED IN DEFINITION SECTION)**

**TITLE 5      CULTURAL AND NATURAL HERITAGE  
CONSERVATION**

- This Title will examine the identification, protection and management of cultural and natural heritage. It will consider the need to protect both tangible and intangible items of cultural heritage.
- This Title establishes the Heritage Council of Cambodia with representatives from relevant Ministries, NGO and private sector, The Heritage Council will develop policies to protect Colonial and modern Cambodian heritage as well as Angkor and Pre-Angkor heritage. The Heritage Council will have the task to set up and maintain the Heritage Register for Cambodia. This Heritage Register will be a list of places, objects, buildings and other items that are to be protected or preserved. An interim list for the Heritage Register will be prepared to protect these items until a detailed assessment can be undertaken to assess the heritage value.

**Comment [M151]:** Per STWG 3/5 Members.

- This Title will regulate the activities of heritage site establishment to ensure the protection of the rights of citizens living in those areas.
- This Title will look at the operation of the APSARA Authority and related legislation to ensure a consistent approach to the protection and management of natural, cultural and built heritage, including both tangible and intangible heritage.
- Ministry of Culture and Fine Arts and other authorities related to heritage protection and management should retain a strong role in heritage protection but this should include consultation and liaison with other Ministries, including Ministry of the Environment and the Minister for Land Use Planning.
- This would examine both World Heritage and Ramsar listed areas, as well as local and national heritage areas, with special attention to ethnic minorities and indigenous people.
- It will regulate key activities in heritage areas, including tourism, research, archaeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archaeological surveys
- Other protection mechanisms will include anti-trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.

Comment [M152]: P  
er NGO Forum.

Comment [M153]: P  
er STWG 4.

Comment [M154]: P  
er NGO Forum.

## CHAPTER 1 – GENERAL PROVISIONS

### ARTICLE 1 – OBJECTIVE

This provision has the following objectives:

- To preserve, protect, and manage natural resource and to conserve historic and cultural heritage.
- To preserve, protect cultural identity of the nation which is the workmanship of our forefathers (intellectual property of national identity).
- To preserve the beauty and protect the historical identity of the capital, province, urban area, ancient site and shrine (worship place).
- To preserve and conserve biodiversity and ecosystem.
- To create the balance of nature and society.

- f) To promote the development of tourism.
- g) To create the collaboration between the Ministry of Environment and relevant institutions as well as National and International Organizations and development partners.
- h) To improve the livelihood, tradition, culture and custom of indigenous community.
- i) To create funds to preserve and protect cultural and natural heritage.

## **ARTICLE 2 – SCOPE**

This provision has the scope of application throughout the Kingdom of Cambodia over both state land and private land.

## **ARTICLE 3**

Definition of cultural heritage.

## **ARTICLE 4**

Definition of built heritage.

## **ARTICLE**

Definition of natural heritage.

## **ARTICLE 6**

Definition of intangible heritage.

## **ARTICLE 7**

Adoption of UNESCO Guidelines.

## **ARTICLE 8**

Obligation to protect the national heritage of Cambodia.

## **CHAPTER 2 – CREATION OF THE HERITAGE COUNCIL OF CAMBODIA**

## **ARTICLE 1**

The Royal Government shall create the Heritage Council of Cambodia.

## **ARTICLE 2**

Purpose of the Heritage Council of Cambodia.

## **ARTICLE 3**

Membership of the Heritage Council of Cambodia.

## **ARTICLE 4**

Duties of the Heritage Council of Cambodia.

## **CHAPTER 3 – INVENTORY AND CLASSIFICATION**

## **ARTICLE 1**

Establishment of a Heritage Register for Cambodia.

## **ARTICLE 2**

Listing on the Heritage Register for Cambodia.

## **ARTICLE 3**

Categories to be listed on the Heritage Register for Cambodia.

## **ARTICLE 4**

Interim listing on the Heritage Register for Cambodia.

## **ARTICLE 5**

Emergency listing on the Heritage Register for Cambodia.

## **ARTICLE 6**

Legal protection granted to items listed on Heritage Register for Cambodia.

## **ARTICLE 7**

Procedure for updating the Heritage Register for Cambodia.

## **CHAPTER 4 – APPOINTMENT OF HERITAGE PROTECTION OFFICERS**

#### **ARTICLE 1**

Each Province and regional government shall appoint a Heritage Protection officer.

#### **ARTICLE 2**

Duties of HPO.

#### **ARTICLE 3**

Qualifications of HPO.

#### **ARTICLE 4**

HPO may work with other HPO in other Provinces.

#### **ARTICLE 5**

The HPO must be consulted prior to any action that may damage or harm an item or place or area on the Heritage Register for Cambodia.

### **CHAPTER 5 – ZONING OF HERITAGE PROTECTION AREAS**

#### **ARTICLE 1**

Plans and zoning maps may include the following provisions for the following heritage protection areas:

- a) Historical parks
- b) Cultural landscape
- c) Cultural village
- d) Site museum
- e) Ancient sites
- f) Urban Heritage Zones

#### **ARTICLE 2**



The zones for heritage protection areas will require the preparation of a report prior to any approval for altering or demolition within those areas.

## **CHAPTER 6 – CRITERIA**

### **ARTICLE 1**

The following shall be considered as "cultural heritage":

- a) Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
- b) Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- c) Sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

### **ARTICLE 2**

The following shall be considered as "natural heritage":

- a) Natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
- b) Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- c) Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

### **ARTICLE 3**

Determination of cultural property heritage can be made by:

- a) Determining the number of years, the age of the property, or based on its era for example French Colonization Era and Sangkim Reas Niyum Era.
- b) A number of workmanship is not so old but it is of a special value which cannot be found elsewhere.
- c) A new innovation which is valuable to the society.
- d) Cultural property which is of a special value for the nation.
- e) A movement of architecture which reflect national identity.
- f) An architectural workmanship which influence the next generations.

## **CHAPTER 7 – INVENTORY AND CLASSIFICATION**

### **ARTICLE 1**

Competent Institutions shall prepare cultural property inventory.

### **ARTICLE 2**

Cultural Property Inventory shall be updated every five years.

- 1. Obligation of competent institutions
- 2. Obligation of owners of cultural property
  - a) Sell to the State;
  - b) Prohibition to any damage to the outside beauty;
  - c) Do not have the right to build any new or additional construction)
- 3. Preservation and usage of cultural property inventory
- 4. Budget used for the work on cultural property inventory

### **ARTICLE 3**

The state may pay a portion of the cost for repairing private building (built in Sangkum Reas Niyum Era).

### **ARTICLE 4**

The owners of the building must submit request for support to repair the building from the state.

#### **ARTICLE 5**

The state shall provide technical experts to help repair the building.

### **CHAPTER 8 PREVENTIVE AND SALVAGE EXCAVATION**

#### **ARTICLE 1**

Discovery of heritage items during demolition, construction or other activities

#### **ARTICLE 2**

Work must halt to protect the heritage item

#### **ARTICLE 3**

Obligation to notify Heritage Council and HPO

#### **ARTICLE 4**

Determination of heritage significance

#### **ARTICLE 5**

Permission required before destruction of heritage item

#### **ARTICLE 6**

Activities to salvage the heritage item

#### **ARTICLE 7**

Obligation to record and photograph heritage item

### **CHAPTER 9 IDENTIFICATION AND DESIGNATION OF CULTURAL AND NATURAL HERITAGE SITES**

#### **ARTICLE 1**

The Heritage Council may recommend that a site for designation as a heritage site

## **ARTICLE 2**

The Heritage Council may require preparation of a management plan

## **ARTICLE 3**

Preparation of a management plan

## **ARTICLE 4**

Implementation of a management plan

## **ARTICLE 5**

Failure to comply with the management plan

## **CHAPTER 10 DAMAGE AND CONSERVATION STATUS CLASSIFICATIONS**

## **CHAPTER 11 SPECIAL CONSIDERATIONS IN EIA | HERITAGE SITES**

Comment [M155]: Per STWG 4.

## **ARTICLE 1**

All projects requiring EIA in a heritage protection zone must make an assessment of the impact of the project on the heritage values

## **ARTICLE 2**

All projects having an impact or potential impact on an item of heritage or a item listed on the Heritage Register must have a permit before any work can be done that may harm the item.

## **ARTICLE 3**

Procedures to grant a permit to be determined by the Heritage Council.

## **ARTICLE 4**

It is prohibited to damage or destroy or harm an item on the Heritage Register without a permit.

## **CHAPTER 12 PROTECTION FOR HERITAGE SITES FROM ACTIVITIES NOT COVERED BY EIA**

## **ARTICLE 1**

Any construction permit or approval cannot be granted until a permit has been granted by the Heritage Council or the HPO

## **ARTICLE 2**

No permit can be granted until the Heritage Council or HPO has assessed the heritage value of the item.

## **CHAPTER 13 MANAGEMENT PLANS FOR SITES**

### **ARTICLE 1**

The Minister may require for a Heritage Management Plan to be prepared for a cultural and natural heritage site listed on the National Inventory

### **ARTICLE 2**

The Heritage Management Plan shall be developed in consultation with the local community and interested stakeholders.

### **ARTICLE 3**

The Heritage Management Plan shall also establish protected zones and core zones for heritage management of the site.

### **ARTICLE 4**

Ensuring sustainable use of cultural and natural heritage sites

## **CHAPTER 14 ORDER TO HALT CONSTRUCTION OR CLEARING IF A HERITAGE SITE IS THREATENED OR ENDANGERED**

### **ARTICLE 1**

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if a heritage site is threatened or endangered.

### **ARTICLE 2**

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if an item on the Heritage Register is threatened or endangered.

### ARTICLE 3

The order to halt will last for 14 days and may be extended for a further 14 days.

### ARTICLE 4

Any person or legal entity who does not follow the order to halt work commits an offence.

## CHAPTER 15 - IMPACT OF PROTECTED SITE ON COMMUNITIES

## CHAPTER 16 ILLEGAL TRAFFICKING OF ARTEFACTS

### ARTICLE 1

Illegal trafficking defined

### ARTICLE 2

Mechanisms to prevent illegal trafficking

## CHAPTER 17 EDUCATION AND PUBLIC AWARENESS OF CULTURAL AND NATURAL HERITAGE

## CHAPTER 18 INCENTIVES FOR CONSERVATION OF CULTURAL AND NATURAL HERITAGE

## CHAPTER 19 FUNDING MECHANISMS FOR NATURAL AND CULTURAL HERITAGE SITES

### ARTICLE 1

Entrance fees

### ARTICLE 2

Public-private partnerships

## BOOK 6 WASTE AND POLLUTION MANAGEMENT AND SUSTAINABLE PRODUCTION

- This book will include provisions relating to the General Obligations for Pollution Control, including the prohibition of polluting activities. There would then be a lawful exception to

**Comment [M156]:** Per STWG 2: New section heading and content structure.

This draft has included recommendations from Submissions 42, 43, 44, 63, the inputs from STWG dated 7 July 2016, comments from the National Consultation Workshop.

the prohibition of these polluting activities. This would enable a permit to be granted to a legal entity or person for certain emissions or activities. However the legal entity or person would have to prove that they had a lawfully granted permit and that the emissions or activities were undertaken in accordance with the permit. If the legal entity or person could not show these two things then they would have committed an offence under the Environmental Code.

- The Book will cover all aspects of pollution control and sustainable production.
- This Book will address contaminated land.
- The Book will re-examine the provisions of the Sub-Decree on Solid Waste Management 36 ANRK.BK 1999. It will update the relevant provisions about solid waste and hazardous waste management. It will also update and incorporate the provisions dealing with the Sub-Decree on Water Pollution 27 ANRK.BK 1999.
- This Book will address hazardous waste and chemicals, including agricultural, industrial, and extractive industries use or manufacture of hazardous waste or chemicals.
- This Book will include environmental controls on agricultural practices, including fertilizer, pesticide and herbicide use.
- Fees and charges will be provided in accordance with Book 8.
- Reporting and monitoring requirements, including public disclosure, will be dealt with in Book 9.
- Procedures for investigation on breaches and offences will be dealt with in Book 9. The aim is that investigations and proceedings for all waste management and pollution offences will be the same as for other offences and breaches of the Environmental Code.

Comment [M157]: Per NGO Forum.

## **TITLE 1      GENERAL OBLIGATIONS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION**

1. Prohibition on pollution of air
2. Prohibition on the pollution of water
3. Prohibition on the pollution the soil
4. Prohibition on the transport, treatment and disposal of waste
5. Prohibition on chemical substances

- [6. Lawful exception to the prohibition with lawful permit](#)
- [7. Commitment of the Royal Government to Sustainable Production](#)
- [8. All activities must consider the best practice for sustainable production](#)
- [9. All activities must consider the best practices for pollution and waste minimization](#)

## **TITLE 2      STANDARDS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION**

- [1. The limit of public air quality standards](#)
- [2. The maximum standard limited for the authorized of hazardous substance in the air](#)
- [3. The maximum standard for the noxious substances discharge from the fixed source in the atmosphere](#)
- [4. The standard level of emission from mobile sources](#)
- [5. The maximum standard of the sound level permitted to vehicle on the road](#)
- [6. The maximum standard of sound level permitted in the public and residence area](#)
- [7. The standard level for the sound control in the area of the workshop and industrial factory](#)
- [8. The standard of the toxic level permitted to contain for the fuel and burning substance](#)
- [9. The standard level for air quality in the building](#)
- [10. The vibration standard level](#)

## **TITLE 3      HAZARDOUS SUBSTANCES MANAGEMENT**

- [1. Hazardous waste determination, classification and labelling](#)
- [2. Hazardous waste collection, packaging, storage, recycling and treatment](#)
- [3. Disposal of hazardous waste \(incineration, destruction, and landfill\)](#)
- [4. Monitoring and inspection of hazardous waste](#)
- [5. Operational requirements for all hazardous waste facilities](#)
- [6. Import and export of hazardous waste](#)
- [7. Transitional provision](#)



- [8. Administrative requirements \(Registration, license, shipments, analytical methods, etc.\)](#)
- [9. Management of specific hazardous wastes \(waste asbestos, oil, paint, etc.\) application of international conventions on hazardous waste](#)
- [10. Standard for classification of hazardous waste](#)
- [11. Standard for disposal of hazardous waste](#)
- [12. \*\*Penalty\*\*](#)

#### **TITLE 4      MANAGEMENT OF HAZARDOUS CHEMICAL SUBSTANCE TO ENVIRONMENT**

- [1. Definition](#)
- [2. \*\*Institutional Responsibility\*\*](#)
- [3. Prohibition on Hazardous Substances](#)
- [4. Research, Registration and Information Disclosure of Hazardous Substances](#)
- [5. Inventory, Classification and Labelling of Hazardous Substances](#)
- [6. Production, Distribution, Storage, Transportation, Usage and Disposal](#)
- [7. Import and Export](#)
- [8. Monitoring and Inspection of Hazardous Substances Safety Assessment](#)
- [9. Accident Prevention, Preparedness and Responses](#)
- [10. Application of International Convention on Hazardous substances](#)
- [11. POPs Convention](#)
- [12. Minamata Convention](#)
- [13. International Agreements](#)
- [14. \*\*Penalty\*\*](#)

#### **CHAPTER # MANAGEMENT OF CHEMICAL SUBSTANCES**

**Comment [M158]:** Per NGO Forum. Link to sections on planning for and management of extractive industries.

**Comment [MB159]:** From Draft legislation on the management of chemical substances.

## GENERAL PROVISIONS

Editorial note: The use of the terms “chemical substance,” “chemical product,” and “chemical” in the following articles needs to be analysed and rationalised.

### ARTICLE 1

This Law has the following objectives:

1. To promote effective management and safe use of hazardous chemical substances and hazardous chemical products in Cambodia;
2. To ensure proper registration, classification and labelling of chemical substances and chemical products in order to prevent misuse and to promote safe handling in the work place;
3. To enhance public awareness and access to information on safety and mitigation of risks throughout chemical life cycle, including production, storage, transportation, use and disposal;
4. To set up appropriate institutional coordination mechanism and information system for effective management and control of hazardous substances and hazardous chemical products in all stages of chemical life cycle;
5. To ensure an operational national system to incorporate cleaner production solutions in all manufacturing and service sectors, as well as in households.

(2)

### ARTICLE 2

This law has the goal of protecting the social infrastructure, human life, animals and environment from risks and hazards caused by misuse and mishandling of hazardous chemical substances and hazardous chemical products throughout chemical life cycle;

### ARTICLE 3

This law covers all hazardous chemical substances or hazardous chemical products and applies to all organisations or individuals that produce, transport, purchase, sell, use, store, release or discard these chemical substances and their chemical derivatives at different stages of their life cycles.

#### **Comment [BR160]:**

The following text, Articles 1-36, is from a draft law on the management of chemical substances. This text will be carefully reviewed for any possible amendments and overall coherence within the overall framework of the Code.

This law does not apply to radioactive substances, pharmaceuticals, cosmetics, food additives, food products and household appliances or toys that are governed by separate law and regulations.

#### **ARTICLE 4**

The definitions of the main technical terms related to hazardous chemicals are provided in annex 1.

### **CHAPTER 2 INSTITUTIONAL RESPONSIBILITY**

#### **ARTICLE 5**

The Ministry of Environment is responsible for administration and implementation of this law in cooperation with relevant ministries and institutions, and in harmonization with existing laws and regulations related to the management of chemicals and chemical wastes in Cambodia.

#### **ARTICLE 6**

The Royal Government of Cambodia shall set up appropriate mechanisms for effective management and control of hazardous chemicals through its life cycle, especially for information sharing, inspection, classification, and hazard communication and risk assessment of registered and new hazardous chemicals circulating in Cambodia.

#### **ARTICLE 7**

The Ministry of Environment shall coordinate implementation of international treaties or conventions relevant to hazardous chemical substances.

#### **ARTICLE 8**

No person shall undertake the following activities:

- (a) The introduction or delivery of any misbranded hazardous substance or banned hazardous substance.
- (b) The alteration, destruction, or removal of the whole or any part of the label of any hazardous substance during shipment or sale (whether or not the first sale).
- (c) The receipt of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

#### **ARTICLE 9**

No person can manufacture, use and distribute persistent organic pollutants (POP) totally banned by Stockholm Convention as listed in the annex 2 of this Law. This list shall be updated according to the revised decision of COP under the Stockholm Convention to which the Royal Government of Cambodia is a party.

#### **ARTICLE 10**

Any misbranded hazardous chemical substance or hazardous chemical product or banned hazardous substance or hazardous chemical product shall be subject to confiscation and seizure.

#### **ARTICLE 11**

No person shall manufacture, possess, handle, store, transport, import, export, distribute or use a hazardous chemical substance or hazardous chemical product that is not registered under Sub-decree dated October 2009 on “Management of Classification and Labeling of Chemicals”.

#### **ARTICLE 12**

No person shall store, import, export or distribute a hazardous chemical that is not packaged in accordance with the regulations and the conditions of registration.

#### **ARTICLE 13**

No person shall package or advertise a hazardous chemical in a way that is false, misleading or likely to create an erroneous impression regarding its character, value, quantity, composition, safety or registration.

#### **ARTICLE 14**

No person is allowed to use chemical substances such as acid, gasoline, or toxic chemicals that can cause corrosion, burn, oxidation, injury and destruction of human organs implicating health and human life, except in accordance with international safety standards. In the case of chemical reactions, burns or oxidation causing damage to human or environmental health, responsible legal entities or natural persons shall pay a fine and compensation for the damages.

### **CHAPTER 4 REGISTRATION AND INFORMATION DISCLOSURE**

#### **ARTICLE 15**

Organisations and individuals shall have the duty to hold valid official registration of any hazardous chemical substances and hazardous chemical products intended for manufacture, distribution, sale and use in Cambodia.

#### **ARTICLE 16**

An application for registration shall be submitted to the respective agencies with at least a minimum information on the manufacturing company, name of chemicals, hazard classification, amount, purpose of import or use, safety data sheets, hazard statement, potential risks to human health and address of delivery.

#### **ARTICLE 17**

Information on hazardous chemicals shall be reviewed and endorsed by the Ministry of Environment before submission to the respective ministry for approval. The Ministry of Environment in cooperation with respective agencies may conduct additional tests and consultation to verify the correctness of information provided.

#### **ARTICLE 18**

The relevant ministries having the mandate to approve registration shall provide information on all hazardous chemical substances and products to the Ministry of Environment for inventory, monitoring, risk assessment and inspection purposes.

#### **ARTICLE 19**

Following official registration, organisation or individual shall prepare appropriate action plan for prevention, emergency response, mitigation, monitoring and risk management for hazardous chemical substances. He or she shall act in good faith to provide accurate information on hazardous chemical substances to the responsible agencies when requested.

### **CHAPTER 5 CLASSIFICATION AND LABELLING**

#### **ARTICLE 20**

Classification and labelling of hazardous chemical substances shall follow regulations specified by the Sub-decree No 180 dated 20 October 2009 on Management of Classification and Labeling of Chemicals.

#### **ARTICLE 21**

Hazard criteria for physical hazards, health hazards and environmental hazards shall be specified by an inter-ministerial task force with members designated from line agencies and universities following the Globally Harmonized System for Classification and Labeling (GHS). Role and functions of this inter-ministerial task force shall be specified by a sub-decree.

## **ARTICLE 22**

Organisations or individuals involved in packaging, distribution, transportation, and sale of hazardous chemical substances or products shall put correct labelling on hazard substances and chemical products following regulations specified in the Sub-decree No 180 dated 20 October 2009 before distribution, transportation or sale.

## **ARTICLE 23**

Organisations or individuals shall publish brochures or newsletters on safety data sheet, hazards prevention and mitigation, and health risks for all hazardous substances intended for distribution and sale in Cambodia.

## **CHAPTER 6 TRANSPORTATION**

## **ARTICLE 24**

An organisation or individual that transports hazardous chemicals shall abide by the provisions on transportation of hazardous chemical substances or products as prescribed in this Law and other relevant laws.

Transport operators and transport owners shall prepare staff health and safety plans and response plans for substance specific hazardous materials incident response plans in order to:

(a) Identify and take necessary measures to minimize potential incidents and remedy consequences if they take place, including training all staff involved in transportation in safety measures and response plans, and

(b) Identify and notify the nearest local authorities and concerned ministries about the incident if an incident occurs en route – either on road, inland waterway, railway, air or sea transport.

Transport operators and transport owners shall ensure that any vehicle used in the transport of hazardous chemical substances or products is suitable for the transport of that substance or product and that the vehicle is visibly marked with the appropriate hazard warning marks and symbols.

## **ARTICLE 25**

The Ministry of Environment shall coordinate with the Ministry of Public Works and Transport, concerned ministries and competent agencies to formulate additional technical regulations on transportation of hazardous chemical substances or hazardous chemical products.

## **CHAPTER 7 USE AND DISPOSAL**

## **ARTICLE 26**

All Cambodian people have the rights to use hazardous chemicals according to regulations stipulated by this law and shall follow technical specifications, labeled description and safety instructions of any hazardous substance.

## **ARTICLE 27**

Organisation or individual that uses hazardous substances for manufacturing or production of goods and products shall be responsible for compensation or rehabilitation of the social infrastructure, human health, animal health and the environment damage caused by chemical hazards and accidents for which they have been deemed responsible.

## **ARTICLE 28**

No person can burn and dispose of any part or whole of chemical substances or chemical waste into the environment, including water, soil and air without the approval of the Ministry of Environment.

Disposal of any part of hazardous chemical and its package shall follow regulations and guidelines specified by the sub-decree No 36 ANRK.BK dated 27 April 1999 on Solid Waste Management and the Sub-decree No 27 ANRK.BK dated 06 April 1999.

Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a Prakas of the Ministry of Environment.

## **ARTICLE 29**

Organisation or individual using hazardous chemicals for scientific research shall have the following duty:

- Use of hazardous chemical substances following regulations stipulated by this Law;
- Laboratory shall have sufficient equipment for safe storage and handling of hazardous

chemical substances and personal protective equipment for workers;

- Hazardous substances shall have correct labelling according to the regulations specified by the Sub-decree dated October 2009;
- The Laboratory shall have an appropriate filing systems and records of hazardous chemical substances being used;
- Disposal of hazardous substance or chemical wastes shall follow regulations specified under Article 25 of this Law.
- Identifying and minimizing any potential hazards which may be caused by the use and disposal of hazardous substance or chemical wastes through setting up effective mechanisms to minimize risk and mitigate effects of any hazard which may occur.

### **ARTICLE 30**

No person shall use hazardous chemical substances in food products, cosmetics, and toys that can cause direct health hazards to human beings.

## **CHAPTER 8 CHEMICAL INDUSTRY**

### **ARTICLE 31**

Organisation or individual engaged in production of chemical substances shall have technical capacity for environmental and social safeguarding as shown below:

- Workshops, storehouse and technological equipment;
- Safety equipment and devices, equipment and devices for prevention and fighting of fire, explosions, lightning, chemical leakages or dispersal and other chemical incidents;
- Labour protection equipment and devices;
- Environmental protection equipment and devices,
- Waste disposal and treatment systems;
- Prevention and response plan, including posting visible hazard pictogram and hazard communication;



#### ARTICLE 32

Organisations and individuals engaged in production of chemical substances shall have professional staff with qualifications relevant to the scope, type, and scale of the chemical-related activity along with thorough knowledge about technologies and chemical safety plans and measures.

#### ARTICLE 33

Organisations or individuals are encouraged to review manufacturing processes that can produce chemical substances or products involving less greenhouse gases emission, less energy consumption, and minimal hazard and toxicity to the environment and human.

#### ARTICLE 34

Organisations or individuals engaged in production of chemical substances or products shall have proper registration of the substances and manufacturing permits issued by relevant responsible ministry or authority.

#### ARTICLE 35

In case of production of hazardous chemicals or hazardous chemical products, organisation or individual shall provide annual report on manufacturing processes, the amount of hazardous ingredients, intended use, point of delivery, waste disposal and treatment systems, and safety plan and measures to the respective ministries and the Ministry of Environment. The format of reports shall be developed by responsible Ministry in cooperation with the Ministry of Environment.

### CHAPTER 9 PREVENTION AND RESPONSE

#### ARTICLE 36

Organisations or individuals shall have the duty to:

- Strictly follow technical specification, labelling and safety instruction defined by each hazardous substance;
- Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;
- Organize training on safe use and safe handling of hazardous substances, including a

safe-drill toward the occurrence of hazard to human health and/or the environment;

- Set up a chemical emergency response.

#### **ARTICLE #**

In case of accidents caused by hazardous chemical substances, organisation or individual shall cease immediately the activities in question and immediately inform the relevant authorities and the Ministry of Environment. Adequate action shall be taken according to the prevention and emergency response plan aiming for reducing hazards and damage to human health, environment and the property.

Any organisation or individual directly involved in the accident shall immediately inform any local members of the public who may be affected by the accident of the exact risks posed to the public's health and property by the accident and advise the public on measures to mitigate those risks.

#### **ARTICLE #**

A Hazard Chemical Insurance Mechanism shall be set up by a financing mechanism for prevention, response and compensation of hazards or accidents associated with hazard substances. The regulations and operation of this insurance shall be specified by a Sub-decree.

### **CHAPTER 10 PUBLIC AWARENESS**

#### **ARTICLE #**

Organisation or individual involved in distribution, sale and use of hazardous chemical substances shall provide all information related to safety data sheets, hazard communication, prevention and mitigation measures to the responsible ministries, the users and the public.

### **CHAPTER # -- DIRECTIVE FOR PRTR**

(To be included in titles on Hazardous Waste Management and Hazardous Substances Management)

1. Interpretation (definition: pollutant, transfer, release, register, etc.)
2. Design and structure (materials list, form and environmental media release)
3. Reporting by generator/facilities (schedule for submission information/report...)

- [4. Estimation standard for emission release \(to air, water, land, etc.\)](#)
- [5. Quality assurance and assessment](#)
- [6. Access to information \(public participation, awareness, raising\)](#)
- [7. Confidentiality](#)
- [8. Penalty](#)
- [9. Prosecution of offense](#)

## **TITLE 5 WATER POLLUTION CONTROL**

- [1. Responsible institutions](#)
- [2. Measures to prevent water pollution](#)
- [3. Permission of liquid waste discharge](#)
- [4. Water pollution source control](#)
- [5. Monitoring and evaluation of public water pollution](#)
- [6. Sewage System and Sewage Treatment System management](#)

[Improving rural sewage treatment](#)

[Improving urban sewage treatment](#)

[Improving coastal sewage treatment](#)

[Seasonal adaptations in sewage treatment](#)

[Separation of storm water drainage and sewage infrastructure](#)

[Understanding and supporting the role of wetlands in waste filtration and preserving wetlands](#)

[Promoting and regulating private septic tanks](#)

[Mandatory reporting of normal discharge, effluents and sudden discharge.](#)

- [7. Responsible institutions](#)
- [8. Responsibilities of site owner](#)
- [9. General measure to sewage management](#)

10. Provision of sewage system management and sewage treatment system management services

11. Natural storing basin and Sewage Treatment System management

12. Penalty

13. Water pollution offenses

## **TITLE 6 MARINE POLLUTION CONTROL**

*(This title should be included in water pollution/coastal zone management/separate section?)*

1. Application of MARPOL and Conventions

2. Prevention of pollution by oil & oily water

3. Discharging oil into State waters from a ship

4. Causing discharge of oil into State waters from a ship

5. Control of pollution by noxious liquid substances in bulk

6. Offences relating to carrying uncategorized noxious liquid substances

7. Offences relating to discharge of noxious liquid substances

8. Cleaning of tanks of ships

9. Prevention of pollution by harmful substances carried by sea in packaged form

10. Offences relating to carriage

11. Offences relating to jettisoning

12. Pollution by sewage from ships

13. Offences relating to discharge of sewage

14. Pollution by garbage from ships

15. Offences relating to discharge of garbage

[16. Prevention of air pollution from ships](#)

[17. Offences relating to release of smoke](#)

[18. Prevention of disposal of hazardous waste from ships](#)

[19. Application of the Base Convention to ships](#)

## **TITLE 7 AIR POLLUTION, NOISE AND VIBRATION CONTROL**

- [This Title will revise and incorporate the Control of Air Pollution and Noise Disturbance 42 ANRK 2000.](#)

### **Section 1 Air Pollution Source Control**

[1. Indoor air pollution](#)

[2. The flow of toxic air from mobile sources](#)

[3. The flow of toxic air from fixed sources \(Air pollution from immobile source\)](#)

[4. The air pollution in buildings](#)

[5. The technology to reduce and prevent air pollution](#)

[6. The control of air pollution](#)

[7. The request for approval of a permit](#)

[8. The monitoring of atmosphere quality](#)

[9. The procedure of inspections](#)

[10. The transboundary air pollution](#)

### **Section 2 Noise and Vibration Control**

[1. Noise emission from mobile source](#)

[2. Noise emission from immobile source](#)

[3. Noise emission in workplaces/inside buildings](#)

[4. The sound emitted from mobile source](#)

[5. The sound emitted from fixed source](#)

[6. The voice in the workplace](#)

[7. The technology of sound deduction](#)

[8. The monitoring of sound diffusion](#)

[9. The request for approval](#)

[10. The vibrant causing](#)

[11. The monitoring of vibration levels](#)

[12. The technology for vibrant reduction](#)

[13. The request for approval of a permit](#)

### **Section 3      Controlling and Monitoring of Atmospheric Quality**

### **Section 4      Measures to Prevent and Reduce Air Pollution, Noise and Vibration**

## **TITLE 8      OZONE LAYER PROTECTION**

[1. Importing and exporting of ozone depleting substances control](#)

[2. Exportation and usage of ozone depleting substances control](#)

[3. Cleaning up, recycling and destructing of ozone depleting substances control](#)

[4. Cooling substances and tools control](#)

[5. Program to eliminate ozone depleting substances control](#)

[6. Monitoring, controlling and managing of ozone depleting substances control](#)

[7. Formality of registration and license application](#)

## **TITLE 9      HOUSEHOLD SOLID WASTE MANAGEMENT**

[Radiological and biological waste](#)

[Electronic waste](#)

[Identifying and promoting alternatives to landfills](#)

Landfills including monitoring and reporting requirements

Waste incinerators including monitoring and reporting requirements

Industrial waste reduction through regulations, financial incentives and other mechanisms.

Reducing the use of plastic bags

Identification, management and rehabilitation and remediation of contaminated land

**Comment [N161]:** To be harmonised with prakas under development.

1. Management plan and responsible jurisdiction

- a. Urban/household waste is waste from houses, public administrative buildings, service and business locations, clinics, hospital, markets, super markets, commercial centers, gardens, public areas, tourism sites, a septic tank, all of which excludes hazardous waste.
- b. Labeling of waste (Shall be included in the below chapter that states about hazardous waste in details)
- c. Regulation of waste management facilities, including rubbish dumps (shall states in details from the establishment, collection, transport, 3R, resources exploitation, treatment, compost production, biogas incinerators until the final disposal, export, and import of non-toxic rubbish or solid waste for the future)
- d. Standards for classification of waste
- e. Management of waste incinerators (details about incinerator standard and technique, incinerator operation and limit standard of ash discharge from burning)

2. Provisions for management:

- a. Effectiveness of management:
  - i. Separation, packaging, and disposal at the source:
  - ii. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
  - iii. The setting of rules and conditions of proper packaging
  - iv. The setting of rules and conditions of disposal at the source in order not to affect aesthetic value, order, traffic, transport, ...
  - v. The setting of time of solid waste discharge awaiting to be collected

- vi. What are obligations of waste producers?
  - b. Provisional disposal location (joint): The setting of rules and conditions on selecting location for managing, time for receiving , and transporting of waste and rules for controlling that location
  - c. Collection and transport
    - i. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
    - ii. The setting of rules and conditions of transport, loading
    - iii. Collection and transport divided based on waste types
    - iv. Obligations of companies providing services of collection and transport
    - v. Obligations of competent institutions on collection and transport task (monitor, check, instruct, and recommend service companies)
  - d. Reduce, reuse, and recycle (3R) Compost production
    - i. The setting of rules to courage the practice of 3R: provide support and encourage investors and 3R activities
    - ii. Obligations of competent institutions in 3R activities
    - iii. Obligations of citizens in 3R activities
  - e. Resources exploitation from rubbish, solid waste (Biogas incinerator): The setting of methodology of exploiting biogases from organic waste
  - f. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
  - g. The final disposal:
    - i. Measures to reduce at maximum waste poured into the dump site
    - ii. Measures to control the final disposal with safety
    - iii. Construction, operation, and maintenance when shutting the dump site



- iv. Waste incinerator sets technical standard for construction and operation of waste burning
- h. Obligations and participation of relevant institutions and private sectors on solid waste management
- i. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
- j. Education and knowledge enhancement for the public relating to solid waste management
- k. Penalty provisions on committing offenses

## **TITLE 10 INDUSTRIAL SOLID WASTE MANAGEMENT**

1. Sources: Industrial solid waste is waste from factories, enterprises, handicrafts (from production), sewage system treatment, agricultural sector, all of which excludes hazardous waste.
2. Effectiveness of management:
  - a. Separation, packaging, and disposal at the source:
    - i. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
    - ii. The setting of rules and conditions of proper packaging
    - iii. The preparation of location or place to dispose waste based on types and with safety.
    - iv. The setting of rules and conditions of disposal in order not to affect people's health and the environment
    - v. What are the obligations of waste producers? cleaning premise outside and around factories
3. Collection and transport
  - vi. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
  - vii. The setting of rules and conditions of transport, loading
  - viii. Collection and transport divided based on waste types

4. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
5. The final disposal:
  - ix. Measures to reduce at maximum waste poured into the dump site
  - x. Measures to control the final disposal with safety
  - xi. Construction, operation, and maintenance when shutting the dump site
  - xii. Waste incinerator sets technical standard for construction and operation of waste burning
6. Obligations and participation of relevant institutions and private sectors on solid waste management
7. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
8. Education and knowledge enhancement for the public relating to solid waste management
9. Penalty provisions on committing offenses
3. Solid waste management department, MoE requested that there shall be a separation of provisions on non-toxic solid waste and toxic waste, so that it is easy to check and practice when the law comes into force.
4. 4Rs principle – Reject, Reduce, Reuse and Recycle
  - a. Promoting waste avoidance and reduction
  - b. Encouraging and facilitating recycling (including regulating recycling businesses)

**~~Title 12~~ — ROLES AND RESPONSIBILITIES OF GOVERNMENT, PRIVATE SECTOR AND CITIZENS IN RECYCLING, WASTE REDUCTION, AND WASTE MANAGEMENT—  
ENVIRONMENTAL INCENTIVES, FEES AND CHARGES**

c. *This Title*

5. Management of plastic bags and plastic packaging materials use reduction
6. Measures on disposal

**TITLE 11 ENVIRONMENTAL POLLUTION CHECK AND**

## INSPECTION

- Role of Environmental Pollution Inspectors: Articles 1, 2, 3 and 4
- Notification of Complaints and Inspections: Article 5 and 6
- Recommendations for Future Actions: Articles 7, 8, 9, 10 and 11

### ARTICLE 1

1. Environmental pollution inspection officers appointed by the proclamation of the minister of environment ministry shall have following duties:
2. Daily check source of pollution and polluting activities
3. Inspect environmental pollution
4. Suppress environmental pollution offenses
5. Fulfil other duties assigned by the minister of environment ministry.

### ARTICLE 2

An environmental pollution inspection officer is rehabilitated as a police of justice for checking environmental pollution offenses stated in this code, in accordance with criminal procedure code of kingdom of Cambodia.

The formality and procedure of rehabilitation for pollution inspection officers are determined by joint proclamation of the minister of justice ministry and the minister of environment ministry.

### ARTICLE 3

Environmental pollution inspection officers shall have uniforms, labelling, and ranking signs determined by sub-degree.

During the operation of implementing this law, an environmental pollution inspection officer shall have mission command letter and wear a uniform, labelling, and ranking sign as stated in the first paragraph above.

### ARTICLE 4

On duties to daily check pollution source and pollution activities, environmental pollution

inspection officers shall have the following rights:

1. Check controlling means and facilities and treatment of waste and pollutants from pollution source in consistence with provisions and procedure of this law.
2. Monitor and control activities relating to discharge of waste and pollutants from pollution source.
3. Guide, at the controlled scene, owners or pollution controllers to change or correct their waste and pollution discharge.
4. Take photo of and bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
5. Require people who are owners or pollution controllers provide information and disclose documents, records, permission letters, and documents relevant to waste or pollutants.
6. Take measure to temporarily stop serious pollution activities found while checking and implementing inspection procedure or procedure to suppress environmental pollution offences continuously.

## **ARTICLE 5**

In case there is a notification or a complaint on environmental pollution case or a serious pollution offence which harms public health or destroy property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on inspection work immediately.

On duties to inspect environmental pollution cases, environmental pollution inspection officers shall have the following rights:

1. Search for reasons and a person who causes environmental pollution.
2. Bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
3. Collect and seize any object relating to environmental pollution cases.
4. Take provisional measure on any activity or means relating environmental pollution cases found during the inspection and implementation of procedure to suppress environmental pollution offenses continuously.

The procedure of inspection on an environmental case is set by a proclamation of the minister of environment minister.

#### **ARTICLE 6**

In case of a flagrant environmental pollution offense which is harmful to the environment, public health, or damage property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on environmental pollution offense suppression work immediately.

On duties to suppress an environmental pollution offense, environmental pollution inspection officers shall have the following rights:

1. Take provisional action on any activity contributing to an environmental pollution offence.
2. Check, observe causes of an environmental pollution offence.
3. Bring and analyse a pollutant sample, an environmental sample, or a relevant sample which is polluted for verification, assessment, and assertion.
4. Limit and evaluate scope of impact.
5. Collect evidences for making a complaint in consistence with law procedure.
6. Take immediate action to eliminate environmental pollution.

#### **ARTICLE 7**

Case filing of an environmental pollution offense shall follow the criminal procedure code of Kingdom of Cambodia.

Application form for taking minutes of an environmental pollution offense shall be determined by join proclamation of the minister of justice ministry and the minister of environment ministry.

#### **ARTICLE 8**

Cost on an environmental pollution elimination operation is an offender responsibility. In case that identity of the offender is not known, all cost is the state responsibility.

#### **ARTICLE 9**

In case of an environmental pollution offense which affects or harms the environment or damage public property, environment ministry shall make a complaint to demand damages for destruction or damages for environmental quality restoration from the offender.

An impact scope assessment shall be made by environment ministry and have assessment participation from line competent ministries, institutions based on a proposal of the minister of environment ministry.

#### **ARTICLE 10**

Competent ministries, institutions, sub-national administration, and the public shall have good and active cooperation in participating in inspecting or suppressing an environmental offence based on a proposal of environment ministry or municipal, provincial environment department.

#### **ARTICLE 11**

Any person who is not satisfied with any measure taken by environmental pollution inspection officers as stated in this law, except for a decision on transitional punishment, may file a complaint to the minister of environment ministry within thirty (30) days after receiving decision.

The minister of environment ministry shall decide on the complaint and make a written response to complaint owner within forty (40) days after receiving the complaint.

In case that a person who is the complaint owner is still not happy with the decision of minister of environment ministry, that person has right to file a lawsuit to court based upon the court procedure.

## **BOOK 7 ENVIRONMENTAL EDUCATION AND AWARENESS**

- Environmental Education (EE) has been defined as the process of helping people, through formal and non-formal/informal education, to acquire understanding, skills and values that will enable them to participate as active and informed citizens in the development of an ecologically sustainable and socially-just society. (ASEAN 2014-2018).
- Education for Sustainable Development (ESD), training and awareness are seen as processes for developing values, understanding and skills consistent with

**Comment [M162]:** Per STWG 7. New Book.

environmentally sustainable and socially just society and assisting citizen participation in effective public participation and decision making. ESD balances human and economic and environmental development.

- “Education, including formal education, public awareness and training should be recognized as a process by which human beings and societies can reach their fullest potential. Education is critical for promoting sustainable development and improving the capacity of the people to address environment and development issues. While basic education provides the underpinning for any environmental and development education, the latter needs to be incorporated as an essential part of learning. Both formal and non-formal education are indispensable to changing people's attitudes so that they have the capacity to assess and address their sustainable development concerns. It is also critical for achieving environmental and ethical awareness, values and attitudes, skills and behaviour consistent with sustainable development and for effective public participation in decision-making. To be effective, environment and development education should deal with the dynamics of both the physical/biological and socio-economic environment and human (which may include spiritual) development, should be integrated in all disciplines, and should employ formal and non-formal methods and effective means of communication. “ (Agenda 21 1992 United Nations Conference on Environment and Development)

## **TITLE 1      GENERAL PROVISIONS**

The Kingdom of Cambodia considers that it is in the national interest to align the development objectives of the Kingdom with Environmental Education (EE) and knowledge development [reference National Green Growth Strategy and other relevant documents indicating commitment for national sustainable development].

Further, the Kingdom of Cambodia considers that education, public awareness and access to information are critical for achieving all objectives of the Environmental Code.

The Kingdom of Cambodia considers EE as a mechanism for implementing the Principle of Intergenerational Equity.

The appropriate Ministries and authorities shall have the authority to design, implementation and enforcement of curricula.

Consistent with [insert legal documents here], the appropriate Ministries shall:

- a) Strengthen capacity of educational system and relevant processes to address environmental and development challenges of the Kingdom of Cambodia;
- b) Encourage sustainable development;
- c) Increase scientific and intellectual innovation;
- d) Assure provisions for continuous development of professional skills and knowledge of environment and sustainable development for all sectors including in education, industry, private sector, agriculture, transport and public administration, media, civil society organizations;
- e) Assure inclusion of knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into education;
- f) Assure inclusion of latest achievement of science and technology into education and development;
- g) Assure that relevant EE content, methods and materials are provided for the trainings and learning;
- h) Assure variety of opportunities to engage in learning processes at the levels of communities, professional associations, interest groups;
- i) Ensure regulatory, policy and operational frameworks for the integration of EE an ESD into education at all levels.

The overall objective of the actions is to empower Cambodia citizens, through environmental education and public participation, to contribute to cleaner and more socially just society, and, ultimately, to environmentally sustainable development, through support in developing values, attitudes and skills and capable to ensure sustainable development of the country and the region.

## **TITLE 2      POLICY MAKING**

Development provisions that affect environment and health of Cambodian citizens shall be accompanied by supporting provisions of the Ministry of Education Youth and Sport as well as other relevant ministries and authorities (inter-ministerial collaboration that aligns, at the policy level, development and education/training);

Relevant ministries shall include principles and provisions of EE and ESD into any sectoral and cross-sectoral policy and decision making processes affecting national and sub-national



development; such provisions shall be accompanied by plans to develop and deliver necessary competencies into such development.

### **TITLE 3      TRAINING**

Relevant Ministries should include knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into professional qualifications and certificates.

Relevant Ministries create provisions to include relevant EE content, appropriate methods and materials are provided for the trainings and other learning processes.

Training should be provided to include environmental topics.

Relevant Ministries are responsible for creating training materials supporting educational processes aiming at addressing environmental challenges.

Relevant ministries and authorities should create variety of learning opportunities addressing environmental issues at the levels of communities, professional associations, and interest groups.

### **TITLE 4      AWARENESS**

Relevant ministries and authorities shall assure that key groups of stakeholders of development processes are informed about environmental implications of these processes and potential remediation

Relevant ministries and authorities facilitate engagement of key stakeholders through main information channels including through media, festivals, and events, as appropriate and specified by Title 3 Public Participation and Title 4 Access to Information.

### **TITLE 5      FORMAL EDUCATION SYSTEM**

Relevant ministries and authorities shall:

- a) Assure Inclusion of requirements for environmental and sustainability knowledge into qualification criteria (certification and re-certification) for professions
- b) For the EE/ESD to be effective for supporting human and national development, its themes shall be integrated into all levels of education (general education, tertiary education, professional and vocational trainings), across relevant subject (mainstreaming)

as well as to form specific programmes and courses (specialized educational processes).

- c) Assurance that areas of EE/ESD knowledge reflect development priorities and latest achievements of science and technology.
- d) Assure development of guidelines for integration of the EE/ESD into curricular of students and educators (in-service and pre- service).
- e) Educational materials – pedagogic, didactic, methodological publications as well as textbooks and other relevant resources shall be developed to support teaching and learning processes related to environment and other associated aspects of sustainable development:
  - Ensure development and production of printed and electronic (including Internet-based) materials, video, audio and other materials for primary, secondary and vocational schools.
  - Ensure development and production of printed, electronic and other materials for higher education institutions.
  - Stimulate production of pedagogic, didactic and methodological materials supporting EE and ESD at higher education institutions.
  - Ensure development of information and learning materials for media on environmental protection, sustainable resource use and other associated issues.
  - Support informational portal that will provide access to resources related to environment and sustainable development relevant for the Kingdom of Cambodia.
  - Create an internet portal to give easy access to information and resources on sustainability, including on teaching and learning.
- f) Ensure support for the development of environmental management systems at schools, institutions of higher education and other learning organizations.
- g) Stimulate and support integration of EE and ESD principles and approaches into education and training environment (whole-institution approach).
- h) Facilitate and support different approaches in education including an interdisciplinary and transdisciplinary approach, ways of including EE into different subjects, programmes and learning processes, draws on local context.

## **TITLE 6      COMPETENCES AND CAPABILITY OF EDUCATORS, TRAINERS, AND CHANGE AGENTS**

To improving competences of educators, change facilitators, leaders and decision makers in formal and non-formal education to support knowledge development towards greener and more sustainable society, the relevant ministries and authorities shall:

- a) Assure that competences of educators that support education towards more sustainable development are defined as well as qualification criteria for educators in formal educational system;
- b) Assure development of programmes for training pre-service and training and retraining in-service educators as well as development of required educational materials.

Relevant ministries and authorities shall promote environmental and sustainability ideas at all levels of education and in all educational processes by:

- a) Assuring development and support of national network on EE and ESD competencies, methodologies and approaches.
- b) Supporting and promoting results of research into EE and ESD including its content, teaching and learning methods, ways of integrating it into programmes and other educational activities, including methods of assessment.

## **TITLE 7      RESEARCH AND INNOVATION**

Relevant ministries and authorities:

- a) Should develop a process that implementation of in-service teacher training programmes based on latest scientific knowledge related to environment and sustainable development.
- b) Should support development and implementation of programmes that bring together education and research and aim at solutions for environmental challenges.
- c) Should regularly update educational and training materials ensuring based on the latest scientific knowledge.
- d) Should facilitate support for relevant research and education by providing resources for research as well as opportunities for studies and exchange.

Relevant ministries and authorities should align knowledge on environmental protection and

sustainable resource use with development of knowledge and expertise in other areas of sustainable development (link to SDGs) by:

- a) Assuring collaboration between traditional knowledge holders and scientific knowledge
- b) Supporting cross-sectoral collaboration, stimulate interaction between science (natural and social), technology development and business, development of appropriate technologies with a smaller negative impact on the environment.
- c) Support transdisciplinary research and innovation.
- d) Developing action research programmes that aim at addressing solutions/innovations for environmental and sustainability challenges; should prioritize research that brings together the different dimensions of SD, as well as focuses on issues of local sustainable development.

## **TITLE 8 REGULATION AND OPERATIONAL FRAMEWORK**

The Government should have provisions for regulatory, financial and organizational support of EE and research by:

- a) Assure provisions on sharing responsibilities – stakeholders are invited in defining priorities for various sectors; government carries ultimate responsibility.
- b) Should create mechanism for education coordination and training on the environment and development including provisions for creation of the (Inter-agencies Committee on EE).
- c) Should use economic and organizational instruments to increase in international scientific and educational exchanges, international programmes for research and technology development.
- d) Should create informational resource for support of environmental education.
- e) Assure provisions on research that demonstrates effective ways of working with EE and ESD
- f) Assure provisions on monitoring.
- g) Assure provisions for funding – to assess costs for implementation of provisions (EE Strategy?) and secure necessary funding.
- h) Assure funds for supporting environmental research.

The Government of the Kingdom of Cambodia is to have in place EE national action plan with provisions for its implementation.

## **BOOK 8 ENVIRONMENTAL INCENTIVES, FEES, TAXES AND FUNDING**

- This Book will set out the mechanism by which the responsible Ministries will be able to charge ~~for fees and services.~~
- This ~~Title~~Book will include clear provisions to ensure that all fees and ~~charges~~taxes that are levied and received and all economic instruments that are established such as environmental funds will be managed in accordance with international standards on accountability and transparency.

### **TITLE 1 ENVIRONMENTAL INCENTIVES**

#### **CHAPTER # ECONOMIC INCENTIVES FOR GREEN INVESTMENT AND SUSTAINABLE FINANCING IN THE BANKING SECTOR**

#### **CHAPTER # SPECIAL INCENTIVES FOR PUBLIC/PRIVATE PARTNERSHIPS**

#### **CHAPTER# FINANCIAL INCENTIVES AND TAXATION MEASURES TO REDUCE DEFORESTATION AND PROMOTE BIODIVERSITY AND NATURAL RESOURCE CONSERVATION, GREEN URBAN INFRASTRUCTURE, ECO- TOURISM AND SUSTAINABLE TOURISM, COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT, SUSTAINABLE LOW CARBON ENERGY PRODUCTION, SUSTAINABLE FORESTRY, AND SUSTAINABLE FISHERIES**

#### **CHAPTER # ECO-LABELLING**

##### **ARTICLE #**

Financing for eco-labelling

##### **ARTICLE #**

Independent Certification for eco-labelling of products and services

##### **ARTICLE #**

Incentives to switch to more efficient consumer appliances and the phasing out of inefficient devices

## TITLE 2 VALUATION OF RESOURCES AND ECOSYSTEMS SERVICES

### CHAPTER # SCOPE AND PROCEDURES FOR VALUATION OF RESOURCES AND ECOSYSTEM SERVICES, INCLUDING NATURAL CAPITAL ASSESSMENT

#### CHAPTER # PAYMENT FOR ECOSYSTEM SERVICES

## TITLE 3 ENVIRONMENTAL TAXES, FEES AND OTHER FUNDING OPTIONS AND FUND MANAGEMENT

- A submission has been received that highlights that Cambodia does not have a Trust Fund Law that would assist in developing funding arrangements to finance the protection of protected areas and protected forests. Consideration should be giving to enable Trusts to be created.

### CHAPTER # -ENVIRONMENTAL TAXATION

#### CHAPTER # FEES PAYABLE FOR SERVICES PROVIDED BY MINISTRY

#### ~~Chapter # -Auditing of funds~~

### ~~CHAPTER # -ENVIRONMENTAL TAXATION~~OTHER FEES

### ~~CHAPTER # -ECONOMIC INCENTIVES~~OTHER FUNDING OPTIONS (E.G., FUNDING OPTIONS FOR GREEN INVESTMENT FOREST CONSERVATION)

### ~~CHAPTER # -SPECIAL INCENTIVES FOR PUBLIC/PRIVATE PARTNERSHIPS~~BENEFIT SHARING AGREEMENTS

Comment [M163]: Funding Options for Forest Conservation under development.

Comment [M164]: Per NGO Forum.

~~Chapter # -- Financial incentives and taxation measures to promote green urban infrastructure~~

~~Chapter # -- Financial incentives and taxation measures to promote eco-tourism and sustainable tourism~~

~~Chapter # -- Financial incentives and taxation measures to reduce deforestation, and promote natural resource conservation and biodiversity~~

~~Chapter # -- Financial incentives and taxation measures to promote community resource management~~

~~Chapter # -- Financial incentives and taxation measures to promote sustainable low carbon energy production~~

~~Chapter # -- Financial incentives and taxation measures to promote sustainable forestry~~

~~Chapter # -- Financial incentives and taxation measures to promote sustainable fisheries~~

~~CHAPTER # -- # ESTABLISHMENT OF THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND; GOALS OF THE FUND~~

#### **CHAPTER # -ESTABLISHMENT OF OTHER FUNDS**

(e.g., community initiative funds)

Chapter # Sources of revenue ~~to the Environment, Conservation and Social Development Fund~~

~~CHAPTER # -- TRANSPARENCY AND GOVERNANCE PROCEDURES FOR~~  
~~FOR THE ENVIRONMENT, CONSERVATION AND SOCIAL~~  
~~DEVELOPMENT FUND AND OTHER FUNDS~~

**ARTICLE #**

The Project Proponent shall make payment of a minimum of 1 percent of the project costs to the Environmental and Social Fund of MoE. An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.

**ARTICLE #**

The Project Proponent shall make payment of Environmental Endowment Fund based on the agreement between MoE and Project Proponent, on an annual basis until the end of business, based on the type and scale of development project.

**CHAPTER # -TRANSPARENCY AND GOVERNANCE PROCEDURES FOR FUNDS**

**CHAPTER # AUDITING OF FUNDS**

**CHAPTER # CRITERIA FOR GRANT-MAKING AND DISBURSEMENT FROM THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND**

Chapter # ~~Green financing~~

~~ARTICLE # - Incentives to switch to more efficient consumer appliances and the phasing out of inefficient devices~~

~~Chapter # - Eco-labeling~~

~~ARTICLE # - Financing for eco-labeling~~

~~ARTICLE # - Independent Certification for eco-labeling of products and services~~

**~~CHAPTER # - ENVIRONMENTAL LIABILITY~~ INSURANCE MECHANISMS FOR PAYMENTS BY POLLUTERS ~~/ OR FOR~~ ENVIRONMENTAL DAMAGE (E.G. BOND, ENVIRONMENT AND SOCIAL FUND)**

**Comment [BR165]:**

These two articles are moved from the EIA title, and presented here in the form in which they existed in the final version of the draft EIA Law.

**NOTE:**

Discussion is currently underway regarding the different types of funds that are required in order to 1) ensure proper project performance 2) guarantee any needed environmental restoration at project conclusion, and 3) to provide sufficient contribution to overall environment and conservation activities.

Discussion is also underway regarding the amounts of fees that Project Proponents will be required to provide to these respective funds.

**Comment [N166]:** per J Fox Przeworski



~~Chapter #—Community initiative funds~~

~~Chapter #—Valuation of Ecosystems services~~

~~ARTICLE #—Scope and procedures for valuation of ecosystem services, including natural capital assessment~~

~~ARTICLE #—Payment for ecosystem services~~

~~ARTICLE #—Requiring appropriate compensation for loss of ecosystem services~~

~~Book 3~~**BOOK 9** —**ENVIRONMENTAL PUBLIC  
AWARENESS AND ENVIRONMENTAL  
EDUCATION****OFFENSES, ENFORCEMENT AND  
REMEDIES**

- ~~• This Title will detail plans for the promotion of public awareness on environmental protection and environmental issues using mass communication means, including cinemas, the internet and advertising.~~
- ~~• It will establish an Environmental Information Initiative to educate the public and the private sector on environmental obligations and environmental issues.~~

~~Chapter #—Promotion of environmental awareness in schools  
and universities~~

~~Chapter #—Promotion of investor and developer awareness and understanding of  
environmental laws and procedures for Environmental Impact  
Assessment~~

~~Chapter #—Promotion of environmental awareness to the public~~

~~ARTICLE #—Respecting and drawing on indigenous and local environmental knowledge  
and values.~~

~~ARTICLE #—Requirement to promote environmental awareness in cinemas and mass  
media~~

~~ARTICLE # – Support for environmental awareness campaigns~~

~~ARTICLE # – Promotion of World Environment Day~~

~~ARTICLE # – Promoting awareness of waste disposal and recycling programmes~~

Comment [N167]: per STWG2

~~Chapter # – Establishment of Environmental Education Committee~~

~~Chapter # – Development of environmental education materials and training  
Specialized vocational training programmes?~~

Comment [BR168]: I  
Deau

~~Chapter # – Promotion of special environmental programmes~~

~~– Environmental and natural resources study and research~~

- ~~• This Title will provide details on the promotion of research on environmental and natural resource management issues.~~
- ~~• It will promote research and development for innovative practices to protect and manage the environment and natural resources.~~

~~Chapter # – Establishment of environmental research institutes~~

~~Chapter # – Provision of scholarships for environmental studies~~

~~Chapter # – Promoting of environmental research at universities~~

~~Chapter # – Establishment of Center of Excellence in Natural Resource  
Management and Sustainable Development~~

~~Chapter # – Funding of environmental research~~

~~Chapter # – Partnerships and exchange programmes with other countries'  
institutions~~

Comment [N169]: P  
er J Fox-Przeworski

**TITLE 1 – INVESTIGATION, ENFORCEMENT AND ACCESS TO  
REMEDIES**

- This Title will deal with the powers of the relevant Ministries to investigate the environmental offences outlined in Book ~~49~~4 Title ~~52~~2.
  - It will make provision to allow for citizens and organizations to follow dispute resolution~~s~~ procedures and bring proceedings to the relevant review body. These provisions will also identify mechanisms for citizens and organizations to bring general complaints and other proceedings.
  - This Title will also examine the use of relevant dispute resolution procedures and grievance mechanisms, including Environmental Courts and Tribunals (ECTs), to deal with environmental and natural resources development decisions. This Title will examine options for the Ministry of Environment to establish an Environmental Tribunal to ~~re-examine~~re-examine environment and natural resource management decisions made under the Environmental Code.
- This Title will also look at other options such as ~~administrative tribunals~~Administrative Tribunals and an Ombudsman or Environmental Commissioner, to review problems and concerns relating to environmental and natural resources decisions. These would be established to be accessible to the community and open and transparent.
- For example, one matter would be the use of municipal planning tribunals to resolve conflict between planning and land use decisions in the urban context.

Field Code  
Changed

- Legal entity and local-level dispute resolution and grievance mechanisms.
- The mechanisms in this Title will be consistent with international recognized criteria, including legitimate, accessible, predictable, equitable, rights-based, and transparent.

Comment [M170]: P  
er NGO Forum.

## CHAPTER # ~~-~~ENVIRONMENTAL COMPLAINTS

### CHAPTER # PROCEDURES FOR RESOLUTION OF ENVIRONMENTAL COMPLAINTS

#### SECTION 1 GENERAL PROVISIONS

#### ARTICLE #

Objective

ARTICLE #

Scope of Code Application

ARTICLE #

General Principle

ARTICLE #

Type of Environmental Dispute Resolution

- a) Ombudsman or Environmental Commissioner
- b) Administrative Tribunal
- c) Court
- d) Out of Court / Mediation

ARTICLE #

Establishing Enforcement Priorities

## CHAPTER # ESTABLISHMENT OF OMBUDSMAN OR ENVIRONMENT COMMISSIONER

ARTICLE #

Role of the Ombudsman or Environment Commissioner.

## CHAPTER # ESTABLISHMENT OF ENVIRONMENTAL ADMINISTRATIVE TRIBUNAL

ARTICLE #

All citizens may bring complaints before the Administrative Tribunal for breaches of the  
Environmental Code.

ARTICLE #

Rights of review of environmental and natural resources decisions.

ARTICLE #

NGOs may assist citizens and communities to bring matters to the Administrative Tribunal.

ARTICLE #

Obligation of Administrative Tribunal to hear and determine matters quickly and fairly.

SECTION 3 RESOLUTION OF ENVIRONMENTAL DISPUTE THROUGH THE COURT

SECTION 2 TYPE OF ENVIRONMENTAL COMPLAINT

ARTICLE #

Civil Complaints

ARTICLE #

Criminal Complaint

ARTICLE #

Complaint against Administrative Decision of the Government or Governmental Authorities

ARTICLE #

Relation of Civil and Criminal Complaint

SECTION 1 PARTIES OF ENVIRONMENTAL COMPLAINT

ARTICLE #

ARTICLE #:

Directly Affected Parties

ARTICLE # ~~ARTICLE #:~~

Participation of Relevant NGOs in Environmental Complaint

ARTICLE #~~ARTICLE #:-~~

The Governmental authorities in the Environmental Complaint

ARTICLE #

Rights of Affected Parties

ARTICLE #

Decision of Court

ARTICLE #

Appeal to Decision of Lower Court to Higher Court

Section ~~2~~ 4 ~~Type of Environmental~~ Complaint

Article #: ~~Civil Complaints~~

Article #: ~~Criminal Complaint~~

~~ARTICLE #:-~~ ~~COMPLAINT~~ AGAINST ~~ADMINISTRATIVE~~ TO DECISION OF  
~~THE GOVERNMENT OR~~ ADMINISTRATION OF GOVERNMENTAL  
AUTHORITIES

ARTICLE #

Right of Affected Natural Person/Legal Entities

ARTICLE #

Time Limitation of Issuance of Decision on the Complaint

ARTICLE #

Appeal to Decision of Higher Administration Institute

Article #: ~~—~~

~~Relation of Civil and Criminal Complaint~~

**Chapter # – Procedures for resolution of environmental complaints**

~~Section 1—General Provision~~

~~Article#:—Objective~~

~~Article #:—Scope of Code Application~~

~~Article #:—General Principle~~

~~Article #:—Type of Environmental Dispute Resolution~~

~~Article #:—Establishing Enforcement Priorities~~

**SECTION 2—OUT OF COURT RESOLUTION OF ENVIRONMENTAL DISPUTE**

ARTICLE #

**ARTICLE #:**—

Objective

ARTICLE #~~ARTICLE #:~~

Appointment of Mediator/Arbitrator

ARTICLE #~~ARTICLE #:~~

Obligation of Government to Create the Environmental Arbitration Institute

ARTICLE #~~ARTICLE #:~~

Appeal to the Decision of Arbitrator to the Court

**CHAPTER # MONITORING, COMPLIANCE AND CITIZENS RIGHTS TO BRING  
PROCEEDINGS**

**SECTION 1 GENERAL**

- a) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against any natural or legal person who violates or fails to comply with the provisions of this Code and its implementing regulations [by emitting restricted substances into the environment, harming protected

species, habitats or ecosystems, beginning work without a license on construction or extraction projects that require a license, or any other act that is clearly in violation of this Code].

- b) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against a Minister or Ministry charged with a nondiscretionary duty in this Code to enforce any of the Code's provisions or to create regulations, where the Minister or Ministry has failed to discharge that duty within a reasonable time.
- c) Any plaintiff pursuing an action under Section 1 shall do so for the public good and does not need to be directly impacted.
- d) Any plaintiff pursuing an action under this Section 1 shall do so for the public good and must not receive economic benefit.
- e) An action under this Section 1 shall not affect the rights of any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society in an action for personal injury or damage due to the same conduct that is the subject of a Section 1 complaint.

## **SECTION 2 NOTICE**

- a) Before any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursues any action under Section 1, they must give notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.
- b) A Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing any action under Section 1 must also give notice to
  - i) the relevant Ministry; and
  - ii) the administration of the District in which the violation or failure to comply has occurred.
- c) No action may be commenced under Section 1
  - i) within 30 working days of notice provided under Subsection 2(a) and (b); or
  - ii) if the relevant Ministry or District has commenced and is diligently prosecuting a



civil action in Court to require compliance with the Code provision in question.

d) Notwithstanding Subsections 2(a), 2(b), and 2(c), where the violation of the Code represents a public health or environmental emergency, any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing action under Section 1 may commence any action under Section 1 immediately after giving notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.

### **SECTION 3—~~RESOLUTION OF~~ VENUE**

a) An entity filing a written complaint under Subsection 1(a) must do so with the Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal.

b) An entity filing a written complaint under Subsection 1(b) may do so with

i) The Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal; or

ii) The Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.

c) Notwithstanding Subsections 3(a) and 3(b), where the violation of a provision of the Code represents a public health or environmental emergency, an entity filing any complaint under Section 1 must do so with the Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.

### **SECTION 4 PROCEDURE**

a) An entity filing any written complaint under Section 1 with the Administrative Tribunal must comply with the procedures for the Administrative Tribunal.

b) Notwithstanding the procedures for the Administrative Tribunal, the Administrative Tribunal must give notice to the public of its acceptance of the action within ten working days of its acceptance.

c) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Administrative Tribunal to participate in the complaint under Subsection 1(a) within thirty working days of the announcement under Subsection 4(b).

- d) An entity filing a written complaint under Subsection 1(b) of this Code shall do so in compliance with the Code of Civil Procedures.
- e) Notwithstanding the Code of Civil Procedures, the Court shall give notice to the public of its acceptance of an action under Subsection 1(b) within ten working days of its acceptance.
- f) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Court to participate in the complaint under Section III of the Code of Civil Procedures.

#### **SECTION 5 REMEDY, AWARDS AND CIVIL PENALTIES**

- a) The Administrative Tribunal, in issuing any final order in any action brought under Subsection 1(a), may require the natural or legal person to perform its duty under the Code.
- b) The Administrative Tribunal in issuing any final order in any action brought under Subsection 1(a), may have recourse to any appropriate civil penalties.
- c) The Court, in issuing any final order in an action brought under Subsection 1(b) may require the Minister or Ministry to perform its nondiscretionary duty.
- d) The Administrative Tribunal or the Court, upon motion of the complainant, may issue a provisional disposition establishing a provisional status.
- e) The Administrative Tribunal or the Court, in issuing any final order in any action brought under Section 1, may issue an injunction requiring the defendant to stop all illegal activity and to pay for the costs of remedying all of the environmental damage or human injuries resulting from violations of the Code.

#### **a) ~~Environmental Dispute through the Court~~**

- f) The administrative tribunal or Court, in issuing any final order in any action brought under Section 1, may require a defendant found to have violated the Environmental Code to pay

~~Article #:~~ ~~Rights of Effectuated Parties~~

~~Article #:~~ ~~Obligation of Government to Create the Environmental Court Attach to Lower Court and higher Court~~

~~Article #:~~ ~~Decision of Court~~

~~Article #:~~ ~~Appeal to Decision of Lower Court to Higher Court~~

#### ~~Section 4~~ ~~Complaint Against to Decision of Administration of Governmental Authorities~~

~~Article #:~~ ~~Right of Affected Natural Person/Legal Entities~~

~~Article #:~~ ~~Time Limitation of Issuance of Decision on the Complaint~~

~~Article #:~~ ~~Appeal to Decision of Higher Administration Institute~~

i) a successful plaintiff's costs of litigation (including reasonable attorney and expert witness fees) to the plaintiff; and/or

ii) any fee established by law as a consequence of violating the Code into a special fund for licensing, the costs of the Minister or Ministry as defendant in an action under Subsection 1(b), and other services; and/or

iii) any civil penalty to be paid into the fund specified in Subsection 5(f)(ii).

g) The administrative tribunal or Court, in issuing an order under Subsection 5(f)(iii), shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in Subsection 5(f)(iii), be used in beneficial mitigation projects which are consistent with this Code and enhance the protection of the environment.

h) The award of costs of litigation to a plaintiff must not be considered an economic benefit to the plaintiff.

#### SECTION 6 PLAINTIFF'S COSTS

a) The Court shall exempt an action under Section 1 from the payment of filing fees until either the complaint is proven to be without merit or a final order is issued, in which case such fees shall be included as part of a successful plaintiff's costs of litigation under Subsection 4(d)(ii).

#### SECTION 7 TIME

a) Claims raised under Section 1 shall be resolved within one year of filing.

#### SECTION 8 STRATEGIC LITIGATION TO DETER PUBLIC PARTICIPATION (SLDPP)

- a) Where a counter-suit is filed or administrative action undertaken against a Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society who has filed an action under Section 1 or has given notice under Section 2, the court or administrative decision-maker must make a determination in not less than thirty working days from the commencement of the counter-suit or action on whether said counter-suit or action is intended to harass, vex, exert undue pressure, or stifle the resources of the entity filing under Section 1 or the entity giving notice under Section 2. If the court or administrative decision-maker makes such a determination supported by evidence, the Court shall dismiss the counter-action or administrative action and award attorney's fees and double damages to the SLDPP defendant.
- b) Subsection 7(a) also applies where a court action is filed or an administrative action undertaken against a government official or entity acting in their official capacity, provided that the court or administrative decision-maker has made a determination based on evidence that the government official or entity was acting in the course of enforcing this Code, and that there was no abuse of authority.

## **CHAPTER # -COMMUNITY DRIVEN OPERATIONAL GRIEVANCE MECHANISMS**

### **CHAPTER # JUDICIAL POLICE OFFICERS**

#### ARTICLE #

~~Article #:~~ ~~Component of Judicial Police Officers~~

#### ~~ARTICLE #:~~

Role and Obligation of Judicial Police Officers

#### ~~ARTICLE #:~~ ARTICLE #

Procedure of Qualification of Judicial Police Officers

#### ARTICLE # ~~ARTICLE #:~~

Territory of Judicial Police Officers

#### ARTICLE # ~~ARTICLE #:~~

Investigation of Environmental Crime of Judicial Police Officers

#### ARTICLE # ~~ARTICLE #:~~

Obligation of Relevant Authorities in Co-Operation to Environmental Crime Investigation

~~ARTICLE #~~~~ARTICLE #:-~~

Procedure of Environmental Complaint Compilation

~~Article #:- Uniform Consumption in Environmental Complaint Investigation~~

## CHAPTER # ESTABLISHMENT OF ROYAL ACADEMY OF RANGER PROFESSIONALS

~~Chapter #—Establishment of Environmental and Natural Resources Court or  
Tribunal (ECT)~~

~~Chapter #—Establishment of Environment Commissioner~~

~~Chapter #—Role of the Environment Commissioner~~

~~Chapter #—Monitoring, compliance and enforcement rights of citizens~~

~~ARTICLE #—Establishment of enforcement rights for citizens and civil society  
organisations.~~

~~ARTICLE #—Types of citizen enforcement—for private action and public inaction~~

~~ARTICLE #—Protections for those taking citizen enforcement action~~

~~ARTICLE #—Remedies available as an outcome of a citizen enforcement action~~

~~Chapter #—All Citizens may bring complaints before the ECT for breaches of the  
Environmental Code~~

~~Chapter #—Rights of review of environmental and natural resources decisions~~

~~Chapter #—NGOs may assist citizens and communities to bring matters to the ECT~~

~~Chapter #—Obligation of ECT to hear and determine matters quickly and fairly~~

~~—ENVIRONMENTAL OFFENCES AND REMEDIES~~ REMEDIES (PENALTIES)

- This Title will outline the Environmental Offences that will be subject to possible action under the Civil Code or Criminal Code.
- It will provide an outline for determining which breaches of the Code should be subject to criminal prosecution.
- The Title will identify specific offences and failures to comply with relevant provisions of the Code.
- It will provide options for penalties from fines to imprisonment and remediation orders. It will be based of the work done on the draft EIA Law.

CHAPTER # BREACH OF ANY PROVISION OF THE ENVIRONMENTAL CODE

CHAPTER # PENALTY PROVISIONS

CHAPTER # ENVIRONMENTAL IMPACT ASSESSMENT OFFENSES

CHAPTER # AIR POLLUTION OFFENSES

CHAPTER # CLASSIFICATION OF OFFENSES

CHAPTER # TABLE OF PENALTIES FOR OFFENSES

CHAPTER # APPLICATION OF CRIMINAL CODE TO ENVIRONMENTAL  
OFFENSES

CHAPTER # APPLICATION OF CIVIL PENALTIES FOR ENVIRONMENTAL  
OFFENSES

TITLE 2 RESTORATION AND COMPENSATION FOR INJURIES  
TO NATURAL, CULTURAL, HISTORIC AND  
ARCHAEOLOGICAL RESOURCES

- This Title will provide relevant information about compensation and restoration orders, if a breach of the Code has led to environmental harm or harm to human health.

- ~~It will provide options for penalties from fines to imprisonment and remediation orders. It will be based on the work done on the draft EIA Law.~~

## **CHAPTER #—~~BREACH OF~~ 1 GENERAL PROVISIONS AND OBJECTIVES**

### **ARTICLE 1**

There is a national interest in restoring and compensating for injuries to resources of Cambodia.

### **ARTICLE 2**

~~any provision of the~~

Application of the polluter pays principle requires that any person found responsible for any injury to any resources of Cambodia shall be required to restore all such injuries, and or otherwise compensate for all losses resulting therefrom.

### **ARTICLE 3**

Timely restoration and just compensation critical to long term well-being of the people of Cambodia.

## **CHAPTER 2 LIABILITY PROVISIONS**

### **ARTICLE 4**

Liability.

### **ARTICLE 5**

Liability in rem (directed towards property).

### **ARTICLE 6**

Liability of corporate officials.

### **ARTICLE 7**

Joint and several liability.

### **ARTICLE 8**

Right to seek contribution from other potentially liable persons.

### CHAPTER 3 DEFENCES AND EXCEPTIONS TO DEFENCES

#### ARTICLE 9

Defences.

#### ARTICLE 10

Exceptions to defences.

### CHAPTER 4 – ENVIRONMENTAL ~~CODE~~ COMPENSATION

~~Chapter # – Environmental Impact Assessment offenses~~

#### ~~CHAPTER # –~~ ARTICLE 11

Measure ~~Penalty~~ ~~provisions~~

~~Chapter # – Orders for compensation~~

~~Chapter # – Restitution and restoration~~ of environmental ~~damage~~ compensation.

### ~~CHAPTER # – AIR POLLUTION OFFENSES~~ 5 – PARTIES CLAIMANT

~~Chapter # – Water pollution offense~~

#### ARTICLE 12

Parties who can make claims for Environmental Compensation.

### CHAPTER 5 – RESTORATION PLANNING COUNCIL AND COMPENSATION EVALUATION PROCESS

#### ARTICLE 13

Restoration Planning Council.



#### ARTICLE 14

Duties and authority of the Council

#### ARTICLE 15

Restoration Compensation Evaluation.

### **CHAPTER #--~~WASTE OFFENSES~~6 – RESTORATION CONSULTATION AND RESOLUTION**

#### **Chapter #--~~Contamination offenses~~**

#### ARTICLE 16

Restoration consultation process.

### **CHAPTER 7 – SETTLEMENT REQUIREMENTS AND JUDICIAL STANDARD OF REVIEW**

#### ARTICLE 17

Administrative and judicial resolutions.

#### ARTICLE 18

Judicial standard of review of a restoration compensation claim.

### **CHAPTER #--~~APPLICATION OF CRIMINAL CODE~~8 – ADMINISTRATIVE ORDER AUTHORITY**

#### ARTICLE 19

~~to environmental offenses~~

Authority of the Minister of the Environment to order support of Restoration Compensation Evaluation, and Restoration Council activities.

#### **Chapter #--~~Application of civil penalties for environmental offenses~~**

## ARTICLE 20

Authority of the Minister of the Environment to order emergency restoration.

## CHAPTER 9 – AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION

## ARTICLE 21

Notwithstanding any other provision of this Code, the Minister of the Environment may undertake the necessary restoration of injuries to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.

Chapter 10 – Management and Use of Recovered Funds

## ARTICLE 22 ~~TABLE OF PENALTIES~~

~~for offenses~~

Monies recovered as payment towards or reimbursement of the costs and expenses of Restoration Compensation Evaluation and Restoration Council activities shall be paid directly to the party incurring, or who will be incurring, said costs and expenses, and shall be used for that purpose only.

## ~~—~~ ARTICLE 23

Monies recovered for the implementation of restoration shall be held in a special account. (Restoration Implementation Fund).

## ARTICLE 24

Authorization for release of funds.

## ARTICLE 25

Fund Manager shall be personally responsible for maintaining the Restoration Implementation Fund and insuring that all transactions are properly recorded and made available for viewing online.

## CHAPTER 11 – SCOPE OF TITLE AND RELATIONSHIP OF OTHER ACTIONS CHAPTER 12 – STATUTE OF LIMITATIONS

ARTICLE 26

Statute of limitation for right to claim for environmental compensation.

~~Book 4~~ BOOK 10 TRANSITIONAL PROVISIONS

- This Book will provide details of the transitional provisions required to allow the Code to become effective in the shortest period of time.
- It will provide details of how existing protected areas and relevant reserves will be maintained, based on the principles of the Environmental Code, until they have been reviewed and assessed in accordance with the provisions of the Code.
- The development of the Environmental Code should not be used to allow continued environmental destruction during the period that new management plans are being developed.
- This Book will provide details of the laws and sub-decrees that will be repealed.
- This Book will clarify how the Environmental Code will amend the various existing natural resources laws and laws relating to environmental protection and natural resource management.

~~Book 5~~ BOOK 11 — FINAL PROVISIONS

# **Submission Form**

## **Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia**

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

**Date of Submission: 15 September, 2016**

**Submitted by (provide individual and STWG contact information):**

### **STWG-2 Department of Solid Waste Management**

#### **1. Issue:**

Recommendations for Code structure/section for solid waste management.

#### **2. Reference to Code Book and Chapter (if applicable):**

**Book 6: Title 9&10**

#### **3. Comparative Experience (including Cambodian and international examples and experience):**

#### **4. Recommendation:**

### **Chapter: Solid waste management to be incorporated into the Environmental Code**

#### **A. Provisions relating to garbage and municipal solid waste management**

##### **I. Chapter 1: Definition and general provision**

This section will state about goals, scope and definition of garbage, municipal waste, and management of those (excluding hazardous waste)

##### **II. Chapter 2: Provision on obligations and responsibilities**

###### **Competent Institutions**

- Shall prepare an action plan and a master plan for solid waste management (especially competent institutions)
- Measures to management: separation, packaging, appropriate keeping, and temporary storage at the source
- Determine sites for temporarily storing of solid waste in areas where waste collecting trucks cannot reach.
- Set 3R principles and participation in implementing 3R activities effectively
- Prohibit any disposal of solid waste out of determined disposal sites and in the public sites
- Responsibilities of solid waste owners and competent institutions

- Education and dissemination of information to citizens regarding to responsibilities of waste owners in the stage waste generation at the source
- Encourage successful separation of solid waste at the source (as if the separation of solid waste is failed, the implementation of 3R activities is also failed)

### **Solid Waste Owners**

- Shall be responsible for keep their waste properly
- Shall separate their waste
- Shall send out their waste to the front of their houses based on time set by competent authority
- Shall participate in education or dissemination activities relating to waste management
- Involve in collection and transport services
- Involve in 3R activities

### **III. Chapter 3: Provision on collecting and transporting services**

- Shall set measures in collection, including program, time to discharge waste, clean and on-time collection. There is should separation of waste when it is collected, namely recyclable and non-recyclable waste
- Means of transport which are safe, closed, and without any noise disturbance at break time, school, hospital,...which needs quietness
- Conditions in service providing and implementing, based on fee set by competent authority
- Enter into contract of service providing by company (duration of contract, obligations to fulfill and means)
- Determine location for temporary storage for collection (technical rules and required conditions)
- Determine the preparation of stations to transfer waste according to technical rules in case the landfill is far (types of waste to be received, technical rules for location preparation, conditions required for location operation to protect environmental quality and health of the public living around the area)
- Checking and monitoring of the implementation of service providing and evaluation on that by the competent authority.

### **IV. Chapter 4: Provision on mixed measures on effective solid waste management**

- Set measure on waste quantity reduction
- 3R activities
- Resources extraction and bio-gases
- Compost fertilizer generation
- Take back their own waste
- Responsibilities and participation of the public, waste owner and relevant ministries
- The beginning of the 3R principle implementation
- Encouragement for 3R activities
- Push to have a successful implementation

## **B. Provisions relating to management of solid waste from production (excluding hazardous waste)**

### **I. Chapter 1: Definition and general provision**

This section will state about goals, scope, definition of solid waste from production (classification, type, source of businesses, level of businesses or factory production), enterprises, companies (small, medium, and large)

## **II. Chapter 2: Provision on obligations and responsibilities**

### **Obligations and responsibilities of solid waste owners**

- Shall prepare their own solid management plans to prevent environmental pollution
- Measures to management: separation, packaging, appropriate keeping, and temporary storage by their types at the source, in accordance with technical rules
- Determine sites for temporarily storing of solid waste in businesses/factories/enterprises 'premises in accordance with technical rules and environmental safety (not affect staff, workers and the Environment)
- Set 3R principles and participation in implementing 3R activities effectively
- Prohibit any disposal of solid waste out of determined disposal sites and in the public sites
- Oblige to pay for the company permitted to collect and transport waste by competent institutions
- Cooperate with competent institutions in education and dissemination activities and every activity to reduce waste
- Set obligations to environmental hygiene at their location

### **Competent Institutions (Duties of Ministry, Department, Relevant Unit)**

- Prepare policy, strategic plan, legal instruments, guidelines and techniques for effective implementation
- Education, dissemination, and promotion of environmental hygiene education of waste owner with regards to their responsibilities
- Determine measures to push effective separation of waste at the source
- Determine measures to push the implementation of 3R principle activities
- Monitor, check, and inspect solid waste management at the business/production location in order to educate, guide and take action on waste management at the source
- Urge the implementation of solid waste management related regulations

## **III. Chapter 3: Provision on collecting and transporting services**

- Within its jurisdiction territory, the competent institution shall establish collecting and transporting services of solid waste from production separating from garbage and municipal solid waste
- Shall set measures in collection and transporting, including program, time to discharge waste, clean and on-time collection. There is should separation of waste when it is collected, namely recyclable and non-recyclable waste
- Determine relevant means of transport which are technical, safe, closed, and without any noise disturbance at break time, school, hospital,...which needs quietness
- Conditions in service providing and implementing, based on fee set by competent authority
- Collection and transporting service companies shall be permitted by competent institution (MOE)
- Determine the preparation of stations to transfer waste according to technical rules in case the landfill is far (types of waste to be received, technical rules for location preparation, conditions required for location operation to protect environmental quality and health of the public living around the area)

- Checking and monitoring of the implementation of service providing and evaluation on that by the competent authority
- Obligations of waste owners to pay for the company permitted to collect and transport waste by competent institutions.

#### **IV. Chapter 4: Provision on mixed measures on effective solid waste management**

- Set measures on waste quantity reduction
- 3R activities, incentive for 3R activities
- Take back their own waste
- Responsibilities and participation of waste owners

#### **C. Reduction of plastic bag and plastic packaging materials use**

- Set measures to reduce plastic bags, including types, sizes, thickness, and taxes for import, production and distribution. Prohibition of any import, production and distribution of any plastic bags violating what is determined
- Alternatives to plastic bags
- Education and promotion of education on plastic bag reduction
- Public participation in plastic bag reduction
- Obligations of competent institution in plastic bag reduction

#### **D. Measures on management of final disposal, garbage and solid waste landfill and solid waste incinerator**

- Set measures for implementation to ensure effective solid waste final disposal and environmental quality
- Strictly prohibit any inappropriate waste disposal in the public sites
- Set measures for preparing safety landfills (according to technical rules, landfill operation and landfill maintenance once closed, including system collecting sewage/wastewater and waste treatment plants)
- Set measures for preparing safety solid waste incinerators (based on technical rules, incinerator operation and set standard of ash coming from incinerators that is to be disposed into the landfill)
- Import and export of all types of solid waste shall be permitted by MOE and competent institutions.

#### **E. Provision on penalties**

6. Cambodian Laws to be Abrogated or Modified (include specific articles and clauses):

7. Drafting Team Analysis/Response (to be included in public database):

## **Submission Form**

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Environmental Code of Cambodia

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission:

*20 September 2016*

Submitted by: NGOF, CCC, DPA, RUPP, ITC, Forum Syd, Star Kampoechea (SK), Equitable Cambodia (EC), and Oxfam.

### **1. Issue:**

*(Please provide a brief description of the issue that is addressed by the recommendation included in number 4 [“4. Recommendation”] below.).*

- Organisation of jurisdictional
- Public participation
- Surface and groundwater water quality
- Wastewater, Pollution from mining, industrial zones etc.
- Domestic water use (water supply and irrigation)
- Groundwater exploitation
- Flood and drought
- Environmental flow
- Coastal Zone Management
- Climate change strategy and action plan for disaster management
- Climate change adaptation and mitigation technologies
- NAMA, low carbon development and Paris agreement?
- Standards require for SFM
- Sustainable forestry
- Coastal zone management
- Renewable energy
- Energy efficiency
- Recycling of energy material
- Marine fisheries
- Freshwater fisheries
- Aquaculture
- Sustainable (responsible) Extractive Industries

### **2. Reference to Code Book and Title (if applicable):**

*(Please provide the Book and Title names and not just the number; the Book and Chapter numbers may change from one draft to the next if the Code is reordered.)*

1. BOOK 1: GENERAL PROVISIONS: TITLE 1: GENERAL PROVISIONS:



2. BOOK 1: TITLE 2: ORGANISATION OF JURISDICTIONAL INSTITUTIONS/JURISDICTIONAL ISSUES
3. BOOK 1: TITLE 3: PUBLIC PARTICIPATION
4. BOOK 1: TITLE 4: ACCESS TO ENVIRONMENTAL INFORMATION
5. BOOK 2: Environmental Planning Assessment and Monitoring
6. BOOK 2: Title 1: Making of national, sub-national and local environmental and natural resources plans
7. BOOK 2 : Title 5: Environmental Quality Standard
8. BOOK 2: Title 6: Strategic Environmental Assessment
9. BOOK2 : Title 7 : Environnemental Impact Assessment
10. BOOK 2 : Title 8 : Environmental Audits and Environmental Management Reporting
11. BOOK 3: Environmental Management and sustainable mechanisms:
12. BOOK 3: Title 1: Disaster Risk Reduction and Management
13. BOOK 3: Title 2: Climate Change Adaptation and Mitigation
14. BOOK 3: Title 4: Sustainable cities
15. BOOK 3: Title 5: Sustainable Tourism and Eco-Tourism
16. BOOK 3: Title 6: Sustainable Energy
17. BOOK 3: Title 7: Sustainable Extractive Industries
18. BOOK 4 Sustainable Management of Natural Resource and Ecosystem:
19. BOOK 4: Title 2 Sustainable Water Resource Management
20. BOOK 4: Title 3 Coastal Zone Management
21. BOOK 4: Title 4 Sustainable Land Management
22. BOOK 4: Title 5: Sustainable Forestry
23. BOOK 4: Title 6: Sustainable Marine Fisheries
24. BOOK 4: Title 7: Sustainable Freshwater Fisheries and Aquaculture
25. BOOK 5 Conservation and protection of biodiversity and cultural heritage
26. BOOK 5: Title 2: Protected Areas Management
27. BOOK 5: Title 3: Wildlife Protection, Conservation and Management
28. BOOK5: Title 4: Protection of Plants, Important Habitats and Significant ecosystems
29. BOOK 5: Title 5: Cultural and Natural Heritage Conservation
30. BOOK 6: Waste and Pollution Management and Sustainable Production: Title 5: Water Pollution Control

31. BOOK 6: Title 6: Marine Pollution Control
32. BOOK 7: Environmental Education and Awareness
33. BOOK 7: Title 1: General Provision
34. BOOK 7: Title 5: Formal education system
35. BOOK 9: Environmental Offenses: Title 1: Investigation, Enforcement and Access to Remedies

**3. Comparative Experience (if any):**

*(Please include any Cambodian and international examples and experience.)*

**4. Recommendation:**

*(Please include here the text of the recommendation to address the issue provided in number 1 [“1. Issue”] above. If needed, note “See Attachment” for corresponding documents.)*

**1. BOOK 1: TITLE 1: GENERAL PROVISIONS:**

**CHAPTER 1: ARTICLE 2: OBJECTIVE OF THE ENVIRONMENTAL CODE**

Suggest adding

- An important framework for environmental protection, specifically with regard to right to food, right to water etc.
- Promote a rights based approach to sustainable development, in accordance with the UN Guiding Principles on Business and Human Rights

**CHAPTER 1: ARTICLE 5: DEFINITION/GLOSSARY**

- Definition of “**Environment**” should make the link with human rights. It needs to go beyond just reflecting Cambodian values, and must be consistent with internationally accepted standards
- Suggest adding:
  - Free Prior and Informed Consent (FPIC) – is a right of indigenous peoples, enshrined in the UNDRIP and ILO Convention 169. It means all indigenous peoples and local communities must be adequately informed about projects that affect their lands in a timely manner, free of coercion and manipulation. For Indigenous peoples they have the right under international law to approve or reject a project, based on their standing as distinct, self-determining peoples with collective rights
  - **Risk-Based Due Diligence** – suggest to get the definition which provided in the draft 3 of the code.

**CHAPTER 2: PRINCIPLES OF THE ENVIRONMENTAL CODE**

- Suggest to add principle as following:
  - Decentralization
  - Enrolment of youth
  - Simplify access to service. eg. One window service
  - Promote enterprise business related environment
  - Promote online service on environment

- Uphold key actor to protect environment like community fishery, community forestry, community protected area, Community land titling, Echo-tourist community...

## **CHAPTER2: ARTICLE 10: PRINCIPLE OF GENDER EQUALITY AND PARTICIPATION OF OTHER VULNERABLE PEOPLE IN ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT**

- Suggest replace the word Vulnerable with “Marginalised”

## **CHAPTER 3: General Duty to avoid environmental harm: Article 1:**

- Suggest add “UN Guiding Principles on Business and Human Rights which Cambodia endorsed”

## **2. BOOK 1: TITLE 2: ORGANISATION OF JURISDICTIONAL INSTITUTIONS/JURISDICTIONAL ISSUES**

## **CHAPTER # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE: ARTICLE 1: GENERAL PROVISIONS**

- Suggest to consider: “This map should also compile all land use activities. Plantations, mines, SEZ, should be visible alongside biodiversity, natural resources, and the environment. Such juxtaposition will aid in effective decision making.

## **3. BOOK 1: TITLE 3: PUBLIC PARTICIPATION**

## **CHAPTER # PUBLIC CONSULTATION A FUNDAMENTAL REQUIREMENT FOR ENVIRONMENTAL DECISION: ARTICLE #:**

- The EIA Report shall: The EIA Book can be strengthened. Key additions include:
  - Broadening the EIA to an SEIA to include the links between environmental and social impacts
  - Specifically including reference to human rights impact assessment (e.g. access to clean water, health etc) and a gender impact assessment, recognizing projects such as mining / hydro are not gender neutral and loss of agricultural land / forests will impact on women who are often small scale farmers, fisher people, forest product gatherers. [See Oxfam in Australia publications on gender impact assessment in mining and hydro].
  - Ensure SEIA’s for all projects
  - Ensure SEIAs are not ‘one off’ / static. Must be conducted for all phases of a project, e.g, in mining, for exploration, construction, operation, mine expansion, mine closure
  - Ensure SEIA is in the public domain, accessible and in a format that can be understood

## **ARTICLE # :**

- Give comment on “At a minimum the Project Proponent shall make available on publically accessible website copies of the IEE or EIA, any EMP for the project, maps and plans of the project and all proposed mitigation measures for the project. “as following:
  - This is difficult as the affected communities do not have access to internet.
  - Hard-copy documents can be kept with relevant commune offices. If the project impacts more than one commune, duplicate copies of these documents must be provided.

## **Chapter #: Free, Prior and Informed consent for indigenous people and local communities in natural resources and environmental impact assessment matters:**

### **Article#: suggest adding:**

- The public participation process (including proposed mitigation measures) shall ensure that the consent of the indigenous people's is gained and is based on the internationally recognized principle of free, prior, and informed consent (FPIC). Project-affected community participation in projects that affect them, their land, and their livelihoods should be consistent with the principles underlying FPIC, including their full and effective participation in project negotiation and planning, free of intimidation, manipulation, coercion; prior to land allocation and in a timely manner; informed of all relevant information.
- "In case where.....affected community" this text is not consistent with FPIC
- "The procedure of resettlement.....by sub-degree" this needs explanation and as a minimum should be consistent with IFC Performance Standard 5, Land Acquisition and Involuntary Resettlement

## **4. BOOK 1: TITLE 4: ACCESS TO ENVIRONMENTAL INFORMATION**

### **Chapter 2: Environmental Information**

- Re comment above, must be consistent with FPIC
- "The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above." This rubric should be informed by theories on common pool resources, like Elinor Ostrom, Arun Agrawal, or John O'Neill's "Environmental Values

### **Chapter 3: Reliability of information**

- Should consider: Keeping benefit to the common pool resources at the forefront of decisions

### **Chapter 6: Provision of environmental information**

- This section needs more details about how this information will be provided: [Both the language and the medium need to be accessible to affected communities](#)
- Arbitration – here - Mediated arbitration: These are relationships of unequal power
- "Private and public..... as required by law, including on aspects specified in Chapter 2." Please name the laws

### **Chapter 8: Violations and remedies and enforcement**

- "The government is to establish minimum .... by relevant regulations" Please name the regulations
- Suggest to add: Relevant authorities in cooperation with local representatives and other stakeholders

## **5. BOOK 2: Environmental Planning Assessment and Monitoring**

Suggest to add Title: Flood and Drought

Impacts of water infrastructures development such irrigation dams, hydropower dams which in turn cause floods and droughts should be properly assessed and planned.

<http://www.wepa-db.net/policies/law/cambodia/02.htm>

<http://mothernature.pm/Areng%20dam%20-%20impact%20summary.pdf>

<http://www.wepa-db.net/pdf/0809cambodia/8.pdf>

## **6. BOOK 2: Title 1: Making of national, sub-national and local environmental and natural resources plans**

“One option .... (including exploitation) of heritages areas, marine and terrestrial protected areas and management plans for threatened and endangered species”

- This seems to limit the effectiveness of this document to these areas. How will it affect SEZ, ELC, and other land uses that impact the environment?

### **Chapter# Establishment of national land and resources information:**

This will be a useful tool- but difficult to keep current. The information from this database must be validated with representatives who live close to these resources.

- As this section reads, the plans are institutionally based. Resource management initiatives that involve local communities **at the planning stages** are most effective:
- See:
  - Dhital, N., Vololomboahangy, R. R., & Damase, P. (2015). Issues and challenges of forest governance in Madagascar. Canadian Journal of Development Studies / Revue Canadienne D'études Du Développement, 36(1), 38–56.
  - Diepart, J.-C. (2015). Learning for Resilience: Insights from Cambodia's Rural Communities. (J.-C. Diepart, Ed.). Phnom Penh: The Learning Institute.

## **7. BOOK 2 : Title 5 : Environmental Quality Standard**

Should consider about the surface and groundwater water quality.....

Both surface and groundwater quality should focus from mining activities, agricultural water pollution which cause more severe water quality degradation on river health.

## **8. BOOK 2: Title 6: Strategic Environmental Assessment**

### **Chapter # Implementation of SEA**

#### **Article #**

- Screening: “Any plan.....the relevant government institution....” Does this mean that the ministry of mines and energy has authority to decide if the project will have ‘significant impact’? This may require a higher-level regulatory body
- Suggest to add “The risks to the environment, including to health and society, and especially the availability of resources for the next generations.

## **9. BOOK2 : Title 7 : Environnemental Impact Assessment**

**Chapter # Levels of assessment will include EIA, IEE or environmental protection agreement: Article:**

« This law does not.....necessary emergency project.... disaster management » This is a problematic clause. It effectively means that any project could be deemed as ‘necessary’ (e.g a hydro dam)

**Chapter # Establishment of EIA review Committee :**

- Please consider about decentralisation authority/function to sub-national over how big or small job. eg. How much size to which level?
- Consider about length, it is good to make it shorter than the current draft.
- Suggest to add “Members of an Expert Review Committee shall be selected on a project-by-project basis by MoE based on the technical aspects of the EIA report including representatives from impacted communities and civil society. The expert Review Committee should explain technical aspects to impacted community representatives

**CHAPTER # PREPARATION OF ENVIRONMENTAL MANAGEMENT PLAN**

**Article #**

- « Relevant ... and social issues within an appropriate time limit and inform the concerned persons accordingly. This time limit needs to be specified. 30 days is appropriate

**Chapter # Social impact assessment**

- Health Impact Assessment : Good. Suggest link it to a broader human rights due diligence assessment (identify, mitigate, prevent and remedy) as per UNGP on Business and Human Rights

**Chapter # Transboundary Environmental: suggest to consider as following:**

- e.g Mekong River Commission, but also needs to include, mechanisms to actively involve downstream and upstream communities (e.g in the case of dams), but participation and access to info etc of impacted communities
- Include ref to the Hydropower sustainability Assessment Framework and Protocol

**Chapter # Environmental management and monitoring**

- Please give opportunity to local authority on decision of small scale EIA. Put them responsible before the law.

**10. BOOK 2 : TITLE 8 : ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING**

**Chapter # Establishment of self-reporting for environmental compliance** – Highly problematic. It does not work. Suggest delete.

- Reporting , audit, monitoring must be independent, verifiable and include independent experts

**Chapter # Environmental Audits:**

- Audits that involve comment from communities living in the project area<sup>22</sup>

## **Chapter # Monitoring reports to be required for specific project and activities**

- Should include “risk based due diligence and the context of monitoring. Or at least ensure ref to risk based due diligence somewhere in the monitoring chapter”

### **11. BOOK 3: Environmental Management and sustainable mechanisms**

Suggest include title: Environmental instruments like:

- Polluter pay principle
- Consumer pay principle
- Stick and carrot principle
- Subsidy principle
- Etc.

### **12. BOOK 3: Title 1: Disaster Risk Reduction and Management**

Suggest adding: Climate change strategy and action plan for disaster management

### **13. BOOK 3: Title 2: Climate Change Adaptation and Mitigation**

Suggest adding:

- Climate change adaptation and mitigation technologies
- NAMA, low carbon development and Paris agreement

### **14. BOOK 3: Title 4: Sustainable cities**

Chapter # Setting of energy efficiency standards:

The following points should be added in this chapter:

- Energy efficiency benchmarking for building, industries, end-user products, power plant for rural electrification
- Procedure for monitoring on the implementation of energy efficiency
- Energy audit
- Provision of independent institute for testing and measure

Chapter # Promoting energy efficiency

The following points should be added in this chapter:

- Training on energy efficiency
- Energy label
- Incentive and penalty on energy efficiency implementation

### **15. BOOK 3: Title 5: Sustainable Tourism and Eco-Tourism**

This Title will also create a framework to promote sustainable tourism in general, including larger scale tourism with reduced environmental impact.

- Caution re this chapter. It could easily become a marketing /PR exercise and does assume that all ecotourism is good. Which is not necessarily the case. If land is taken from communities by developers in the pursuit of ecotourism, issues around consent, list of

livelihoods remain

#### **Chapter # Promotion of Ecotourism and sustainable tourism as development priorities:**

- Suggest to consider: Impacted communities need to determine if this is a development priority

#### **Chapter # Financial Incentive for ecotourism operations**

- Eligibility guidelines for these must be very clear

### **16. BOOK 3: Title 6: Sustainable Energy**

#### **Nuclear Energy:**

- Unsustainable with no ability to recycle or reuse the toxic waste from this source of energy.
- UN definition of sustainable development is, “development which meets the needs of the present without compromising the ability of future generations to meet their own needs.”
- Leaving toxic waste in the ground hinders future generations from meeting their needs.
- It would be good to define exactly what is meant by sustainable before it gets applied to the production of energy

#### **Oil and gas:**

- These are not renewable, and are not sustainable in any way. Their continued use decreases the ability of future generations to meet their needs.
- The language here should be developing alternatives to keep oil and gas in the ground.
- The current language speaks volumes to the insincerity of the entire document

#### **Chapter # Sustainable energy plan**

The following points should be added in this chapter:

- Adoption Feed-in Tariff (FIT) for renewable energy sources

#### **Chapter # Sustainable and technology for sustainable energy**

Other renewable energy sources like wind energy and other new energy technology like hydrogen should be mentioned in the code.

#### **Chapter # Standards and technology for sustainable energy**

This comment covers all the fossil fuel power plant. It should mention in the code the mechanism of monitoring the utilization of fossil fuel resources which are exploited in Cambodia.

#### **Article #...**

Standard for approval of proposed wind and solar projects –

- Limit large-medium scale projects in these sectors as well
- Small-scale projects have smaller carbon offset problems



### **Chapter # Provision of clean energy for rural communities**

- Some small rural electricity enterprise (REE) are using biomass power plant for generating electricity. These plants cause environmental impact (water and air) to the surrounding. The current EIA does not target power plants whose capacity is smaller than 5 MW.

### **Chapter # Development of micro and mini-grid systems**

- The energy service in rural area are currently under the responsibility of REEs (Rural Electricity Enterprises). However, these REEs focus mainly on the grid extension in the most populated area, while ignoring the most remote in their licensing zone. The use of solar power for rural electrification is not interested by energy service provider. A subsidy and regulation should be established to push the use of sustainable energy sources for rural electrification and also in order to accelerate the electrification rate of rural households.

**(A new title or chapter should be created to talk about recycling energy material like PV module, battery, and electronic device etc.)**

## **17. BOOK 3: Title 7: Sustainable Extractive Industries**

It was noted on April 6 meeting there are significant translation inaccuracies in this Title / BOOK

### **Chapter # Adoption of Best Practice in Extractive Industry**

Highly recommend review of Oxfam (Australia and America) work on best practice in extractives as following:

- <https://www.oxfam.org.au/what-we-do/mining/>
- <http://politicsofpoverty.oxfamamerica.org/category/resource-rights/>

Also review ICMM sustainable development framework, principles and guidance.

- <http://www.icmm.com/our-work/sustainable-development-framework>
- <http://www.icmm.com/document/9520>

OECD Meaningful stakeholder Engagement and Due Diligence in the Extractives Sector

- <https://mneguidelines.oecd.org/OECD-Guidance-Extractives-Sector-Stakeholder-Engagement.pdf>

and related OECD Guidance on conflict minerals and gold

- <https://www.csr.uq.edu.au/publications/agreement-making-with-indigenous-groups>

### **Chapter # Financial and economic arrangements to ensure proper site management**

This will need to include language and provisions around benefit-sharing, noting that impacted communities need to participate in negotiating benefit sharing arrangements / compensation on a case-by-case, project-by-project basis

### **Chapter # Licensing and permitting system following EIA approval**

- Must link to FPIC
- Suggest include something about cross checking with other ministries, and generally best

practice for issuing of licences. Note, it is known that the greatest risk of bribery and corruption is at the licencing / project expansion phase. So need to include something on that in this chapter

**More detail comments from Oxfam and DPA are as following:**

## **TITLE 7: SUSTIANBLE (RESPONSIBLE) EXTRACTIVE INDUSTRIES<sup>1</sup>**

### **Article 1: Purpose and Scope**

The environmental code for responsible extractive industries presents good environmental management practices and mitigation measures that address potential environmental concerns of management of the sector in Cambodia. These recommendations were derived from regulatory and non-regulatory standards published by various organizations.

The overall objective of the environmental code for extractive industries is to identify and promote good practices in order to facilitate and encourage an effective management and improvement in environmental performance of extractive industries.

In line with principles and objectives of the environmental code, and in order to prevent environmental risks and pollutions, the environmental code for extractive sectors is proposed to:

- Integrate environmental management into sector plan and policies and management mechanism;
- Define responsibilities and tools to manage environment and prevent pollutions at project level;
- Propose approaches to management of environmental management of specific mineral type throughout its life cycle; and
- Define some requirements for environmental management of artisanal mining and small scale mining.

The draft text takes account precautionary principle, inter-generational principle, right based development principles and polluter paid principle. It is proposed to focus on pollution prevention, where feasible, rather than treatment; and comply with high standards and best practices.

## **Chapter I: Integration of Environmental Management in Extractive Industry Sector**

### **Article 2: Sector based Strategic Environmental Assessment (SSEA)**

Government and Competent Authorities shall undertake sector based Strategic Environmental Assessment of metal, nonmetal and fuels. The SSEA shall capture the potential cumulative impacts of each sector, visioning statement, government agencies responsible for the sector, the opportunities and constraints on sector development, select preferred sector- based development strategy; risk reduction; regulate future project development.

### **Article 3: Regional Strategic Environmental Assessment for Critical Regional Ecosystems in Cambodia**

Competent Authorities the Sub-national Authorities shall undertake Regional Strategic Environmental Assessment for Regions that are socially and ecologically sensitives to

extractive development such as north-eastern region, Tonle Sap, Cardamom region and coastal areas. The RSEA shall cover information containing:

- Regional planning or administrative authority; public-private partnership; group of industry partners;
- Region-based alternatives or scenarios driven by broader regional, sustainability, or policy-oriented goals and objectives;
- Past, present, and longer term futures of regional environments and economies;
- Planning region as defined by natural features such as watersheds or other ecoregions; and
- Select preferred land use alternatives; enhance sustainability; risk reduction to regional environment; PPP development to manage future land uses.

#### **Article 4: Transboundary Impact Assessment**

The Government shall ensure that projects that are located in transboundary areas of neighboring countries and overlapping claimed zones shall subject to transboundary impact assessment (TbEIA). The Government shall delegate to a relevant competent authority to establish Guidelines for screening criteria of environmental significance or thresholds for TbEIA, in accordance with current principles of TbEIA. The formalities and procedure for the implementation of TbEIA shall be determined by a Sub-decree.

#### **Article 5: No Mining Development Zone in Highly Conservation Areas**

1. Competent Authorities shall not grant any exploration and exploitation licenses for extractive industry development in highly Protected Areas as classified as (1) World Heritage Sites; (2) Tentative List for World Heritage; (3) core zones of protected forest, wildlife sanctuaries, and national parks; (4) habitat and critically endangered species management areas; (5) marine national park and seascape; (6) core areas of UNESCO biosphere; (7) and indigenous people communal land areas as approved by the Government.
2. Competent authorities shall not permit any mining operations in biodiversity hotspots that are considered and classified as biodiversity corridors by conservation competent authorities.
3. Competent Authorities in consultation with other stakeholders shall identify and approve key additional biodiversity areas of high conservation value that qualify as “no mining development zones”.
4. Competent Authorities shall ensure that threats to endangered species are prevented and avoided throughout the mining life-cycle, including after the closure of the mining operation.
5. In protected areas, competent authorities shall only allow mining development in the buffer zone of protected areas. If project proponents can demonstrate mining is compatible with maintenance of area’s special values of the protected areas.
6. Competent Authorities in consultation with relevant stakeholders shall develop a guideline for project proponents to integrate biodiversity conservation into different stage of mining project development following international standards and practices.

## **Article 6: Restoration of Environmental Damage and Rehabilitation Fund**

1. Competent Authorities shall ensure that project proponents restore all disturbed areas so that they are consistent with future uses during exploitation and closing stage.
2. Competent authorities shall guarantee that the cost of implementing exploration reclamation will be met by project proponent in a timely manner. Competent Authorities and Ministry of Finance and Economics shall set up a Rehabilitation Fund to support efforts in reclaiming and rehabilitating mined out areas.
3. The competent authorities shall require that prior to the commencement of any site disturbing activities project proponents shall prepare and publish on the project proponent website a reclamation and closure plan compatible with the protection of human health and the environment, and with other beneficial uses, which demonstrates how the affected areas will be returned to a stable landscape with an agreed post-mining end use.
4. The competent authorities shall ensure that reclamation and closure plan shall be developed and be submitted along with project social and environmental impact assessment report for decision whether to approve the site or not. The reclamation and closure plan shall include a detailed determination of the estimated costs of reclamation and closure, and post-closure.

## **Chapter II: Environmental Management Responsibility and Tools at Site Level**

### **Article 7: Policy Statement**

Each project proponent owning or operating a metal mine, non metal mine, fuels, or engaged in exploration activities should develop and implement a corporate environmental policy statement that includes commitments to: (1) continually improve environmental protection measures and practices; (2) focus on pollution prevention, where feasible, rather than treatment; and (3) comply with relevant environmental legislation and regulations and other requirements, such as industry association policies and best management practices to which the metal mine subscribes; and (4) publicly available policy that includes a statement of the project proponent's respect for indigenous peoples' rights, as set out in the United Nations Declaration on the Rights of Indigenous Peoples. Project proponent shall ensure that stakeholders and indigenous people potentially affected by the project proponent's mining-related activities are aware of the above mentioned policies.

### **Article 8: Environmental and Social Impact Assessment (ESIA) of Projects**

1. Competent Authorities shall require the project proponents to undertake proper social impact assessment as an integral part of environmental and social impact assessment.
2. Competent Authorities shall **legally require that decisions** to extract hydrocarbon and mineral resources and subsequent actions to deny or grant extraction licenses are **based on comprehensive and independently reviewed environmental and social impact assessments**, which involve meaningful public participation to ensure the environmental and social acceptability of the activities, and a commitment to protecting the environment, local livelihoods and public health in the activities. Such assessments shall include, inter alia:

- Full environmental costs, including those associated with regulatory oversight, reclamation, closure, and post-closure monitoring and maintenance.
  - Consideration of worst-case scenarios and analyses of off-site impacts to identify potential emergency scenarios and to develop appropriate response strategies.
3. Competent Authorities shall **issue guidelines for Environmental and Social Impact Assessment and Management Plan for Oil, Gas and Mining exploration and development** to guide project proponents and EIA department to ensure good quality and process in producing EIA reports.
  4. Competent authorities shall **ensure that project proponents conduct environmental and social impact assessments prior to any mining operation. Competent authorities shall ensure that monitoring environmental and social impacts take place on a regular basis.**
  5. Competent Authorities shall ensure that project proponents regularly assess and mitigate the adverse environmental impacts on soil, air, and water by the mining operation. In doing so, the Ministry shall ensure that that project proponents undertake the following actions:
    - Consider ambient soil, air, and water conditions, and apply technically and financially feasible pollution prevention principles and techniques that are best suited to avoid, minimize, and control pollution; and
    - Take measures to minimize noise and vibrations from blasting and drilling.

The competent authority shall require project proponent to predict in greater detail the characteristics of the potentially significant environmental and social impacts identified during scoping which shall cover the followings:

- Lifestyle impacts: on the way people behave and relate to family, friends and communities on a day-to-day basis
- Cultural impacts: on shared customs, obligations, values, language, religious belief and other elements which make a social or ethnic group distinct
- Community impacts : on infrastructure, services, voluntary organizations, activity networks and cohesion, solidarity and social norm
- Quality of life impacts: on sense of place, aesthetics and heritage, perception of belonging, security, and aspirations for the future
- Health impacts: on mental, physical and social well being, although these aspects are also the subject of health impact assessment.
- Gender impacts: on the ways men, women, boys and girls share decision, participation, income, labor, benefit, control of resources, social status, and power dynamic.
- Impacts on most vulnerable people especially indigenous people: the way a project will impact on indigenous people rights to participation, consultation, information, planning, complaints, faire compensations, and decision making, especially impacts of indigenous people to exercise their rights to free, prior, informed and consent

(FPIC). Some of the aspects of FPIC scoping shall be carried out as part of social impact assessment.

#### **Article 9: Environmental Management Systems (EMS)**

Competent Authorities shall ensure that project proponents develop, implement, maintain and update site-specific environmental management systems (EMS). An environmental management system should be used to manage all environmental aspects of the activities and operations.

#### **Article 10: Environmental Management Plan**

Site-specific environmental management plans should be developed, implemented and updated throughout the mine life cycle. The plans should include, as a minimum, descriptions of the following:

- information about the owner/operator of the mine and information about the mine itself, including a description of the mining and ore processing methods used and the geographic setting of the site;
- the project proponent's environmental policy statement;
- environmental performance requirements;
- air quality management programs;
- water quality management programs;
- management programs for tailings and waste rock;
- land management programs;
- pollution prevention planning;
- management of garbage and other waste materials;
- environmental objectives and targets along with schedules for achieving objectives and targets;
- environmental management programs and auditing;
- relationships with stakeholders, including local communities;
- procedures for communicating with regulatory agencies and stakeholders; and
- periodic review of the environmental management plan for effectiveness and continual improvement.

#### **Article 11: Environmental Performance Indicators**

A site-specific plan for the monitoring and inspection of on-site environmental facilities and infrastructure should be developed, implemented and updated. The plan should include:

- Impact assessment of hydrogeological status like ground water and water quality;
- Documentation of procedures for the monitoring and inspection of each on-site environmental facility, including, air emission control equipment; water management and wastewater treatment facilities; transportation, handling, storage, and containment facilities for chemicals; waste handling and disposal facilities; and air quality and water quality monitoring and control instrumentation;

- a documented schedule for monitoring and inspections, including timing of monitoring and inspections and methods to be used;
- identification of those responsible for monitoring and inspections and for following up on the results of inspections;
- documentation of procedures for reporting the results of monitoring and inspection to both internal management and regulatory agencies;
- documentation of procedures for following up on monitoring and inspection reports; and
- procedures for periodically reviewing and updating the monitoring and inspection plans.

## **Article 12: Monitoring and Inspection of Environmental Management Facilities**

Environmental monitoring shall be conducted during project cycle one in every six months and shall include:

- monitoring of environmental releases, such as releases to air, water and land; and
- monitoring of environmental performance indicators, including air and water quality and aquatic and terrestrial species and ecosystems.
- Site-specific environmental monitoring plans should be developed, implemented and updated throughout the mine life cycle that describe:
  - all environmental monitoring and reporting required under regulations and permits;
  - all environmental monitoring and reporting to be conducted which is beyond that required under regulations and permits;
  - applicable environmental standards and environmental quality objectives, such as water or air quality standards or objectives;
  - schedules for monitoring;
  - sampling procedures, sample preservation requirements, and analytical methods employed;
  - procedures for the comparison of monitoring results with applicable environmental standards and environmental quality objectives;
  - actions to be undertaken when requirements set out in regulations or permits have not been met;
  - procedures for reporting the results of monitoring to project proponent management, regulatory agencies and the public;
  - procedures for following up on monitoring reports;
  - procedures for periodically reviewing and updating the environmental monitoring plans; and procedures for quality assurance and quality control.

## **Article 13: Cumulative Impact Assessment and Monitoring**

Competent authorities and project proponents shall undertake cumulative impact assessment and monitoring. Cumulative impacts shall be undertaken following the below objectives:

- Assesses the ecological and social impacts that determine the status of environmental components and affected communities
- Requires consideration of past, present, and future projects and natural drivers that affect them

- Assessment reflects the geographical and temporal context in which the effects are aggregating and interacting.

Competent authorities and project proponents shall take specific actions that may be needed to effectively manage cumulative impacts include the following:

- Change project design to avoid cumulative impacts.
- Develop mitigation measures to minimize cumulative impacts, including adaptive management approaches to project mitigation.
- Develop and implement mitigation measures of project impacts by other projects
- Foster collaborative actions to protection and enhance biodiversity conservation.

#### **Article 14: Emergency Planning**

Competent Authorities shall ensure that project proponents develop and implement site-specific environmental emergency plans as part of disaster risk mitigation and management strategies. The emergency plan should be tested and updated on a regular basis. These plans must respect relevant national legislated requirements.

#### **Article 15: Closure Planning**

Competent Authorities shall require project proponents to develop mine closure and site rehabilitation plans prior to granting exploitation licenses. The Mining closure plan shall address the following requirements:

- Secure appropriate funding for mine closure and rehabilitation and deposit a financial guarantee and in rehabilitation fund;
- Ensure that mining closure plan is consulted through a multi-stakeholder process, including involving indigenous peoples, communities;
- Incorporate issues of mine site rehabilitation and socio-economic conditions
- Pay specific attention to decommissioning tailings, controlling post-closure methane emissions; and
- Management of leaching of metals and chemicals into the environment, if caused by the mining operation.

#### **Article 16: Environmental Auditing**

Competent Authorities shall undertake periodic environmental audits shall be carried out by a third party in order to determine (a) whether the site is operating in compliance with applicable regulatory requirements and appropriate non-regulatory and corporate requirements and (b) whether the EMS and other environmental plans have been properly implemented and maintained.

#### **Article 17: Restrictions and Management of Spillage, leakage, and Hazardous Substances**

1. Competent Authorities shall ensure that project proponents prevent and manage spillage of tailings and other hazardous substances related to their activities.
2. Competent Authorities shall ensure that Tonle Sap Lake, Tonle Sap rivers, Mekong rivers and their distributaries and coastal rivers are not be used for the disposal of mine waste, and that project proponents shall not engage in shallow-water submarine waste disposal. Deep-water submarine waste disposal shall not be used unless an independent assessment can demonstrate minimal environmental and social risks.



3. Competent Authorities shall ensure and enforce applicable legal requirements with regard to chemicals and toxic substances for mining operations in order to
  - Avoid manufacturing, trading, and using chemicals and hazardous substances subject to international bans due to their high toxicity to living organisms, environmental persistence, or potential for irreversible ecological impacts, including rigorously suppressing arsenic and mercury emissions and managing cyanide according to the highest international standard
  - Avoid ground- or surface-water contamination caused by Acid Rock Drainage (ARD) and Metals Leaching (ML) as a result of mining operations
  - Ensure that hazardous wastes are handled, stored, transported, treated, and disposed according to laws and regulations and in a way that eliminates leaks, spills, or other releases to the environment.
4. Competent authorities shall ensure that project proponents integrate waste water management into their mining cycle development by following the below requirements:
  - Publicly report water risks, management activities and performance;
  - Engage stakeholders in an open and transparent manner to understand project priorities, shared plan and collaboration on solution.
  - Undertake and report social, cultural, economic and environmental values at the water catchment level where mining project is located.
  - Develop and implement water management plan.

#### **Article 18: Safe storage and disposal of residues**

1. Competent Authorities and Ministry of Mines and Energy shall ensure that project proponents take the following actions to ensure safe storage and disposal of residues:
  - Adequately manage waste rocks and tailings ensuring structural stability, controlled discharge and protection against potential impacts of acid mine drainage, metal leaching, or loss of containment;
  - Avoid building riverine or shallow marine tailings; and
  - Consider the construction of zero discharge tailings, including permanent storage after decommissioning.

#### **Article 19: Manufacture, Transport and Storage, Use of Cyanide in Gold and Silver Mining**

1. The Competent Authorities shall require the project proponent for gold and silver mining to submit a certificate of source of purchasing cyanide from safe and environmental perspective manner.
2. The Competent authorities in consultation with line Ministries shall establish clear lines of responsibility for safety, security, release prevention, training and emergency response in written agreements with producers, distributors and transporters or project proponents.
3. The Competent authorities shall ensure that the project proponents

- design and construct unloading, storage and mixing facilities consistent with sound, accepted engineering practices, quality control and quality assurance procedures, spill prevention and spill containment measures.
  - operate unloading, storage and mixing facilities using inspections, preventive maintenance and contingency plans to prevent or contain releases and control and respond to worker exposures.
  - implement management and operating systems designed to protect human health and the environment including contingency planning and inspection and preventive maintenance procedures.
  - Implement a comprehensive water management program to protect against unintentional releases.
  - Implement measures to protect birds, other wildlife and livestock from adverse effects of cyanide process solutions.
  - Implement measures to protect fish and wildlife from direct and indirect discharges of cyanide process solution to surface water.
  - Implement monitoring programs to evaluate the effects of cyanide use on wildlife, surface and ground water quality.
  - Develop and implement emergency response plans and procedures to respond to worker exposure to cyanide.
  - Develop procedures for internal and external emergency notification and reporting.
  - Provide stakeholders the opportunity to communicate issues of concern.
  - Make appropriate operational and environmental information regarding cyanide management available to stakeholders.
4. The Competent authorities shall operate and monitor cyanide facilities to protect worker health and safety and periodically evaluate the effectiveness of health and safety measures.

### **Chapter III: Public and Community Engagement**

#### **Article 20: Public and Community Engagement in Planning and Decision Making**

1. Competent Authorities shall ensure that project proponents **develop, implement and update site-specific public involvement plans** throughout the mine life cycle. These plans should describe mechanisms by which public input will be sought and addressed. These plans should also include
  - a list of key community contacts;
  - describe proposed mechanisms for informing the public that information is available and for distributing and receiving information;
  - describe measures to be used to provide information in a form that is understandable to the public; and
  - include plans for public reporting of monitoring activities.
2. Competent Authorities shall ensure project proponents undertake ongoing equitable interaction with affected parties, including indigenous peoples and vulnerable groups, in a culturally appropriate manner.
3. Competent Authorities shall ensure that individuals, legal entities, and civil society

have rights to appropriate access to information concerning the environment and development, including information on proposed projects and activities and hazardous materials in their communities.

4. Competent Authorities shall ensure that individuals, and legal entities who may be affected by proposed projects shall be entitled to provide informed, timely, and meaningful input prior to the decision being made about the project or activity.
5. Competent Authorities shall ensure that individuals, and legal entities' concerns, views, and opinions shall be considered and addressed by the project proponents to enhance transparent, inclusive, and accountable manner the decision making process.

#### **Article 21: Engagement of Indigenous People in Planning and Decision Making**

Competent authority shall ensure that project proponent undertake the following activities to ensure proper engagement with Indigenous People during the life cycle of a mining project:

- a. Adequately inform indigenous peoples about projects that affect their lands in a timely manner.
- b. Identify indigenous peoples that own, occupy or otherwise use land, territories or resources that may be affected by the operating project proponent's mining-related activities;
- c. Identify appropriate means of engagement for each community or population of indigenous peoples.
- d. Make a reasonable effort to find ways of facilitating indigenous women involvement;
- e. Disclose to indigenous peoples, in a culturally appropriate manner, the preliminary project concepts and/or proposed activities, project impacts,
- f. Explain to indigenous people on the project proponent will support the indigenous peoples' right to FPIC that they shall receive project information in a detailed and timely manner, be free of coercion and manipulation, and shall be given the opportunity to approve or reject a project prior to the commencement of all activities.
- g. Take reasonable steps to collaborate with indigenous peoples' representatives and other relevant members of affected communities of indigenous peoples.
- h. Collaborate with the indigenous peoples representatives to design and implement plans to address the information gaps and needs identified through the scoping process and project life cycle.
- i. Continue to engage with indigenous people throughout all stages of the mining project.

## **Article 22: Grievance Mechanism**

1. Competent Authorities shall establish a formal grievance mechanism for community issues which includes third party involvement. The Ministry shall ensure that a grievance mechanism for all stakeholders and affected parties, with special emphasis on the most vulnerable persons such as indigenous people and women, groups, and organizations.
2. Competent Authorities shall ensure that individuals, and legal entities entitle to submit complaints in case of violation or infringement or the failure to comply with the Environmental Management Plans or any commitments made by the Project Proponent.
3. Competent Authorities shall ensure that grievances are registered, and addressed and reported publicly.

## **Article 23: Resettlement**

1. Competent authorities and project proponents shall ensure that efforts are made to avoid involuntary resettlement because of its high potential to impact human rights and create or exacerbate impoverishment. One possible arrangement is to ensure that affected households are willing to negotiate and sign compensation and relocation agreements.
2. When deemed unavoidable, involuntary resettlement, like other evictions, must only be carried out under exceptional circumstances and in accordance with international human rights laws.
3. If there is the potential that a new mine or expansion of an existing mine may require land acquisition that could result in the involuntary resettlement of people, during the early stages of project planning, the competent authorities shall ensure that the project proponent shall undertake an assessment process to evaluate the potential direct and indirect risks and impacts related to the physical and/or economic displacement of people.
4. Project proponent shall disclose relevant information and consult with potentially affected persons and communities, including host communities, during:
  - The assessment of displacement and resettlement risks and impacts, including the consideration of alternative project designs to avoid or minimize resettlement;
  - The development of a Resettlement Action Plan and/or Livelihood Restoration Plan;
  - The development of resettlement options;
  - Resettlement implementation; and
  - The monitoring and evaluation of compensation payments, livelihood restoration activities, and resettlement
5. If a project requires the displacement of indigenous peoples, the project proponent shall

not proceed with resettlement unless it obtains FPIC from affected indigenous peoples.

6. Competent authorities and project proponents shall ensure that individuals and communities potentially affected by resettlement are consulted during the assessment of risks and impacts; the development of Resettlement Action Plan and resettlement options; and resettlement implementation, including the monitoring of that implementation; and that a plan designed to mitigate the negative impacts of displacement; identify development opportunities; develop a resettlement budget and schedule; and establish the entitlements of all categories of affected persons (including host communities).

#### **Article 24: Public Disclosure**

1. Competent Authorities shall ensure that details of each extractive industry project, the contractual arrangements agreed between national and local authorities and project proponent, the potential social and environmental impacts of the project and proposed mitigation measures and monitoring plans shall be made available to the public and shared with affected communities and residents of the area in which resource extraction activities are to occur in an accessible and appropriate language and format.
2. Competent Authorities shall ensure that no data shall be considered confidential if it relates to degradation or claimed degradation of human health, the environment, or worker safety.
3. Competent Authorities shall ensure that project proponents proactively inform local authorities, local communities, and the public about potential environmental impacts of the mining operation. The project proponents shall also disclose environmental information regularly, publicize environmental protection systems and plans, and publicize what measures have been taken and what results have been achieved.

#### **Chapter IV: Environmental Management of a Specific Mineral Type**

**Article 25:** for the **environmental management of metal mining** during different phases of mining development, the Competent authorities shall develop technical guidelines for environmental management of each mining type such as gold, copper, niche, silver, and ion, bauxite, titanium, and other mining resources.

**Article 26:** for the **environmental management of non-metal mining resources** in different phase of development, the Competent authorities shall develop technical guidelines for environmental management of sand, gravel, marble, precious stones, lime stones etc.

**Article 27:** The Competent authorities shall issue **technical guidelines for environmental management** of oil, gas and coal during different stage of development.

#### **Chapter V: Responsible Management of Artisanal and Small Scale Mining**

##### **Article 28: Responsible Management of Artisanal and Small Scale Mining**

1. The government shall enact appropriate legislation to **provide for artisanal and small scale mining rights to citizens and ensure safe, efficient, and environmentally sustainable artisanal and small-scale mining activities.**

2. The Competent authorities and Ministry of Mines and Energy shall issue a **joint guideline** to manage the artisanal and small scale mining following international standards and practices.
3. The Ministry of Mines and Energy in consultation with relevant stakeholders and local communities shall **designate areas for artisanal mining**. The Ministry of Mines and Energy shall ensure that the artisanal miners shall develop and **implement a safety and security plan**.
4. The Ministry of Mines and Energy and Competent authorities shall provide experienced and expert assistance may be required to support training, plans, and implementation, and conflict management related to environmental protection and pollution controls of artisanal mining, as appropriate.

#### **18. BOOK 4: Sustainable Management of Natural Resource and Ecosystem:**

This should include the following titles:

- Ecosystem approaches for natural resource and ecosystem management
- Adaptive management approaches for natural resource and ecosystem management
- Conflict management for natural resource and ecosystem management
- Local knowledge systems for natural resource and ecosystem management
- Good governance system for natural resource and ecosystem management

#### **19. BOOK 4: Title 2 Sustainable Water Resource Management**

- Will need to link to hydropower and HSAF /HSAP
- Need to consider on
  - Domestic water use (water supply and irrigation)....
  - Groundwater exploitation ....
  - Environmental flow....

Water use from surface and groundwater should be managed to ensure sustainable management of natural resources and ecosystem. At the meantime, overexploitation can also cause more damage to riverine biodiversity, thus, environmental flow should be taken into consideration for all kind of water infrastructure development.

[http://www.3spn.org/wp-content/uploads/2014/09/LS2\\_FactSheet-ENG\\_FINAL\\_September\\_2014\\_bth\\_td.pdf](http://www.3spn.org/wp-content/uploads/2014/09/LS2_FactSheet-ENG_FINAL_September_2014_bth_td.pdf)

<http://www.mrcmekong.org/assets/Other-Documents/Don-Sahong/DSHPP-CIA-FINAL-2013.pdf>

#### **20. BOOK 4: Title 3: Coastal Zone management**

Marine and Coastal Resources of Cambodia are not confined to coastal water (5km) in the coastal zone, it's included in the maritime zone: territorial zone, contiguous zone, EEZ and continental shelf indicated in UNCLOS, 1982. Cambodia is a coastal state has its rights, jurisdiction and duties for the purpose of exploring and exploiting, conserving and managing

the natural resources, whether living or non-living, of the waters superjacent to the seabed and of and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone as indicated in part V, Article 55, 56 and part VI, article 77 of UNCLOS.

Marine and coastal zone may be impacted or polluted from the marine based pollution and land based pollution from economic activities such as farmland, tourism, industry, navigation, mining and urban within the country or/and neighboring coastal states. Marine and coastal resources are the transboundary issues that need to cooperate or joint activities in regional coastal states for protecting and managing the resources and environment.

Suggest changing to:

- **Marine and Coastal Resources Management**

- **Marine and Coastal Resources Management** are broader than Coastal Zone Management within limited activities in only 5km seaward from the shoreline (coastal water) and not include Territorial Zone, Contiguous Zone, EEZ, and Continental Shelf.

**Chapter 1: General Provisions**

- **Suggest to change:** 1) The Kingdom of Cambodia finds that there is a national interest in the effective management, beneficial use, protection, and development of the marine and coastal resources or marine and coastal zone
- 3) “All activity, development, construction, mining or other type of projects which have an impact on natural resources in the marine and Coastal Zone shall be subject to an EIA.
- Suggest to add:
  - 4) International Cooperation on Marine Environmental Matters
    - 1. The Kingdom of Cambodia strongly promotes international cooperation on marine environmental matters with countries and regional and international organizations on the basis of international law and respect for independence, sovereignty and territorial integrity, equality and mutual benefit.
    - 2. International cooperation on marine environmental matters includes:
      - (a) Marine environmental surveys and researches; scientific, technical and technological applications;
      - (b) Climate change response, natural disaster prevention, control and warning;
      - (c) Protection of marine biodiversity and ecology;
      - (d) Prevention and combat against marine environmental pollution, treatment of waste discharged from maritime economic activities, and response to oil spill incidents;
      - (e) Sustainable exploitation of marine resources and development of sea tourism.

**Chapter 2: Coastal Sub-Zone**

- Suggest to change to “**MARITIME AND COASTAL ZONE**”
- Suggest to add:
  - 1) The maritime zones of Cambodia cover the internal water, territorial sea, contiguous zone, exclusive economic zone and continental shelf under Cambodia’s sovereignty,

sovereign rights and jurisdiction, determined in accordance with Cambodian law, the treaties on boundaries and territory to which the Kingdom of Cambodia is a contracting party and in conformity with the 1982 United Nations Convention on the Law of the Sea.

### **Chapter 3: Coastal Zone Management Mandates**

- Suggest changing to “MARINE AND COSTAL RESOURCES MANAGEMENT” as this mandate is broader than Coastal zone management mandates.
- 2) Produce and openly distribute maps of the Maritime zone, Coastal Zone, and its subzones, so that all parties, both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.
- 3) Ensure that all proposed developments in the Maritime Zone, Coastal Waters, Coastal Lands, and Coastal Watershed are consistent with the applicable zoning restrictions applying to these lands and waters. Development projects that are found to be inconsistent with such zoning shall not be allowed.
- Suggest to add:
  - 10) Preservation and protection of marine resources and the marine environment
    - (a) When operating in the maritime zones of Cambodia, vessels, organizations and individuals shall observe all provisions of Cambodian laws and relevant international law relating to the preservation and protection of marine resources and the marine environment.
    - (b) When transporting, loading or unloading goods or equipment that may cause damage to marine resources and human life, or may pollute the marine environment, vessels, organizations and individuals shall use specialized facilities and measures as prescribed to prevent and minimize the possible damage to human beings, marine resources and the environment.
    - (c) Vessels, organizations and individuals may not discharge, sink or dump industrial waste, nuclear waste or other toxic waste in the maritime zones of Cambodia.
    - (d) Vessels, organizations or individuals causing harmful effects to the marine resources and environment in the maritime zones of Cambodia, seaports, harbors or piers, in violation of the provisions of Cambodian law and relevant international law, shall be dealt with in accordance with the provisions of Cambodian law and treaties to which the Kingdom of Cambodia is a contracting party; those vessels, organizations or individuals are responsible for cleaning up and restoring the environment, and compensate for any damage as prescribed by law.
    - (e) Organizations or individuals operating in the maritime zones of Cambodia are obliged to pay taxes, fees, charges and other contributions for environmental protection in accordance with the provisions of Cambodian law and treaties to which the Kingdom of Cambodia is a contracting party.

Suggest to read documents as following:

- Marine and coastal resources management: right, jurisdiction and duties for the coastal states: See UNCLOS, 1982.
- Marine based and land based pollution control: Marine eutrophication or red tide case in Kep  
<https://www.cambodiadaily.com/archives/kep-alae-bloom-110775/>
- Land based pollution from Formosa steel industry plant in central of Vietnam: The company behind Vietnam’s largest environmental disaster  
<http://foreignpolicyblogs.com/2016/07/14/company-vietnam-environmental-disaster/>



- Hoy S.V.R (2014) Assessment of sand extraction and use in coastal fishery communities of Cambodia. Journal of the Marine Biological Association of India  
<http://mbai.org.in/uploads/manuscripts/56-1art151685216461.pdf>

## **21. BOOK 4: Title 4 Sustainable Land Management**

Add section that discusses the role and function of ELC inside protected area

### **Chapter # Procedures for granting, monitoring and terminating ELCs**

- This suggests the granting of ELC is set to resume.

### **Chapter # Management of ELCS, including management lands, transparency, and relation to sustainable timber production and biodiversity restoration**

- That include FPIC, attention to laws protecting the rights of indigenous people, Human Rights standards

### **Chapter # Revisions of the current Cambodia land Management framework**

- This needs to be integrated with the 'Management of ELCs' above. Inadequate cadastral management should not result in companies claiming community land.

## **22. BOOK 4: Title 5: Sustainable Forestry**

The following Chapters need to include:

- REDD+ mechanism
- Civil society involvement in planning, monitoring, utilization and exploitation of forest products
- Sustainable wood fuel consumption, including harvesting and use
- Private forest area
- Silviculture, agroforestry, integrated farming
- Eco-tourism

Related to Climate Change, suggest adding:

- Standards require for SFM
  - Sustainable and optimal production of forest

### **Chapter # establish of sustainable forestry sector, objectives and limitations of sustainable timber management**

- Plantation timber is fine
- It is vital that these plantations grow on already cleared land and not convert existing forest for the purpose of growing plantation timber

## **23. BOOK 4: Title 6: Sustainable Marine Fisheries**

### **Chapter 1: General Provision**

The appropriate ministry should be clearly defined and that would facilitate the further

discussion of how marine management should be management.

## **Chapter 2: Marine Fisheries Mandates**

Marine fisheries mandates are not clearly defined. It mentions the fisheries law and article 32, but this is not up to date, and it needs to redefine. License for all fishing activities has been proposed, but that should be differentiating between subsistent and commercial fishing, between local fishers and foreign fishing companies. However, small scale fisher or subsistence fisher should be accessing to marine fisheries at certain level that make their livelihood sustainable.

- What does it mean ‘marine fishery domain’? In doing so, it is important to do zoning the marine fishing area—fishing areas for local communities, fishing areas for local semi-commercial fishing; and fishing areas for foreign fishing.
- The enforcement is key in the marine fishery management. It is important to define mandatory institutions for fisheries, rather than put it in broad sense.
- Zoning would enable the marine fishery enforcement. The proposed zoning in the Code has co-existed in the current Fishery Law, and based on experiences, it does not work in practice. Thus, it would need a study to redefine the zoning.

## **Chapter 3: Marine Fisheries Discretionary Authorities**

- The marine fishery domain in Cambodia is managed more or less open access. It is part of culture and livelihood practice. Fishing is essential for rural communities. Setting a limited entry system undermines the livelihoods of rural communities along the coast.
- The proposed fishing quotas in marine fishery domain are taken from European practices, where marine fisheries management is non-territorial. However, Cambodian marine fishery domain is still territorial and fish migrates across the boundary, and so fishing quotas and limited entry system will not work in Cambodia marine fishery domain? It is important to study this before it can be recommended.
- How the seasonal closure is implemented in Cambodia’s fishery domain since fish migrate. If we are not fishing in one season, fish will migrate to other place internationally?
- How permanent or temporary area closures of marine fishery resource will be implemented? Our neighboring countries will benefit from permanent and temporary areas closure. Our neighboring countries compete fishing in the marine areas and they use high-tech fishing equipment, while us is low-tech fishing equipment. This will lead to more fish migration to other countries.
- How we implement the restrictions on the type, size and amount of gear used to harvest any particular marine fishery resource, or their use in any particular geographic area, since Cambodian fishers are small-scale with low-tech fishing gears. If restriction is implemented, the neighboring countries will be benefited from Cambodia implementing the restriction in marine fishery domain.
- In the open seas, open access is allowed and more fishing is taking place in order to maximize fish catch by neighboring countries as fish migrate across the boundaries. The Marine National Park, Marine Life Conservation Area (MLCA), and Fishery Management Area (FMA) for the purpose fishery conservation will make Cambodia benefited less comparing with neighboring countries. However, the Marine National Park for tourism perhaps is better. It needs a careful attention on this issue.

## **24. BOOK 4: Title 7: Sustainable Freshwater Fisheries and Aquaculture**

- There should be a Chapter on rice-field fisheries
- Chapter on Aquaculture for inland fisheries should be promoted

## **25. BOOK 5 Conservation and protection of biodiversity and cultural heritage**

- This book should include following titles:
  - Ecosystem approaches for conservation and protection of biodiversity and cultural heritage
  - Adaptive management approaches for conservation and protection of biodiversity and cultural heritage
  - Conflict management for conservation and protection of biodiversity and cultural heritage
  - Local knowledge systems for conservation and protection of biodiversity and cultural heritage
  - Good governance system for conservation and protection of biodiversity and cultural heritage
- This book seems to undermine many of the provisions made in the book on collaborative management.
- Recommend that the titles in this book are part of collaborative management and not have their own section.
- Suggest to add “Key priority areas” such as Prey Lang, Boeung Per, Prey Preah Roka, Prasap Kulan, Cheap wildlife sanctuary

## **26. BOOK 5: Title 2: Protected Areas Management**

### **Chapter 4: Zoning of protected areas**

- Rather than maintain the current zones in protected areas- dissolve the previous zones in favour of the new zones
- One zoning system is vital to effective management

### **Chapter 9: Enforcement and Protection**

- Provides clear rights and responsibilities for community members to enforce resource protection

## **27. BOOK 5: Title 3: Wildlife Protection, Conservation and Management**

- This section seems to forget that there are people living in the areas where conservation is taking place.
- There is no discussion of the interaction between people and the environment and the section is focused on institutional interventions that seek to limit sustainable livelihood activities and attempt to ‘enforce’ particular types of activities. This model has been deployed for the past 20 years in Cambodia and has proven to be ineffective.
- It is difficult to understand why it is here with little or no changes to the current model for wildlife conservation.
- The ideas in the ‘collaborative management’ document aim to put communities living inside protected areas in charge of managing wildlife and other resources that are vital to

their collective survival.

#### **Chapter 4: Prohibitions on hunting**

- Subsistence hunting for food is different from hunting for profit
- Stronger management of transport and sale of wild game will be more effective and will not punish the poor for the activities of the elite.

#### **Chapter 6: Granting of permits for special purposes (including for scientific and educational purposes)**

- It is madness that scientists can hunt animals for research, but regular people cannot use them for food

#### **28. BOOK5: Title 4: Protection of Plants, Important Habitats and Significant ecosystems**

This section also seems to forget about the people

#### **Chapter # Prohibition on damaging or destroying native vegetation and forest protected areas**

- How will this be defined?

#### **Chapter # Prohibition of, or management and approval for, use of genetically modified organisms, including seeds**

- Really, should be prohibition.

#### **29. BOOK 5: Title 5: Cultural and Natural Heritage Conservation**

##### **Chapter 15: Impact of protected site on communities**

- Should contain provisions whereby communities can claim sites to be protected
- Community rights of access and habitation must be respected

#### **30. BOOK 6: Waste and Pollution Management and Sustainable Production: Title 5: Water Pollution Control**

Need to consider about: Wastewater ....

The increase in urban residential and industrial zones that generate waste and pollution should be well controlled and monitored before discharging to the river systems.

#### **31. BOOK 6: Title 6: Marine Pollution Control**

Should be included **land based pollution control** from coastal farmland, industry zone and urban, and **marine based pollution control** from mining, construction and navigation activities.

#### **32. BOOK 7: Environmental Education and Awareness**

“Education, including formal education.....Both formal and non-formal education are indispensable to changing people’s attitudes so that they have the capacity to assess and address their sustainable development concerns.”

- This education should be directed at citizens, policy makers, business entrepreneurs, international donor organizations, and government officials at all levels of governance.
- There is an assumption here that the writers of this document are exempt from the lessons of such education – they are in fact in the most dire need of education and re-training

### **33. BOOK 7: Title 1: General Provision**

- (c) Increase scientific and intellectual innovation
  - That includes re-assessing the value of locally produced knowledge about sustainable practices and livelihoods

### **34. BOOK 7: Title 5: Formal education system**

- (a) Assure inclusion....for professions
  - This should be retroactively applied and opportunities for accreditation should be provided
- (e) ... “Stimulate production.....at higher education institutions”
  - Also, and ESPECIALLY Produce pedagogic, didactic and methodological materials that can provide EE and ESD to government line ministries, government law enforcement and governing bodies, as well as industry managers coming to do business in Cambodia

### **35. BOOK 9: Environmental Offenses: Title 1: Investigation, Enforcement and Access to Remedies**

- Suggest reference to UN Guiding Principles on Business and Human Rights which includes access to remedy
- Include something on access to both judicial and non-judicial mechanisms, e.g. the OECD Guidelines for Multinational Enterprises, the IFC CAO Ombudsmen

### **Chapter # Establishment of Environmental Administrative tribunal**

- Clarify relationship between Ombudsman/Commissioner and the tribunal.
- Will the tribunal utilize the Ombudsman?
- What entities will make up the administrative tribunal

### **Section 4: Complaint Against to decision of administration of government authorities**

#### **Article #:**

- Appeal to Decision of Higher Administration Institute
  - What is the highest administration institute that will be recognized by this code?

### **Section 8: Strategic Litigation to deter public participation (SLDPP)**

### **Chapter # Community Driven Operational Grievance Mechanisms**

- Should provide space for grievance against local-level authorities, ministry representatives, police, military, and companies

- Also against fellow community members

## **Chapter # Establishment of Royal Academy of ranger professionals**

- Solicit enrolment of community members through royal scholarships

### 5. Proposed Language to be Inserted into the Draft Code (if any):

*(Optional. Note: when proposing modifications to existing draft Code text, please extract the relevant text and insert here, in track changes if possible.)*

### 6. Cambodian Laws to be Abrogated or Modified (if any):

*(Please include the law title and the titles of specific articles and clauses.)*

### 7. Drafting Team Analysis/Response (to be included in public database):

<sup>1</sup> In BOOK 3: TITLE 7: SUSTIANBLE (RESPONSIBLE) EXTRACTIVE INDUSTRIES. The current draft text and suggestions are proposed by CSO working group in Cambodia. The members include: (1) Mr. Lay Khim- Regional Programme Coordinator for Extractive Industry for Eats Asia, (2) Mrs. Pean Sophoan- Regional Project Manager for People Based Mekong Ecosystem Protection, (3) Mr. Cheng Kimheng- Private Sector Enegagement Officer for Cambodia, and (4) Mr. Ouk Thira- Extractive Programme Officer for Cambodia, (5) Mr. Mam Sambath, Executive Director of DPA, (6) Ms. Mouth Chantheany, EISEI Cooridnator, and (7) Sar Lyneth, DPA Policy Officer.

For the rest of comments are proposed by CSO working group in Cambodia and some national experts from academic institutes including: (1) Dr. Bun Long – specialized area on Energy, (2) Dr. Oeurng Chantha – specialized area on Water resource Management, (3) Dr. Mak Sithirith – specialized area on fishery management, (4) Dr. Seak Sophat – specialized area on sustainable forestry management, (5) Mr. Huy Sereivathanak Reasey – specialized area on coastal zone management, (6) Mr. Kim Soben – specialized area on Climate Change and Disaster Risk Reduction management, (7) Dr. Courtney Work (from Equitable Cambodia), (8) Ms. Serena lilywhite (from CCC), (9) Mr. Try Horng (Forum Syd), and other CSO members who involved in this work.

# ENVIRONMENTAL CODE OF CAMBODIA

**Fourth Draft - DRAFT 4.0 – 12 August 2016**

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## BOOK 1 GENERAL PROVISIONS

### TITLE 1 GENERAL PROVISIONS

#### Chapter 1 OBJECTIVE OF THE ENVIRONMENTAL CODE

##### ARTICLE 1: PURPOSES OF THE ENVIRONMENTAL CODE

The purposes of this Environmental Code are the protection of the environment, the conservation of natural resources, and the sustainable development of Cambodia.

Commented [M1]: Per M. Barash.

##### ARTICLE 2: OBJECTIVES OF THE ENVIRONMENTAL CODE

- (1) The Environmental Code includes the following objectives:
  - (a) Conserve Cambodia's biodiversity, ecosystems and ecosystem services;
  - (b) Protect the environment from harm and damage, and sustainably manage natural resources, in accordance with Article 59 of the Constitution of Cambodia;
  - (c) Promote a rights based approach to sustainable development, in accordance with the UN Guiding Principles on Business and Human Rights
  - (d) Preserve and promote national culture, preserve ancient monuments and artefacts, and restore historic sites, in accordance with Article 69 of the Constitution of Cambodia;
  - (e) Guarantee the health of the people, in accordance with Article 72 of the Constitution of Cambodia;
  - (f) Safeguard the individual and collective rights of indigenous people as postulated in Sub-decree No 83 (No 83 ANK.BK) and So Chor No 653

Commented [SL2]: This was suggested in Draft 3 and not included in draft 4. This provides an important framework for environmental protection, specifically with regard to right to food, right to water etc

(653 So Chor No SR).

- (g) Ensure that environmental protection and sustainable development objectives are fully integrated into national and regional economic planning and into natural resources planning and management;
- (h) Implement the National Environmental Strategy and Action Plan;
- (i) Promote a collaborative approach to the protection and management of the environment involving government, communities, land-holders, indigenous and other vulnerable people including minorities, women, youth, and disabled people, and business;
- (j) Promote environmental awareness and support for environmental protection through transparency and public participation, especially by women, the poor, indigenous people, and other traditionally marginalized communities;
- (k) Assist the implementation of Cambodia's international environmental responsibilities;
- (l) Implement the key principles of environmental law and policy as described in Chapter 2;

Commented [M3]: Per P. Karpe.

Commented [M4]: Per Mang M.

### ARTICLE 3: SCOPE OF THE ENVIRONMENTAL CODE

This Code regulates environmental protection activities; policies, measures and resources for protection of the environment; and the rights and obligations of organisations, community, family households and individuals with respect to protection of the environment.

### ARTICLE 4: APPLICABLE ENTITIES

This Code applies to Cambodian State bodies, organisations, family households and individuals; to Cambodians residing overseas and “foreign organisations” individuals with operations in the territory of Cambodia, and individuals or entities whose actions otherwise adversely impact or effect the Cambodian environment or its natural resources. Where an international treaty of which Cambodia is a member contains provisions, which are different from the provisions in this Code, the provisions of such international treaty shall prevail.

Commented [M5]: Per M. Barash.

### ARTICLE 5: DEFINITION/GLOSSARY

Commented [D6]: It may useful to include “forestry” in this part.

In this Code, the following terms shall be construed as follows:

- *Definitions will be based on existing definitions in Cambodian legislation where applicable, and relevant international usage of key terms.*

Non-exhaustive list to be defined:

Sustainable development  
Environmental protection  
Environmental conservation  
Environmental standards  
Best practices  
Natural resources  
Environmental disputes  
Environmental harm  
Ecosystem services  
Liability  
Jurisdictional organisation  
Forest  
Climate change  
REDD+  
Ecotourism

**Coastal Lands** – The normally dry land extending inland 5 km from the shoreline, including the intertidal zone.

**Coastal Waters** – Marine waters extending seaward 5 km from the shoreline, including the associated submerged lands.

**Coastal Watershed** – The river basins in the Kingdom of Cambodia that flow directly to the Gulf of Thailand, taken as a whole.

**Coastal Zone** – The totality of the coastal waters, shoreline, and land area behind the shoreline that interacts hydrologically with the coastal waters.

**Commercial fishing** – Fishing in which the marine fishery resources harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

**Exclusive Economic Zone of the Kingdom of Cambodia** – Waters with any detectable degree of salinity extending from the shoreline of the Kingdom of Cambodia to 200 nautical miles

offshore, consistent with the 1982 Third United Nations Conference on the Law of the Sea.

**EEZ** – Exclusive Economic Zone (see definition above).

**Environment** – definition will be developed that is clear and through, reflects Cambodian values, and includes examples. Definition will be broad, comprehensive and robust.

**Significant Environmental Impacts**, means any impact on the environment, including human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, ecosystems, natural sites, material assets, cultural heritage and the interaction among these factors.

**Environmental Report as used in Book 2, Title 4, Strategic Environmental Assessment**, means a report that identifies, describes and evaluates the likely significant environmental, including, health, social and ecosystem effects of implementing the plan or programme and its reasonable alternatives, taking into account: (a) Current knowledge and methods of assessment; (b) The contents and the level of detail of the plan or programme and its stage in the decision-making process; (c) The interests of the public; and (d) The information needs of the decision-making body.

**Fisher** – Any person who engages in Fishing as defined below.

**Fishery** – One or more stocks of fish or other forms of marine life, occupying a particular geographic area or water depth range, which are deliberately harvested for commercial or non-commercial purposes.

**Fishery stock** – An individual species or subspecies of fish or marine life harvested for commercial or non-commercial fishery purposes.

**Fishery stock complex** – A group of species of fish or marine life occupying similar habitat that are harvested in a similar fashion using similar gears, for commercial or non-commercial fishery purposes, and are capable of being treated as a unit for fishery management purposes. Members of a fishery stock complex often share similar ecologies but need not be closely related taxonomically.

**Fishing** – Consistent with Article 4 of the Law on Fisheries, NS/RKM/506/11, within the Marine Fishery Domain of Cambodia refers to:

1. The catching, taking, or otherwise obtaining possession of live fish or other living marine resources;
2. The attempted catching, taking or otherwise obtaining possession of live fish or other living marine resources;
3. Any other activity which can reasonably be expected to result in the catching, taking or otherwise obtaining possession of live fish or other living marine

**Commented [SL7]:** Definition should make the link with human rights. It needs to go beyond just reflecting Cambodian values, and must be consistent with internationally accepted standards

**Commented [M8]:** Per comments on EIA, definition of “significant environmental impact” will be further developed and clarified.

resources;

4. Any operations at sea in support of, or preparation for, any activity described in subparagraphs (1) through (3) above.

This definition does not include any scientific research activity which is conducted by a researcher or research vessel approved by the appropriate ministry.

**Fishing vessel** – Any vessel, boat, ship or other craft used for or equipped for the harvest of marine life in the Marine Fishery Domain of Cambodia, or for aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including but not limited to preparation, supply, storage, refrigeration, transportation or processing.

**Foreign fishing vessel** – Any fishing vessel not based in and registered by the Kingdom of Cambodia.

**Future inundation hazard area** – Any portion of the current Cambodian coastal lands that is projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

**Free Prior and Informed Consent (FPIC)** – is a right of indigenous peoples, enshrined in the UNDRIP and ILO Convention 169. It means all indigenous peoples and local communities must be adequately informed about projects that affect their lands in a timely manner, free of coercion and manipulation. For Indigenous peoples they have the right under international law to approve or reject a project, based on their standing as distinct, self-determining peoples with collective rights

**Commented [SL9]:** This was provided as a definition for draft 3 and was missing in draft 4. It needs to be in both the definitions and in the chapter

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**Geographic Information System** – A computer system capable of capturing, storing, analysing, and displaying geographically referenced information.

**Geospatial information** – Data referenced to a specific set of geographic coordinates which can be gathered, manipulated, and displayed using a Geographic Information System.

**GIS** – See Geographic Information System.

**Harvest** – See Fishing above

**Individual fishing quota** – A ministerial permit under a limited access system to harvest a quantity of fish or other marine life, expressed by a unit of units representing a percentage of the total allowable catch of a fishery, that may be received or held for exclusive use by an individual person.

**Intertidal zone** – The fluctuating extent of the shoreline between mean higher high tide and mean lower low tide that is on a daily basis submerged to some degree by the coastal waters

**Limited entry system** – A system that limits participation in a fishery to those persons satisfying certain eligibility criteria or requirements.

**Mapping products** – Maps in both electronic and printed formats.

**Metadata** – A set of data that provides additional information about a geospatial data element, including the author, date of creation, etc.

**Marine fishery resources** – Consistent with Article 4 of the current Law on Fisheries, NS/RKM/506/11, marine fishery resources consist of all marine organisms, including but not limited to fish, molluscs, crustaceans, and all other forms of animal and plant life other than marine mammals and birds, and the habitats upon which these species depend, including but not limited to coral reefs, mangroves, estuaries, and seagrass beds.

**Marine fishery domain** – Waters with any degree of detectable salinity extending from the shoreline to the outer limit of the Exclusive Economic Zone of the Kingdom of Cambodia.

**Marine waters** – Those waters comprising or connected to the ocean, which possess a detectable degree of salinity and exhibit daily tidal fluctuations.

**Mean higher high tide** – The average height on an annual basis of the highest tide of the day. Equivalent to the term Mean Higher High Water as used in other countries.

**Mean lower low tide** – The average height on an annual basis of the lowest tide of the day. Equivalent to the term Mean Lower Low Water as used in other countries.

**Meaningful Stakeholder Engagement** – Provide meaningful opportunities for interested stakeholders to participate in planning and decision-making for projects or related activities that may impact communities, their livelihoods, land and the natural environment.

**Optimum sustainable yield** – The rate of harvest from a fishery that provides the greatest long-term level of catch and social benefit while retaining the ecological integrity of the fishery stock or stocks involved.

**Overfishing** – A rate or level of harvest in a fishery that exceeds the capacity of the fishery to produce the optimum sustainable yield on a continuing basis.

**Public** – Public includes but is not limited to citizens, communities, civil society, business . . .

**Remedy** – Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (or guarantees of non-repetition injunction such as fines), as well as the prevention of harm through, for example . . .

**Risk-Based Due Diligence** – To identify, prevent, mitigate and remedy actual and potential adverse impacts.

**Commented [M10]:** Per NGO Forum. Definition to be further developed.

**Commented [M11]:** A non-exhaustive but clear and thorough definition of “PUBLIC” will be developed.

**Commented [M12]:** Per NGO Forum. Definition to be further developed.

**Commented [F13]:** CCC: provided full definitions in draft 3

**Commented [M14]:** Per NGO Forum. Definition to be further developed.

**SCUBA** – Self-contained underwater breathing apparatus.

**Shoreline** – The boundary between land and water at the average height of the daily higher high tide along the margins of lands bordering waters with any detectable degree of salinity. Equivalent to the term Mean Higher High Water as used in other countries.

**Strategic Environmental Assessment** means the evaluation of the likely environmental impacts, including health and social impacts. The steps of an SEA include the following: determination of the scope of an environmental report and its preparation, the carrying out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

**Transshipment** – Transportation of fish or other marine life by a foreign vessel or vehicle from a point within the Kingdom of Cambodia or its EEZ to a point outside the Kingdom of Cambodia or its EEZ.

**Waters of a foreign nation** – Any part of the territorial sea or Exclusive Economic Zone (or equivalent) of a foreign nation, to the extent such territorial sea or Exclusive Economic Zone is recognized by the Kingdom of Cambodia.

## Chapter 2

### PRINCIPLES OF THE ENVIRONMENTAL CODE

This Environmental Code is premised on, and should be implemented and interpreted in accordance with, the following fundamental principles of environmental law and policy:

#### ARTICLE 1: THE PRINCIPLE OF PUBLIC PARTICIPATION

The principle of public participation, that those who may be affected by a decision shall be entitled to provide informed, timely and meaningful input prior to the decision being made. They shall also be able influence in a transparent, inclusive and accountable manner the decision-making process. Participatory decision-making leads to more well-informed decisions, enhances the ability of governments to respond to public concerns and demands and improves acceptance of and compliance with environmental decisions because stakeholders feel ownership over these decisions.

#### ARTICLE 2: THE PRINCIPLE OF ACCESS TO INFORMATION

The principle of access to information, that individuals, legal entities and civil society shall have far-reaching access to information concerning the environment and natural resources, such as impact assessments and mitigations and resettlement plans and information on hazardous

**Commented [D15]:** (By: Mr. Try Horung, Forum syd)  
Please add in the principle as following:

- a/ Decentralization
- b/ Enrolment of youth
- c/ Simplify access to service. eg. One window service
- d/ Promote enterprise business related environment
- e/ Promote online service on environment
- f/ Uphold key actor to protect environment like community fishery, community forestry, community protected area, Community land titling, Echo-tourist community..

**Commented [M16]:** Incorporation of the additional eight principles for the guidance of the development and implementation of the Code per comments from experts and STWG members.

**Commented [M17]:** Per USEPA.

**Commented [M18]:** The format of information and method of access to be outlined in other sections of the Code, with adaptability built in for changes in and access to technology.

**Commented [M19]:** Per NGO Forum.

materials and development activities in their communities. Information on environmental protection and natural resource management shall be made widely available and publically accessible in a manner that maximizes the opportunity for public participation in planning and decisions affecting the environment and society.

Commented [M20]: Per NGO Forum.

Commented [M21]: Per USEPA.

### ARTICLE 3: THE PRINCIPLE OF ACCESS TO EFFECTIVE REMEDIES

The principle of access to effective remedies, that people, legal organisations and entities shall have access to appropriate venues, whether administrative, ~~or~~ judicial or other appropriate means, and to appropriate and effective remedies, to enable the resolution of environmental disputes. Impartial, effective and efficient procedures and remedies should exist to enforce procedural rights, punish those responsible for environmental harm, and establish an incentive structure that encourages a culture of compliance.

Commented [M22]: Per NGO Forum.

Commented [M23]: Per NGO Forum.

Commented [M24]: Per USEPA.

### ARTICLE 4: THE POLLUTER PAYS PRINCIPLE

The polluter pays principle, that all persons, including natural persons, private legal entities and public legal entities who have caused or will cause environmental pollution – such as pollution by noise, vibration, smell, smoke, draining of liquid waste or emission of all kinds of waste or causing damage to the environment, health, economy or society or culture – shall bear the cost for repairing the damage and preventing, avoiding and mitigating the damage.

### ARTICLE 5: THE PRECAUTIONARY PRINCIPLE

The precautionary principle, that in situations where the environment may be faced with threats of serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

### ARTICLE 6: THE PREVENTION PRINCIPLE

The prevention principle, that negative impacts to the environment should be stopped before they occur. In applying this principle, action should be taken at an early stage to reduce or prevent environmental damage rather than wait for potentially irreversible effects to occur. The prevention principle is based on the idea that it is better – and often more cost effective – to prevent harm than employ measures to restore the environment after harm has occurred.

Commented [M25]: Per USEPA.

### ARTICLE 7: THE PRINCIPLE OF INTERGENERATIONAL EQUITY

The principle of intergenerational equity, that the right to development, including decisions affecting natural resources and ecosystem services, must be fulfilled so as to equitably meet the



developmental, social and environmental needs of both present and future generations.

#### ARTICLE 8: THE PRINCIPLE OF ENVIRONMENTAL LIABILITY

Liability to compensate for environmental harm applies to environmental damage and imminent threat of damage resulting from developmental activities, where it is possible to establish a causal link between the harm and the activity in question. Liability should cover the cost of ecosystem or resource restoration or of replacing the damaged resources, the cost of assessing the damage, and the interim losses pending restoration or replacement. Liability includes personal injury or environmental harm to public natural resources. Liability can be strict-liability without the need for proof of fault and can be joint or several.

#### ARTICLE 9: THE PRINCIPLE OF EVIDENCE-BASED DECISION-MAKING

Environmental policy and natural resource decision-making should be open and evidence-based, utilizing the best available information. Information can be scientific and technical and can also be gathered from community and indigenous knowledge.

#### ARTICLE 10: PRINCIPLE OF GENDER EQUALITY AND PARTICIPATION OF OTHER VULNERABLE PEOPLE IN ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT FOR NATURAL RESOURCES DECISIONS

The involvement of women and other vulnerable persons, including youth, minority and indigenous people, and disabled people, is to be promoted in environmental protection and natural resource management planning and decision-making at all levels. Impact assessments for development projects and environmentally relevant policies will include mechanisms to effectively assess the impacts on women and other vulnerable people and develop risk management strategies to mitigate and prevent adverse impacts. Gender concerns and the perspective of women and other vulnerable groups ~~concerns and perspectives~~ will be integrated into policies and programmes for sustainable development and into the implementation of this Code. Consideration is being given to separating this into two principles, one on gender and one on vulnerable persons.

Commented [SL26]: Suggest we replace the word Vulnerable with Marginalised

Commented [M27]: Per P. Karpe and NGO Forum.

#### ARTICLE 11: THE PRINCIPLE OF INTEGRATION

Environmental protection and sustainable development objectives must be integrated into the development planning and decision-making process. There must be integration of environmental protection, economic development, and environmental rights at the conceptual level as well as the implementation stage of policies and laws.

#### **ARTICLE 12: THE PRINCIPLE OF THE PUBLIC TRUST**

The government is the trustee of all natural resources, including both economically and ecologically important resources, and these resources must be held on behalf of the people and for the benefit of the people, including current and future generations.

#### **ARTICLE 13: THE PRINCIPLE OF PUBLIC INTEREST IN PROTECTING THE ENVIRONMENT VS. PRIVATE INTEREST**

Priority should be given to public health and environmental protection over economic considerations or private interest. Standards for protection of health should provide an adequate margin of safety for vulnerable peoples.

Commented [M28]: Per USEPA.

#### **ARTICLE 14: THE PRINCIPLE OF USER PAYS**

Natural resources, including ecosystem services, have value and the users of natural resources, including ecosystem services, should pay the direct and indirect cost for use of or the impacts from use of these resources and services.

#### **ARTICLE 15: THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT**

States shall consult and cooperate in good faith with the indigenous peoples and local communities concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water, or other resources.

#### **ARTICLE 16: THE PRINCIPLE OF REJECT, REDUCE, REUSE RECYCLE**

Commented [M29]: Per Z. Fadeeva, in collaboration with STWG 2.

Proposed new principle related to Sustainable Consumption and Production per USEPA and UNEP. Subject to further analysis and definition.

Sustainable consumption and production (SCP) approach deals with social and economic development that addresses poverty eradication and sustainable resource use. It is concerned with "the use of services and related products, which respond to basic needs and bring a better quality of life while minimizing the use of natural resources and toxic materials as well as the emissions of waste and pollutants over the life cycle of the service or product so as not to jeopardize the needs of further generations". (Oslo symposium 1994).

The critical insight offered by SCP is that in order to facilitate sustainable development, integrative approach (also pointed out by the national documents such as Report to Rio+20 and GG Strategy), has to be employed. These approach touches the whole material and energy flow through the society including selection of resources (and their sources), their processing, distribution, efficiency and effectiveness of consumption and end-of-life.

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Commented [SL30]: Which Cambodia endorsed

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### **Chapter 3 GENERAL DUTY TO AVOID ENVIRONMENTAL HARM**

#### **ARTICLE 1**

A person or legal entity must not carry out any activity that causes, or is likely to cause, environmental harm. As stated in the UN Guiding Principles on Business and Human Rights, "business enterprises must "avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur"; and

“seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations ,products or services by their business relationships, even if they have not contributed to those impacts” [Chapter 2, Article 13]. (The general environmental duty).

## **Chapter 4                    INTERNATIONAL ENVIRONMENTAL AGREEMENTS**

### **ARTICLE 1**

Cambodia recognizes the value of international and regional environmental agreements as a response to environmental problems and the need to adopt or modify its laws accordingly and in a manner consistent with international and regional agreements to which it is party.

This Code hereby reflects the commitment of Cambodia to effectively implement in its laws and practices the international and regional agreements to which it is party.

- This Chapter will explain how the Environmental Code implements and is based upon existing international and regional agreements.
- It will also address future agreements and treaties and how these shall be integrated into the environmental responsibilities of the relevant Ministries.

## **TITLE 2                    ORGANISATION OF JURISDICTIONAL INSTITUTIONS/JURISDICTIONAL ISSUES**

- This Title will establish the objective of inter-ministerial cooperation and the requirement for consultation and discussion between relevant line Ministries in order to achieve the objectives of the Code. Jurisdictional organisation will examine the roles, duties and means of collaboration for the following institutions:
  - Ministry of Environment
  - Ministry of Agriculture, Forests and Fisheries
  - Ministry of Mines and Energy
  - Ministry of Water Resources and Meteorology
  - Ministry of Land Management, Urban Planning and Construction
  - Ministry of Economics and Finance

- Ministry of Culture and Fine Arts
- Ministry of Tourism
- Council for the Development of Cambodia
- Provincial and Local Authorities

Commented [M31]: Per Mang. M.

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF AGRICULTURE,  
FORESTRY AND FISHERIES**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF MINES AND  
ENERGY**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF WATER  
RESOURCES AND METEOROLOGY**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF LAND  
MANAGEMENT, URBAN PLANNING AND CONSTRUCTION**

**CHAPTER # CONFIRMING NATIONAL COUNCIL FOR SUSTAINABLE  
DEVELOPMENT (NCSD) ROLES AND RESPONSIBILITIES**

**CHAPTER # CONFIRMING NATIONAL PROGRAMME FOR SUB-NATIONAL  
DEMOCRATIC DEVELOPMENT (NCDD) ROLES AND RESPONSIBILITIES**

**CHAPTER # ROLE OF AUTHORITIES SUCH AS APSARA AUTHORITY, PREAH  
VIHEAR AUTHORITY, TONLE SAP AUTHORITY AND CAMBODIAN  
NATIONAL MEKONG COMMITTEE**

**CHAPTER # ESTABLISH MECHANISM TO PROMOTE INTERDEPARTMENTAL  
COMMITTEE**

**CHAPTER # ESTABLISH A NATIONAL ECOSYSTEM MAPPING AND PLANNING  
COMMITTEE**

**CHAPTER # FACILITATING ENVIRONMENTAL INFORMATION-SHARING**

**BETWEEN RELEVANT MINISTRIES**

**ARTICLE 1**

Assigning environmental monitoring and information gathering responsibilities among governmental institutions

**CHAPTER # CENTRAL REPOSITORY OF GOVERNMENT ENVIRONMENTAL INFORMATION**

**CHAPTER # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE**

**ARTICLE 1: GENERAL PROVISIONS**

Conservation and management measures undertaken by any government institution in relation to the management of biodiversity, natural resources and the environment in the Kingdom of Cambodia shall be based on the best scientific evidence.

Pursuant to this, the appropriate government institution shall have the authority to establish a Cambodian Environmental Mapping Centre (CEMC). The purpose of this centre shall be to establish standards, compile, analyse, and distribute geospatial information. Information may include but is not limited to biodiversity, natural resources (e.g. lands, water and forests), the environment (e.g. water, soil and air qualities), and climate change, using modern, computerized Geographic Information Systems (GIS).

All geospatial data, mapping products, and metadata held by the CEMC shall be deemed property of the state, and available for public use.

**ARTICLE 2: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE MANDATES**

Pursuant to this authority, the appropriate government institution shall:

1) Require all organisations and institutions that are undertaking natural resource and biodiversity mapping in the Kingdom of Cambodia to provide copies of their geospatial data, information, and the reports that are the products of such projects to the CEMC, so that they may be incorporated into a national base of environmental data and information. Such information and data held by the CEMC shall be shared and made available without restriction to all contributing organisations and institutions, through a clearly defined procedure for data transfer and associated data transfer agreement, to be developed by the government institution.

**Commented [CW32]:** This map should also compile all land use activities. Plantations, mines, SEZ, should be visible alongside biodiversity, natural resources, and the environment. Such juxtaposition will aid in effective decision making.

- 2) Ensure that all data provided to the CEMC are made available for public use, with the exception of those data that the appropriate government institution housing the CEMC deems necessarily withheld for the protection of endangered or rare species. If any data are withheld from the public for the above purposes, a specific written justification and explanation must be provided by the appropriate government institution housing the CEMC.
- 3) Ensure that any decision to withhold data from the public may be appealed for reconsideration directly to the office of the minister in charge of the government institution housing the CEMC.
- 4) Set data standards for the collection of new geospatial information. The standards to be specified by CEMC shall include, but are not limited to:
  - a) A requirement that all geospatial data provided to the CEMC shall utilize the WGS 84 datum.
  - b) Coordinate system.
  - c) Assignment and standardized spelling of names for geographic features, such as administrative units, populated places, water bodies, landmarks, hills and mountains, etc.
  - d) Metadata content and format.
- 5) Require that data collected by other institutions be submitted to the CEMC in the technically standardized format specified by the CEMC.
- 5) Require that geospatial data provided to the CEMC be accompanied by all available and relevant metadata.
- 6) Ensure that collection of geospatial information and data related to specific subjects or sectors is not duplicated among government institutions, and that there is one specified official government institution source for data related to any given subject or sector.

### **ARTICLE 3: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate government institution may at its sole discretion:

- 1) Obtain the necessary GIS computer software to effectively analyse, manipulate, and output geospatial data.
- 2) Obtain computer hardware of sufficient technical sophistication and power to run and utilize GIS computer software.
- 3) Accept geospatial data in the following formats:
  - a) point data
  - b) line data
  - c) shape files in raster format
  - d) shapefiles in vector format.
- 4) Produce maps and other data visualization products and provide these to other relevant ministries to assist such ministries in effectively carrying out their natural resource management authorities and obligations.
- 5) Produce maps and other data visualization products for public education and outreach, in order to improve awareness of biodiversity conservation and natural resource management in the Kingdom of Cambodia.
- 6) Establish quality assurance and quality control (QA/QC) procedures for all maps and data visualization products produced by the CEMC.
- 7) Provide for ongoing maintenance, curation, updates, and access to spatial databases hosted by the CEMC.
- 8) Adopt new methods and technologies, as they become available, which enhance the utility of GIS products and activities.
- 9) Promote, wherever possible, collaborative production, use, and analysis of geospatial datasets across ministries.

### **TITLE 3      PUBLIC PARTICIPATION**

#### **CHAPTER # PUBLIC CONSULTATION A FUNDAMENTAL REQUIREMENT FOR**

## ENVIRONMENTAL DECISIONS

### ARTICLE #

The main objective of public participation is to ensure that project-affected persons and relevant stakeholders:

- a) are well informed about the project,
- b) have the opportunity to be involved in the discussion and decision-making process related to the project, and
- c) have the opportunity to participate in the project monitoring.

Project Proponents that are required to conduct an EIA shall include public involvement and consultation from local administrations, civil society, community representatives, the project-affected persons and other relevant stakeholders in the EIA process during project planning in order to:

- a) identify areas of significance of environment, economy, society and culture
- b) collect opinions of stakeholders and integrate such opinions into the decision making process
- c) review the project proposal and explain impacts on environment, economy, society, and culture.
- d) consider a wider range of alternatives and mitigation measures.

The public participation process in the stage of studying, consulting and reviewing the EIA report and project monitoring shall be determined by Prakas of MoE.

### ARTICLE #

The EIA Report shall:

- a) record the public participation and the Project Proponent shall take this into account during the planning and conduct of EIA.
- b) focus on the issues raised by women and those most vulnerable potentially impacted by

**Commented [SL33]:** The EIA Book can be strengthened. Key additions include:

Broadening the EIA to an SEIA to include the links between environmental and social impacts.

Specifically including reference to human rights impact assessment (e.g. access to clean water, health etc) and a gender impact assessment, recognizing projects such as mining / hydro are not gender neutral and loss of agricultural land / forests will impact on women who are often small scale farmers, fisher people, forest product gatherers. [See Oxfam in Australia publications on gender impact assessment in mining and hydro].

Ensure SEIA's for all projects

Ensure SEIAs are not 'one off' / static. Must be conducted for all phases of a project, e.g. in mining, for exploration, construction, operation, mine expansion, mine closure

Ensure SEIA is in the public domain, accessible and in a format that can be understood

**Commented [M34]:** Comments from NGO Forum on EIA will be addressed during the final EIA review.



the proposed project.

- c) include the details of the project impacts on the public and the acceptance or rejection of the requests of the public.
- d) provide clear reasons why those concerns are rejected.

#### ARTICLE #

MoE shall ensure that IEE and EIA reports and related documents, including the EIA Approval Letter and Certificate and EMP, shall be made publically available, and that stakeholders and project-affected communities have access to clear and sufficient information.

At a minimum the Project Proponent shall make available on publically accessible website copies of the IEE or EIA, any EMP for the project, maps and plans of the project and all proposed mitigation measures for the project.

The procedures for public participation and access to information shall be determined by a Prakas of MoE.

**Commented [CW35]:** This is difficult as the affected communities do not have access to internet.

Hard-copy documents can be kept with relevant commune offices. If the project impacts more than one commune, duplicate copies of these documents must be provided.

#### CHAPTER # DUTY TO CONSULT WITH POTENTIAL AFFECTED PERSONS

#### CHAPTER # DUTY TO CONSIDER CONCERNS RAISED BY THE COMMUNITY

#### CHAPTER # IDENTIFICATION OF PROJECT AFFECTED PERSONS AND OTHER STAKEHOLDERS

#### CHAPTER # MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN NATURAL RESOURCES MATTERS

#### CHAPTER # MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN EIA MATTERS

#### CHAPTER # MINIMUM TIME ALLOWED FOR INDIGENOUS PEOPLE TO PROVIDE COMMENTS

#### CHAPTER # FREE, PRIOR AND INFORMED CONSENT FOR INDIGENOUS PEOPLE AND LOCAL COMMUNITIES IN NATURAL RESOURCES AND ENVIRONMENTAL IMPACT ASSESSMENT MATTERS

## ARTICLE #

The public participation process shall ensure that the consent of the project-affected communities to the proposed mitigation measures is based on the free, prior, and informed consent principle (FPIC).

The public participation process (including proposed mitigation measures) shall ensure that the consent of the indigenous people's is gained and is based on the internationally recognized principle of free, prior, and informed consent (FPIC). Project-affected community participation in projects that affect them, their land, and their livelihoods should be consistent with the principles underlying FPIC, including their full and effective participation in project negotiation and planning, free of intimidation, manipulation, coercion; prior to land allocation and in a timely manner; informed of all relevant information.

**Commented [SL36]:** Suggest a more complete Article, there is value in spelling out what FPIC includes

In the mitigation measures, the Project Proponent shall:

- a) identify measures to improve the livelihood and to assist project affected persons.
- b) ensure that project-affected persons are involved in any resettlement planning to minimise the adverse effects of resettlement, to ensure that compensation for lost assets is fair, suitable and acceptable as equivalent to the market price and that the mitigation measures are appropriate and sustainable.

In cases where the project-affected community disagrees with the mitigation measures proposed by the Project Proponent, the development project still continues; however, the Project Proponent shall seek other appropriate mitigation measures or provide resolution of the impacts to the affected community.

**Commented [SL37]:** See CCC comments in draft 3. This language is not consistent with FPIC

**Commented [M38]:** Per NGO Forum. Text to be reviewed for consistency with FPIC.

The procedure of resettlement and solution of compensation to the affected community shall be determined by Sub-Decree.

**Commented [SL39]:** This needs explanation and as a minimum should be consistent with IFC Performance Standard 5, Land Acquisition and Involuntary Resettlement

**Commented [M40]:** Per NGO Forum. Procedure will be determined in Code.

**Commented [M41]:** Per NGO Forum. Procedure will be determined in Code.

The formalities and procedures of payment of compensation to the impacted community shall be determined by an Inter-Ministerial Prakas between MoE and the Ministry of Economy and Finance.

## CHAPTER # RESPONDING TO PUBLIC SUBMISSIONS

## CHAPTER # TAKING INTO ACCOUNT PUBLIC SUBMISSIONS

## TITLE 4 ACCESS TO ENVIRONMENTAL INFORMATION

- This Title will clarify and detail the requirements for access to environmental information. The aim of this Title is to provide a consistent approach across all ministries and pertaining to the various decisions made under the Environmental Code.

## CHAPTER 1 GENERAL PROVISIONS

(Right to access to information, refer to Principle of Access to Information in Book 1.)

A comprehensive regime of access to environmental information is one of the means to secure rights of people to live in clean environment and their obligations to assure it.

The Government of the Kingdom of Cambodia commits to transparency, accountability and public participation. The commitment is grounded in relevant Multilateral Environmental Agreements and national laws.

Management of natural resources, including ecosystems, environmental conservation, measures related to protection of health, shall be based on reliable information, including scientific information and knowledge of the local communities.

The people of the Kingdom of Cambodia have the right to obtain reliable environmental information from a public authority.

Public authorities/institutions shall give access to information and will proactively disseminate it. Environmental information, such as environmental impacts in EIA, to be made publicly available upon request in a timely manner.

In general:

- They are to inform public about rights and how to exercise these rights.
- They should make efforts to maintain environmental information and have it accessible and reproducible.

MoE has responsibility to make a list of authorities responsible for maintaining and disseminating environmental information.

## CHAPTER 2 – ENVIRONMENTAL INFORMATION

Environmental information includes information on:

**Commented [M42]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Commented [M43]:** Per NGO Forum.

**Commented [M44]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Commented [SL45]:** Re comment above, must be consistent with FPIC

**Commented [M46]:** Shall include all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting.

- a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
- b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment.
- c) Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements.
- d) Instances of non-compliance with environmental laws, policies, regulations, agreements.
- e) Information about environmental risks that can affect the state of human health and safety, cultural sites and built structures.
- f) The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above.
- g) Reports on the implementation of the measures in the item (c) above and in implementation of MEAs.

### **CHAPTER 3 – RELIABILITY OF INFORMATION**

To assure that environmental information is reliable, the relevant authorities have to provide rational of the measures in the item (C) above including life cycle analysis, environmental assessments, cost-benefit and other analyses and assumptions; these documents also have to be publicly accessible.

### **CHAPTER 4 ENVIRONMENTAL COMPLIANCE RECORDS**

The government is required to establish a format for documenting environmental review compliance.

### **CHAPTER 5 ACCESS TO INFORMATION**

The government shall establish informational systems, including registers to support

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**Commented [CW47]:** This rubric should be informed by theories on common pool resources, like Elinor Ostrom, Arun Agrawal, or John O'Neill's "Environmental Values

**Commented [M48]:** Per M. Desrousseaux.

**Commented [M49]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Commented [CW50]:** Keeping benefit to the common pool resources at the forefront of decisions

environmental decision making. Includes, but is not limited to:

- Environmental Mapping Centre
- Pollutant Release and Transfer Register (PRTR)
- Biodiversity Clearinghouse
- Carbon Registry
- Database of EIA and SEA

Public shall be granted access to information specified by Chapter 2 unless stipulated by law.

#### **CHAPTER 6 – PROVISION OF ENVIRONMENTAL INFORMATION**

The competent authorities shall publish a regulation on provision of environmental information including procedure, timing, format, grounds for refusing information and arbitration.

The state authorities shall provide information to fulfil requirements to comply with multi-lateral environmental agreements (MEAs) and local issues/national legislation.

Public authorities shall provide information on the results of EIA, SEA and other information as required by national law, including the results of commissions of inquiry into EIA or natural resources decisions.

Private and public organisations shall provide information on aspects related to the environment as required by law, including on aspects specified in Chapter 2.

Mass-media organisations should dedicate xxx of their time to coverage of environment-related issues, including through informational and educational programmes.

#### **CHAPTER 7 – MONITORING OF INFORMATION PROVISION**

The government shall develop procedures that enable third party organisations to assess procedures of information provision mandated by law.

Public participation in environmental monitoring and gathering of information—development of

**Commented [CW51]:** This section needs more details about how this information will be provided. Both the language and the medium need to be accessible to affected communities

**Commented [CW52]:** Mediated arbitration  
These are relationships of unequal power

**Commented [M53]:** National and provincial level reporting.

**Commented [CW54]:** Please name the laws

**Commented [M55]:** NGO Forum comments on responsibilities for monitoring and reporting and types of reporting will be addressed during final EIA review.

Chapter will be further developed to include types and methods of monitoring programs.

shared or open-source systems.

## **CHAPTER 8 –VIOLATIONS AND REMEDIES AND ENFORCEMENT**

Where there are instances of non-compliance with provision of environmental information, remedies should be applied.

The government is to establish minimum penalties for non-compliance with requirements for information provision; these provisions do not preclude other remedies established by relevant regulations.

Commented [CW56]: Please name the regulations

Relevant authorities shall publish instances of non-compliance with environmental laws and regulations.

Commented [CW57]: In cooperation with local representatives and other stakeholders,

## **CHAPTER 9 PROTECTION OF WHISTLEBLOWERS FOR PROVISION OF INFORMATION AND JOURNALISTS WHO PUBLISH INFORMATION**

### **BOOK 2 ENVIRONMENTAL PLANNING, ASSESSMENT AND MONITORING**

Commented [M58]: Per STWG 3/5. Revised Book name.

#### **TITLE 1 MAKING OF NATIONAL, SUB-NATIONAL AND LOCAL ENVIRONMENTAL AND NATURAL RESOURCES PLANS**

- This Title will set out the procedures for the adoption of National, Sub-national and Local Environmental and Natural Resources Plans. These Plans will be prepared for environmental and natural resources management, integrating food and water security issues and relevant materials exploitations certifications. This Title will provide for a planning framework to set sustainable use limits and protections for Cambodia's commercial and non-commercial natural resources.
- This Title will also relate to Book 2, Title 6~~Title 5~~ Strategic Impact Assessment that may be required prior to the adoption of plans and policies.
- This Title will detail the procedures for the creation of a national land and natural resources plan under which regional and local plans will be made and refer to Book 1~~Title 3~~~~Book 1~~~~Title 3~~ – Public Participation and Book 1~~Title 4~~~~Book 1~~~~Title 4~~ – Access to Environmental Information. The national plans will provide the clear policy and strategic

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direction. Sub-national plans will provide for the specific measures to implement these national objectives.

- One option is to try to adopt a single method for the making and approval of management plans for protection and management (including exploitation) of heritages areas, marine and terrestrial protected areas and management plans for threatened and endangered species.

**Commented [CW59]:** This seems to limit the effectiveness of this document to these areas. How will it affect SEZ, ELC, and other land uses that impact the environment.

## CHAPTER # PREPARATION OF MANAGEMENT PLANS IN ACCORDANCE WITH NATIONAL, REGIONAL OR LOCAL ENVIRONMENTAL AND NATURAL RESOURCE MANAGEMENT PLANS

### CHAPTER # CONSERVATION AND RATIONAL UTILIZATION OF NATURAL RESOURCES

### CHAPTER # CREATION OF A NATIONAL ENVIRONMENTAL AND NATURAL RESOURCE MANAGEMENT PLAN (NEP)

### CHAPTER # APPOINTMENT OF A COMMISSION TO PREPARE THE NEP

### CHAPTER # DRAFT NEP TO BE PREPARED WITH PUBLIC PARTICIPATION

### CHAPTER # APPROVAL OF NEP

### CHAPTER # PREPARATION AND APPROVAL OF SUBNATIONAL AND LOCAL NEP

## CHAPTER # ESTABLISHMENT OF A NATIONAL LAND AND RESOURCES INFORMATION DATABASE

### CHAPTER # DATABASE TO BE PUBLICALLY AVAILABLE

### CHAPTER # DATABASE TO BE USED TO MAKE NATIONAL, SUB-NATIONAL AND LOCAL PLANS

### CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO PLANNING INCLUDING RECOGNITION AND VALUATION OF ECOSYSTEM SERVICES

## TITLE 2 LANDSCAPE PLANNING AND THE ESTABLISHMENT OF NATIONAL CONSERVATION LANDSCAPES /

**Commented [CW60]:** This will be a useful tool- but difficult to keep current. The information from this database must be validated with representatives who live close to these resources.

As this section reads, the plans are institutionally based. Resource management initiatives that involve local communities **at the planning stages** are most effective  
See:  
Dhital, N., Vololomboahangy, R. R., & Damase, P. (2015). Issues and challenges of forest governance in Madagascar. Canadian Journal of Development Studies / Revue Canadienne D'études Du Développement, 36(1), 38–56.

Diepart, J.-C. (2015). Learning for Resilience: Insights from Cambodia's Rural Communities. (J.-C. Diepart, Ed.). Phnom Penh: The Learning Institute.

**Commented [M61]:** Per STWG 3/5 Members.

## **CORRIDORS**

- This Title will establish a system of national conservation landscapes or corridors. These will be areas with specific legal status and protections. This could include:
  - National parks
  - Urban parks and tree corridors
  - Private land with conservation agreements, including eco-resorts, organic agriculture

### **CHAPTER # ESTABLISHMENT OF NATIONAL CONSERVATION CORRIDORS, INCLUDING NAMING, LOCATION AND BOUNDARY/MAP REFERENCE**

### **CHAPTER # CLASSIFICATION OF ZONES WITHIN THE NATIONAL CONSERVATION CORRIDORS**

### **CHAPTER # ACTIVITIES PROHIBITED IN THE NATIONAL CONSERVATION CORRIDORS**

### **CHAPTER # PREPARATION AND APPROVAL OF MANAGEMENT PLANS FOR THE NATIONAL CONSERVATION CORRIDORS**

### **CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS IN THE NATIONAL CONSERVATION CORRIDORS**

### **CHAPTER # PROCEDURES FOR ADJUSTMENTS TO THE BOUNDARIES OF THE NATIONAL CONSERVATION CORRIDORS**

## **TITLE 3      URBAN LAND USE PLANNING**

- This Title will examine land planning for urban areas. It will establish the creation of zoning plans and land classification for urban areas. It will also provide for the approvals process for developments in urban areas, in accordance with appropriate zonings. This may require the review of the Law on Land Management, Urban Planning and Constructions 1994.
- Urban areas and the development of towns and cities create significant burdens on the environment and the community. It is suggested that this be dealt with as a separate Title



to focus on promoting sustainable urban development.

- The Title will establish the procedures for classifying land as urban land and the zone of urban land as housing construction zone, commercial zone and other relevant zones. It will provide the guidance for the sustainable development of cities in accordance with best practice planning principles. This will use the One Map process outlined in Book 2 Title 1 Title 1.
- This Title will also provide the minimum requirements for the management of urban land, including provisions for plans covering water, energy, storm water management, traffic, noise and construction.
- The roles of different authorities in land use planning and management will be addressed, referencing Book 1 Title 2 Book 1 Title 2.
- The Title will address the specific requirements for public participation, referencing Book 1 Title 3 Book 1 Title 3.
- This Title will address social housing.

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#### **CHAPTER # ESTABLISHMENT OF TRANSPARENT ZONING PROCESS AT CITY AND LOCAL LEVEL, INCLUDING PERIODIC TIMING, SCOPE AND STAKEHOLDERS TO BE INVOLVED AND HOW**

##### **ARTICLE #**

Mitigating and compensating for risks of displacing residents or existing businesses through new zoning

#### **CHAPTER # CLASSIFICATION OF URBAN LAND**

##### **ARTICLE #**

Population threshold at which a zoning plan is required

#### **CHAPTER # ZONING OF URBAN LAND**

#### **CHAPTER # MINIMUM STANDARDS OF URBAN ZONING PLANS**

Include specifications for delineation and co-existence of industrial, commercial and residential zones.

**CHAPTER # BUFFER ZONES AND PREVENTION OF ENCROACHMENT OF NON-COMPATIBLE USES**

**CHAPTER # URBAN INFRASTRUCTURE REQUIREMENTS**

**ARTICLE #**

Improving traffic flow (through the use of one way streets, no parking zones/times, bus lanes, stop signs, etc.)

**ARTICLE #**

Facilitating public-private infrastructure financing

**CHAPTER # PUBLIC TRANSPORTATION, BICYCLE ACCESS, RECYCLING, WASTE MANAGEMENT, MAINTENANCE OF URBAN GREEN SPACES, ETC., INCLUDING CLARITY ON ROLES AND RESPONSIBILITIES OF DIFFERENT LEVELS OF AUTHORITIES**

**ARTICLE #**

Incentivizing public transit ridership.

**ARTICLE #**

Promoting Walkability

**CHAPTER # BUILDING, PARKING, OPEN SPACE REQUIREMENTS**

Special building requirements (example: open space set asides, parking space requirements, energy efficiency standards), addressing minimum parking place allocations, open space set aside requirements for urban developments, traffic flow management issues, public transportation, etc.

**CHAPTER # OTHER PRIVATE SECTOR PROVISIONS**

**CHAPTER # MOTOR VEHICLE EXHAUST STANDARDS**

**CHAPTER # POTENTIAL NEW TENURE SYSTEMS FOR SOCIAL HOUSING PROJECTS**

## **TITLE 4 EXTENDED PRODUCER RESPONSIBILITY**

**Commented [M62]:** Per Z. Fadeeva. This concept will be more fully developed and will either be included as a Principle or a section in the Code (Title).

## **TITLE 5 ENVIRONMENTAL QUALITY STANDARDS**

Should include: Title ##### Flood and Drought (Impacts of water infrastructures development such irrigation dams, hydropower dams which in turn cause floods and droughts should be properly assessed and planned.)

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### **Title 4**

- This Title will establish the procedures for the setting of National and Local Environmental Quality Standards (EQS) and Guidelines. It will provide details on the type and quantity of the emissions. It will also adopt existing standards and levels until it is possible to revise or amend the Environmental Standards and Guidelines.
- This Title will require that all relevant Ministries will be required to follow the Environmental Quality Standards and Guidelines.
- The Environmental Quality Standards and Guidelines in this Title will also extend to food safety principles and objectives.
- Surface and groundwater water quality.....
  - Both surface and groundwater quality should focus from mining activities, agricultural water pollution which cause more severe water quality degradation on river health.
- 

**Commented [MB63]:** Per STWG 2 at 6 April Workshop. EQS will be developed in collaboration with international experts.

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## **CHAPTER # SETTING OF ENVIRONMENTAL QUALITY STANDARDS (EQS)**

### **CHAPTER # SETTING OF AMBIENT STANDARDS**

#### **ARTICLE #**

Air Quality Standards

#### **ARTICLE #**

Water Quality Standards

**CHAPTER # SETTING OF DISCHARGE STANDARDS FOR WATERBORNE  
POLLUTANTS**

**ARTICLE #**

Individual pollutant discharge standards to be set in the code

**ARTICLE #**

Individual pollutant discharge standards to be set by the relevant ministry

**ARTICLE #**

Setting of polluting threshold for emission monitoring

**ARTICLE #**

Taking local ecological characteristics into account when setting emissions standards

**ARTICLE #**

Relationship to EIA law

**ARTICLE #**

Incorporating international standards

**CHAPTER # SETTING OF DISCHARGE STANDARDS FOR AIRBORNE  
POLLUTANTS**

**ARTICLE #**

Individual stationary source pollutant discharge standards to be set in the code

**ARTICLE #**

Individual stationary source pollutant discharge standards to be set by the relevant ministry

**ARTICLE #**

Motor Vehicle emissions standards

**ARTICLE #**

Setting of polluting threshold for emission monitoring

**ARTICLE #**

Taking local ecological characteristics into account when setting emissions standards

**ARTICLE #**

Relationship to EIA law

**ARTICLE #**

Incorporating international standards

**CHAPTER # REVISION OF EQS**

**CHAPTER # APPLICATION OF EQS IN CAMBODIA**

**CHAPTER # PROVISIONAL ADOPTION OF INTERNATIONAL STANDARDS**

**CHAPTER # DEFINITION OF BEST AVAILABLE TECHNIQUES**

**CHAPTER # DEFINITION OF GOOD PRACTICES**

**~~Title 5~~ TITLE 6 STRATEGIC ENVIRONMENTAL ASSESSMENT**

- This Title will outline the use of Strategic Environmental Assessment (SEA) for the assessment and development of plans and policies in Cambodia. The use of SEA can be for all types of policies and plans, including decisions that may have impacts on natural resources management. The relationship between SEA and EIA will be further considered.
- The threshold for trigger for SEA will be clearly defined.
- This Title will also provide the link between National Environmental and Natural Resources Plans, SEA and also EIA for specific projects.

**Commented [M64]:** SEA is for PLANS and POLICIES. Not to be confused with EIA, which is for ACTIVITIES, such as development projects.

**Commented [M65]:** Per NGO Forum and other comments, content in this Title will be clarified, further developed, and made consistent with text regarding EIA as appropriate.

## CHAPTER # OBJECTIVE OF SEA

To provide a high level of protection to the environment, including health, through the prior assessment of policies, programmes and plans.

## CHAPTER # AIMS OF SEA

The key aims of SEA include:

- a) Ensuring that environmental impacts, including health and social impacts, are thoroughly taken into account in the development of plans and programmes;
- b) Contributing to the consideration of environmental impacts, including health and social impacts, in the preparation of policies and legislation;
- c) Establishing clear, transparent and effective procedures for strategic environmental assessment;
- d) Providing for genuine public participation in strategic environmental assessment; and
- e) Integrating by these means environmental concerns, including health and social concerns, into measures and instruments designed to further sustainable development.

**Commented [M66]:** Definitions for Environment and for Significant Environmental Impact will be developed that are clear and through, reflect Cambodian values, and include examples.

## CHAPTER # IMPLEMENTATION OF SEA

### ARTICLE #

The SEA procedure will include the following steps:

- 1) Screening
- 2) Scoping
- 3) Preparation of the Environmental Report
- 4) Consultation and Public Participation
- 5) Review and Decision
- 6) Information on Decision
- 7) Monitoring

## ARTICLE #

### Relevant Government institution

The relevant government institution shall be the institution with jurisdiction on the sector the subject of the SEA.

The relevant government institution shall coordinate with the MOE to ensure that these procedures are complied with.

[Confirm institutional arrangements, including role of NCSD].

## ARTICLE #

### Screening

Any plan or programme that in the opinion of the relevant government institution is likely to have a significant effect on the environment, health or society shall be required to undertake a SEA.

**Commented [CW67]:** Does this mean that the ministry of mines and energy has authority to decide if the project will have 'significant impact'?  
This may require a higher-level regulatory body

Any plan or programme that is in the following sectors shall be required to undertake a SEA unless the relevant government institution determines that an SEA is not required.

**Commented [MB68]:** Or this could be in accordance with the Appendix I. Based on the Vietnam Decree on SEA.

- a) agriculture,
- b) forestry,
- c) fisheries,
- d) energy,
- e) industry,
- f) mining,
- g) transport,
- h) infrastructure,
- i) regional development,

**Commented [M69]:** Per NGO Forum.

h) water management,

i) waste management,

j) telecommunications,

k) tourism,

l) urban and regional planning or land use.

The relevant government institution shall determine if the plan or programme is likely to have a significant impact on the environment or health or society.

The relevant government institution shall ensure that all relevant ministries and government institutions are consulted in the preparation of the screening recommendation.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme should be the subject of SEA.

In reaching the decision whether to conduct a SEA the relevant government institution shall take into account the following factors:

1. The relevance of the plan or programme to the integration of environmental, including health and social considerations, and in promoting sustainable development.
2. If the plan or programme will provide an overall framework for projects and other activities, including location, nature, size, operations or the allocation of natural resources.
3. Environmental, including health and social problems and impacts relevant to the plan or programme.
4. The nature of the environmental impacts, including health and social impacts such as probability, duration, frequency, reversibility, magnitude and extent (such as geographical area or size of population likely to be affected).
5. The risks to the environment, including to health and society.
6. If the plan or programme will affect valuable or vulnerable areas, protected areas,

**Commented [M70]:** The Code will clarify who must determine what constitutes a Significant Environmental Impact and the definition for Environment and Significant Environmental Impact.

**Commented [MB71]:** This is modified from the SEA Protocol, Annex III

**Commented [CW72]:** And especially the availability of resources for the next generations



including areas with a recognised national or international protection status.

7. If the plan or programme will affect indigenous peoples or natural resources allocation to indigenous people.
8. Comments received from the public participation and consultation process.

The relevant government institution will prepare, in collaboration with MOE, a screening analysis and recommendation.

Once the relevant government institution has determined if the plan or programme requires a SEA, the determination will be made public in accordance with the provision of this Code.

#### **ARTICLE #**

##### Scoping

The relevant government institution shall determine together with MOE and based on the screening process and comments received from other Ministries, the information and scope of the SEA.

The relevant government institution shall ensure that other relevant ministries and institutions are consulted in the preparation of the scoping report and the information to be included in the SEA.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme requires preparation of an Environmental Report

#### **ARTICLE #**

##### Consultation and Public Participation

The relevant government institution shall ensure early, timely and effective opportunities for public participation, when all options are available for consideration and amendment, in the SEA of plans and programmes.

The relevant government institution shall provide for consultation and public participation in accordance with the provisions of the Environmental Code.

The relevant government institution shall comply with the provisions of the Environmental Code for access to information.

The relevant government institution shall make the Scoping Report, the Environmental Report, details of submissions received, the SEA Report Assessment and determination of the SEA publicly available in both draft and final forms.

Special consideration shall be given to providing opportunity for participation by vulnerable persons, including women, children, disabled persons, and ethnic minority groups and indigenous peoples.

#### **ARTICLE #**

##### **Environmental Report**

The relevant government institution shall prepare an Environment Report for those plans and programmes that are subject to SEA.

The relevant government institution may prepare the Environmental Report itself or may use an appropriately qualified consultant.

The Environmental Report shall, in accordance with the Scoping Report, identify, describe and evaluate the likely significant environmental impacts, including health, social and ecosystem impacts, of implementing the plans or programmes and any reasonable alternatives or modifications.

Special consideration shall be given to protecting the rights of and evaluating the impacts on vulnerable persons, including women, children, disabled persons, and ethnic minority groups and indigenous peoples.

#### **ARTICLE #**

##### **Review and Decision**

The assessment of the SEA shall be conducted by a SEA report assessment committee established by the relevant government institution and will include the representatives of the Office of the PM, the CDC, the institution of the Environment, and other concerned Ministries.

The SEA report assessment committee shall comprise a minimum of 9 members.

The SEA Report assessment committee shall consider the content of the Environmental Report and provide opinions and comments.

The relevant government institution shall provide support and guidance on the operations and management of the SEA report assessment committee.

The SEA report assessment committee may:

- (i) Conduct a survey on areas or adjacent areas where the project is carried out;
- (ii) Verify and evaluate information, data, analysis results, evaluation, or forecast in the Environmental Report;
- (iii) Collect opinions of relevant socio-political organisations, social organisations, socio-professional organisations, or experts;
- (iv) Hold thematic meetings between experts.

The SEA report assessment committee must conduct the assessment and send the results to the relevant government institution and MOE within 45 days of the completion of any further surveys or verification or evaluation.

#### **ARTICLE #**

##### **Results of assessment of SEA reports**

The SEA report assessment committee shall send the results of the assessment of Environmental Report to the relevant government institution and MOE.

The assessment must contain assessment procedures, outcomes and shortcomings, suggestions of the relevant government institution in order for the SEA report assessment authority to consider approving the plans or programmes.

The relevant government institution must comprehensively and objectively consider opinions or requests of the SEA report assessment authority.

The relevant government institution shall consider approving the plans or programmes according to Environmental Reports.

#### CHAPTER # INFORMATION ON DECISION

Once the relevant government institution has considered and made a decision on the plans or programme, this shall be notified to all the parties who have made submissions or been consulted during the SEA process.

The decision shall also be notified on a web-site of the relevant government institution.

#### CHAPTER # MONITORING

The relevant government institution in collaboration with MOE shall develop a monitoring programme.

The monitoring programme shall monitor the significant environmental impacts, including health and social impacts, of the implementation of the plans and programmes.

If the monitoring programme identifies any adverse impacts on environment, health or society, by the plans and programmes the relevant government institution should revise the plan or programme to undertake appropriate remedial action.

The results of the monitoring shall be made available to all relevant government institutions and to the public in accordance with the provisions of the Environmental Code.

#### ARTICLE #

Evaluating effects on ecosystem services.

#### CHAPTER # APPRAISAL OF SEA REPORTS

#### ~~Title 6~~ **TITLE 7 ENVIRONMENTAL IMPACT ASSESSMENT**

- This Title will establish the EIA process in Cambodia. It will replace the Sub-Decree on EIA 72 ANRK.BK 1999. It will incorporate the details and provisions of the Draft EIA Law.
- This Title will cover new projects as well as existing projects and will provide three levels of assessment:
  - Environmental Impact Assessment;

- Initial Environmental Evaluation; and
- Environmental Permit.
- The aim of this Title on EIA is to require all development projects and activities that will have an impact on the environment or society to undertake some form of environmental assessment. The level of assessment will be determined according to the potential impact on the environment or society.
- The threshold for trigger for EIA will be clearly defined.
- An EIA Approval Certificate will be issued and any other permit will be issued in accordance with the EIA Approval Certificate.
- EIA will be required for all projects or activities likely to have a significant impact on the environment or society.
- IEE will be required for those projects or activities likely to have a minor impact on the environment or society.
- An Environmental Permit will be required for those projects or activities that do not require an EIA or IEE. These will be required to have permission to ensure that the project is not likely to cause harm or damage to the environment or society.

**Commented [M73]:** The definition of environment in the definition section will be clear and thorough (and comprehensive and robust) and will provide examples in order for there to be an appropriate understanding that “environment” is very broadly defined and includes relationships and the characteristics important to Cambodia.

#### CHAPTER # PURPOSE OF EIA

#### CHAPTER # SCOPE OF EIA IN CAMBODIA

#### CHAPTER # OBJECTIVES OF EIA IN CAMBODIA

#### CHAPTER # APPLICATION TO PUBLIC AND PRIVATE DEVELOPMENT PROJECTS

#### CHAPTER # RESPONSIBILITY OF MINISTRY OF ENVIRONMENT IN EIA / ROLES AND RESPONSIBILITIES OF SUB-NATIONAL AUTHORITIES

**Commented [M74]:** Per NGO Forum. Must ensure EIA is conducted for every phase of a project or activity, such as exploration/feasibility studies, land clearance, construction, operation, expansion, closure).

**Commented [M75]:** Per NGO Forum. Also, funding for sub-national authority role? Scope of project approval under sub-national authority?

#### ARTICLE #

Officials of the EIA Unit of the Ministry of Environment have the following authorities:

1. - To inspect and monitor compliance with the laws and regulations in force, guidelines,

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Environmental Protection Agreement, standards, EMPs and other related environmental requirements. In necessary cases, EIA officials can order the project proponent to provisionally postpone activities or provisionally close the location of the project.

2. - To check documents and electronic data on environmental management and other records on development projects and project operations.
3. - To listen to and make minutes after listening to the answers of workers, employees, representatives of Project Proponents as well as other relevant persons.
4. - To order the workers, employees, managers, legal representatives, and agents of development projects to provide information, written documents, plans as well as minutes of all kinds that are related to the environmental management of a Project Proponent.
5. - To search the project site and seize evidence where a violation of laws or regulations on EIA or EMP is suspected to have been committed.
6. - To meet with Boards of Directors, legal representatives, workers, and employees of development projects at least once per year in order to assess the implementation of this law and other relevant regulations.
7. - To make minutes of searching and seizing of evidence in order to compile the case file of the commission of the offense against this or any other law in order to take measures in accordance with procedures in force.

#### **ARTICLE #**

Capital and Provincial Environmental Departments of the MoE shall take part in implementing this law in accordance with the laws and regulations in force as well as the assignment of the MoE.

### **CHAPTER # REGISTRATION OF EIA EXPERTS**

#### **ARTICLE #**

EIA Consultants, which could either be natural persons or legal entities, shall be under the management of the MoE.

EIA Consulting Firms shall have Khmer nationality with the project team leader who is the consultant accredited by the MoE.

All EIA consultants must be registered with MoE before professionally preparing EIA with an EIA consulting firm.

Registration of certificates of accreditation as an EIA Consultant shall be valid for a maximum period of 5 years and may be renewed.

## CHAPTER # LEVELS OF ASSESSMENT WILL INCLUDE EIA, IEE OR ENVIRONMENTAL PROTECTION AGREEMENT

### ARTICLE #

All development projects must properly assess the impacts on the environment, economy, society, health and culture with prior approval of the MoE before being sent to the government for decision.

**Commented [M76]:** A comprehensive and robust definition of “environment” would clarify and simplify the text and meaning.

Issuance of licenses or permission letters to development projects by Approval Ministry-Institution shall be done in accordance with the principle of FPIC and conditions determined in the EIA Approval Letter and Certificate. Licenses, permission letters, or decisions that are in contradiction to the spirit of this provision are considered null and void.

**Commented [M77]:** Per NGO Forum.

### ARTICLE #

This law does not apply to State’s development projects or State activities that have been approved by the government or the National Assembly and that are considered to be necessary emergency projects relating to national security, territorial integrity, national sovereignty, or disaster management.

**Commented [M78]:** Per NGO Forum.

**Commented [SL79]:** This is a problematic clause. It effectively means that any project could be deemed as ‘necessary’ (e.g a hydro dam)

### ARTICLE #

The MoE shall conduct screening to determine the type of development projects, to require the project proponent to prepare the following documents:

1. An IEE with an attachment of Environmental Protection Agreement;
2. An EIA with an attachment of Environmental Protection Agreement.
3. An Environmental Protection Agreement (EPA)

The projects that are required to prepare an EPA shall attach with it technical principles such as Environmental Protection Plan (EPP) in accordance with the requirements of the MoE,

### ARTICLE #

The MoE can determine additional screening of the type of project based on the scale of environmental and social impacts that shall be determined by the MoE.

#### ARTICLE #

In cases where there is any transfer or changes to the Project Proponent by any reasons, then the IEE and/or EIA Approval Letter and Certificate as well as contract and all conditions provided for in this paragraph shall be automatically transferred to the new Project Proponent. The Contract of Transfer or the changes of the Project Proponent shall not be valid for implementation unless the transfer or the changes are done after MoE has received notification about the changes.

#### ARTICLE #

IEE report shall be required for:

1. Projects listed in sub-decree.
2. Projects that have prepared Environmental Protection Agreement and decided by MoE that they do IEE.

When the proposed project is required to do an IEE, the Project Proponent shall cooperate with consulting firms in order to prepare the Terms of Reference (ToR) in accordance with the provisions and guidelines of MoE and submit to EIA Unit for final approval.

Project Proponent and consulting firms shall prepare IEE report based on the approved ToR.

#### ARTICLE #

An Environmental Impact Assessment report shall be required for:

- 1- Projects listed in Annexure 1 or;
- 2- Projects that have received an IEE and the result of the study demonstrate significant environmental impacts and the MoE requires the project to conduct an EIA.

When the proposed project is required to undertake an EIA report, the Project Proponent shall collaborate with consulting firms to draft the Terms of Reference in accordance with any provisions and guidelines of MoE and submit to EIA Unit for final approval.



Project Proponent and consulting firms shall prepare EIA report based on the approved ToR.

#### ARTICLE #

An Environmental Protection Agreement shall be entered into by all projects that are listed in sub-decree or projects with little negative impacts on environment and society.

When the proposed project is required to conduct an EPA, the project proponent shall enter into to the EPA by attaching with it the technical principles such as Environmental Protection Plan and relevant documents and submit to EIA Unit for final approval.

The form of EPA and EPP shall be determined by MoE.

### CHAPTER # ESTABLISHMENT OF EIA REVIEW COMMITTEE

#### ARTICLE #

All development projects that are required to perform an EIA are required to have technical comments from the Expert Review Committee.

The composition of the Expert Review Committee includes officials from MoE and relevant ministries and institutions, and independent experts with qualifications and appropriate experience in reviewing EIA reports. Members of an Expert Review Committee shall be selected on a project-by-project basis by MoE based on the technical aspects of the EIA report.

The organisation and functioning of the Expert Review Committee shall be determined by Prakas of MoE.

The members of the Expert Review Committee shall be reimbursed for their services based on an agreement between MoE, each member, and Project Proponent.

### CHAPTER # ROLE OF EIA REVIEW COMMITTEE

### CHAPTER # TIMEFRAMES FOR EIA AND IEE PROCEDURE

#### ARTICLE #

The MoE may only make a determination in accordance with this procedure after the IEE or EIA has been on public exhibition for at least the time period specified in the Code.

For the Environment Protection Agreement the minimum time period for public exhibition and comment is a 3 weeks.

**Commented [D80]:** Please consider about decentralisation authority/function to sub-national over how big or small job. eg. How much size to which level? .consider about length, it is good to make it shorter than the current draft.

**Commented [M81]:** While representatives from the public, including potentially affected communities, are not included in the Expert Review Committee, the public participation process provides the opportunity for EIA review and input on the decisions.

**Commented [SL82]:** Should include representatives from impacted communities and civil society. The expert Review Committee should explain technical aspects to impacted community representatives

**Commented [M83]:** Per NGO Forum. Reimbursement for participation in an EIA Expert Review Committee should be limited to those committee members acting outside their normal responsibilities. Government officials or staff whose job it is to participate in the EIA process should not be specially remunerated.

For the IEE Report the minimum time period for public exhibition and comment is a 6 weeks.

For the EIA Report the minimum time period for public exhibition and comment is a 8 weeks.

**ARTICLE #**

The MoE has a period of 30 (thirty) working days to review, comment, approve, reject, or require adjustment or correction to Environmental Protection Agreement and Environmental Protection Plan. The period is counted from the date of the submission of Environmental Protection Agreement, Environmental Protection Plan, and relevant documents.

**ARTICLE #**

MoE shall review and comment on the IEE report within sixty (60) working days counting from the date of receiving the report. The period of sixty (60) days will expire when the Ministry of Environment has provided the comments regardless of whether the comment is in the form of rejection, approval, or an order to make modification or improvement on the reviewed report. The period of sixty (60) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the slowness or failing to make correction in accordance with the above order or instruction.

**ARTICLE #**

MoE shall review and comment on the EIA report within ninety (90) working days counting from the date of receiving the report. The period of the ninety (90) days will expire when the Ministry of Environment has provided the comments regardless of whether the comments are in the form of rejection, approval, or an order to make modification or improvement on the reviewed report.

The period of ninety (90 ) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the

slowness or fail to make correction in accordance with the above order or instruction

## CHAPTER # PREPARATION OF EIA REPORT

### CHAPTER # PREPARATION OF ENVIRONMENTAL MANAGEMENT PLAN

#### ARTICLE #

An Environmental Management Plan (EMP) shall be prepared by the Project Proponent. The EMP shall include the protection, mitigation, monitoring and management requirements that were identified in the IEE and EIA reports.

The EMP shall be regularly updated to take into account any amendments in Environmental Standards, or changes in sector performance practices or other changing circumstances of the Project.

#### ARTICLE #

All development projects and project operators shall establish and maintain an Environmental Management System (EMS) that shall ensure the self-monitoring procedures and methods as stipulated in their EMP.

In cases where the environmental impacts are greater than those estimated in the EIA report or EMP, then the MoE shall require immediate action to remedy the impact or an adjustment of the EMP.

The adjusted EMP and monitoring programme shall be approved by MoE. A time limit to make adjustments or improvements shall be agreed upon in writing by all parties.

The Project Proponent shall prepare the environmental monitoring report every three (3) months and submit to EIA Unit for review and evaluation. The EIA Unit has the right to make site inspections and verify the monitoring data of the Project Proponent.

#### ARTICLE #

Project-affected persons and all stakeholders shall have the right to report issues and grievances of environmental and social concerns to the Project Proponent and to petition competent authorities. Such issues will be addressed by a sub-national commission and it can continue to an inter-ministerial commission established as part of the EMP.

**Commented [M84]:** Per NGO Forum. Define in more detail, link to relevant sections of the Code.

Relevant competent authorities shall respond to the grievance or petition and deal with concerned environmental and social issues within an appropriate time limit and inform the concerned persons accordingly.

Commented [CW85]: This time limit needs to be specified.  
30 days is appropriate

The formalities and procedures of the grievance or petition shall be determined by Prakas of MoE.

## CHAPTER # SUBMISSION OF EIA REPORT

### CHAPTER # CONSIDERATION AND ASSESSMENT OF EIA REPORT

#### ARTICLE #

During the period for review and comment the MoE shall review and comment on the IEE or EIA report after:

- Listening to and considering the official presentation and defending of the report which is conducted by the Project Proponent and consulting firm;
- Considering the comments of direct or indirect project-affected people, opinion of the public and civil society;
- Considering the comments from relevant ministries or institutions, and
- Considering the proposed comments of the Expert Review Committee;

MoE is responsible for ensuring a fair public participation process by inviting representatives of relevant ministries or institutions, territorial authority, civil society, and project-affected persons to provide comments on the proposed project.

## CHAPTER # REVISION OF EIA REPORT

#### ARTICLE #

The provision of comments in the form of approval or rejection, or the ordering to make adjustments or corrections on IEE or EIA shall be done by taking into consideration the advantages and disadvantages of environment, economy, society, and culture by examining the scope of the project, geographical location, potential impact, other special features of each project, and effectiveness of the implementation of management measures, and/or the protection of environmental quality and social impact mitigation in accordance with the level of the development of technology and science.

In case where MoE approves any IEE or EIA report, MoE shall issue an EIA Approval Letter and Certificate for the project by attaching with it the Environmental Protection Agreement.  
In case where the MoE rejects an IEE or EIA report, the MoE shall provide the reasons for the decision.

In case where the MoE provide comments of ordering to make adjustments or corrections of the IEE or EIA report, the MoE shall provide reasons and clearly demonstrate the points that need to be adjusted or corrected.

#### ARTICLE #

Before the decision to grant an EIA Approval Letter and Certificate to development projects ~~that~~ are located in the areas where indigenous people live, MoE, members of the Expert Review Committee and relevant stakeholders involved in the decision-making ~~process~~ must take strong heed and special consideration about the project in order to avoid negative impact on the culture, custom, tradition, livelihood, and the property of ~~te~~ indigenous people.

**Commented [M86]:** Per NGO Forum. Follow guidelines of FPIC, UNDRIP, and international human rights standards and respect existing laws on conservation and safeguard principles, including following Cambodia's signatory standards under international agreements.

### CHAPTER # APPROVAL OR REJECTION OF EIA REPORT

#### ARTICLE #

MoE shall send the decision on the rejection or the order to make adjustment and correction in writing as well as the reasons or condition and/or the points that need to be adjusted or corrected to the Project Proponent and consulting firm in order to prepare the EIA report.

MoE shall send the EIA Approval Letter and Certificate as well as the Environmental Protection Agreement to the Project Proponent and relevant competent ministries and institutions such as Approval Ministries or Institutions, Council for Development of Cambodia, Capital and Provincial Departments of Environment and relevant Commune and Sangkat Councils.

### CHAPTER # GRANTING OF EIA APPROVAL LETTER

#### CHAPTER # PROHIBITION OF ACTIVITIES WITHOUT EIA APPROVAL LETTER

#### ARTICLE #

Project Proponents shall not commence any construction activities or Project operations until after the EIA Approval Letter and Certificate has been issued for the Project. The Ministry of the Environment shall have the power to postpone all construction activities or Project operations

Fourth Draft Environmental Code of Cambodia | 12 August 2016

that do not have an EIA Approval Letter and Certificate.

All Concession Agreements that are granted by the Royal Government of Cambodia at both national level and Capital and Provincial level shall have an official EIA Approval Letter and Certificate with an attachment of Environmental Protection Agreement (EPA).

#### ARTICLE #

The EIA Approval Letter and Certificate shall be valid for the life cycle of the project. In case where the MoE finds that there are changes to Master Plan or that the IEE or EIA reports are not adequate or effective for the implementation of impact mitigation measures, the MoE has the rights to require the project proponent to re-prepare an EIA report and/or to update the existing EIA report in order to receive a new EIA Approval Letter and Certificate in accordance with conditions determined by MoE.

### CHAPTER # EXISTING PROJECTS

#### ARTICLE 31

MoE in consultation with relevant Ministries or institutions shall prepare Guidelines based on project screening for the types of projects that have not conducted the EIA to require the Project Proponent to prepare an IEE or EIA report for existing projects or projects in operation.

The Guidelines shall be published within three (3) months after the MoE has made decision on these guidelines.

Project Proponents shall cooperate with consulting firms to complete their IEE or EIA reports and submit these documents to MoE for review and comments in a period determined by MoE.

MoE shall review, comment, and make a decision on these IEE or EIA reports in accordance with the provisions of the Code.

### CHAPTER # MATTERS FOR CONSIDERATION

#### ARTICLE #

Protecting the rights of vulnerable persons, including women, children, disabled persons, and minority groups and indigenous peoples, in keeping with the principle of FPIC and through the

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**Commented [MB87]:** Projects that are planned or existing that have completed the EIA process and Government approval processes shall not require further assessment. All existing projects will be required to comply with the Code and be subject to the appropriate penalties if the project causes harm to the environment or society.

**Commented [M88]:** Per NGO Forum. Clarification for expansion of existing projects.

**Commented [M89]:** Per NGO Forum.

EIA process, including public participation in the EIA process and the implementation measures that are an outcome of EIA approval.

## CHAPTER # SOCIAL IMPACT ASSESSMENT

[To be developed in detail]

### HEALTH IMPACT ASSESSMENT

#### ARTICLE #

All IEEs and EIAs must include a Health Impact Assessment (HIA) that includes:

- baseline data on health (including nutrition) in the project areas and of the affected populations;
- description of potential project impacts (e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease) due to construction, population influx and changes to the environment;
- the mitigation measures to offset, reduce or even eliminate negative impacts of the project and measures that will be introduced by the Project Proponent to preserve and maintain good health of the local communities and take measures for improvement where necessary; and
- the issues related to monitoring health conditions and managing remaining impacts in the short and long-term for the project.

#### ARTICLE #

In assessing the health impacts, Project Proponents must:

- propose a safety and health management plan as part of the HIA for the working environment, analysing relevant risks and specific classes of hazards in the proposed project areas, including physical, chemical, biological, and radiological hazards.
- identify and assess the risks to, and potential impacts (e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease) due on, the safety and health of affected communities during the design, construction, operation, and decommissioning of the project, and establish preventive measures and management plans for the impacts during these stages.

## CHAPTER # TRANSBOUNDARY ENVIRONMENTAL

A Project that has potentially significant trans-boundary environmental impacts is required to

**Commented [SL90]:** Good. Suggest link it to a broader human rights due diligence assessment (identify, mitigate, prevent and remedy) as per UNGP on Bus and Human Rights

**Commented [M91]:** Per NGO Forum.

**Commented [M92]:** Per NGO Forum.

**Commented [M93]:** Per NGO Forum.

**Commented [M94]:** Per NGO Forum.

**Commented [M95]:** A comprehensive and robust definition of Environment will be defined.

**Commented [F96]:** CCC:e.g Mekong River Commission, but also needs to include, mechanisms to actively involve downstream and upstream communities (e.g in the case of dams), but participation and access to info etc of impacted communities

**Commented [F97]:** CCC: Include ref to the Hydropower sustainability Assessment Framework and Protocol

conduct a Trans-boundary Environmental Impact Assessment (TbEIA).

#### ARTICLE #

Procedures for conducting TbEIA including government institution jurisdictions.

### CHAPTER # CUMULATIVE IMPACT ASSESSMENT

#### ARTICLE #

- All EIAs must analyze and evaluate the cumulative impact caused by existing and future projects in the surroundings of the Project, which may trigger significant environmental or social impacts.
- In the cumulative impacts assessment report, the Project Proponent must evaluate the capacity of physical, biological and social economic resources to accommodate additional effects based on their own time and space parameters and project activities surrounding the project sites.
- Project Proponents must consider alternative mitigation measures to offset or avoid potential significant cumulative impacts

- **CHAPTER # ENVIRONMENTAL MANAGEMENT AND MONITORING**

#### ARTICLE #

The EIA Unit and Provincial/Capital Department of Environment are the monitoring authorities on Environmental Management Plans and following up on Environmental Management Plan implementation of Project Proponents by cooperation with the Ministry of Environment, relevant institutions, local authorities and stakeholders.

### CHAPTER # PROVISION OF INFORMATION

### CHAPTER # REPORTING REQUIREMENTS

#### ARTICLE #

Each development project shall prepare an Environmental Monitoring Report of the project as follows:

- A Quarterly Report (every three months) covering all environmental management and monitoring results shall be submitted to the EIA Unit;
- Within three (3) months after the financial year the Project Proponent shall prepare and

**Commented [M98]:** Per NGO Forum. Recommend referencing work on cumulative impact assessment by University of Queensland, CSRM.

**Commented [D99]:** (By: Mr. Try Horung, Forum syd) Please give local authority opportunity on decision of small scale EIA. Put them responsible before the law.



- submit an annual environmental report, including the environmental auditor's opinions;
- Provide copies of the Project's annual environmental report to the public on request without charge;
- Provide an electronic copy of the quarterly reports and annual environmental report that will be placed on the publicly accessible web-site of MoE and by the Proponent on a publicly accessible web-site.

#### **ARTICLE #**

Each development project with an EIA Approval Letter and Certificate shall submit a quarterly and semi-annual report to the EIA Unit concerning its environmental management and monitoring;

Project Proponents have the obligation to promptly report a critical environmental problem to relevant and competent authorities and to the public to avoid negative impacts to the environment or society; Project Proponents shall provide information related to environmental management of the project to MoE in accordance with the request of MoE.

### **CHAPTER # FEES AND CHARGES**

#### **ARTICLE #**

The Project Proponent is liable for all expenses incurred in preparation of the Initial Environmental Examination (IEE) report or the Environmental Impact Assessment (EIA) report and for the expenses for project screening, for project scoping, for the public participation process, for the review and comment on the IEE or EIA report by MoE, for reviewing Environmental Monitoring Report, and for the work of the Expert Review Committee.

#### **ARTICLE #**

The Project Proponent is liable for the expenses of the preparation and implementation of the Environmental Management and Monitoring Plan (EMP) and costs to cover implementation and monitoring of measures on reduction of the impacts on environment and society as delineated in the EMP and SDP.

The Project Proponent shall have a deposit [reserved] budget or insurance budget for the management of environmental and social risks which shall be determined by the MoE.

#### **ARTICLE #**

A detailed budget of estimated costs for environmental impact mitigation measures that must be included in the EMP shall be borne by the Project Proponent.

The cost of making documents publically available, including web-site access, as stipulated in Article 40 of this law shall be borne by the Project Proponent.

All costs to adjust or improve the mitigation measures and project monitoring programme as stipulated in Article 43 of this law shall be borne by the Project Proponents.

All expenses for dispute resolution in both inside and outside of the court system as stipulated in Article 65 of this law are the responsibility of the Project Proponent.

Service fees and other charges shall be determined by an Inter-ministerial Prakas between the MoE and the Ministry of Economy and Finance.

#### **ARTICLE #**

When the Project Proponents submit application for review and comment on IEE or EIA report, MoE has the duty to collect fees and service charges as provided in an Inter-Ministerial Prakas between MoE and Ministry of Economy and Finance on Service Charges for reviewing EIA report.

#### **ARTICLE #**

The Project Proponent shall make payment of fees and service charges for reviewing Environmental Monitoring Report to MoE to enable MoE to carry out its duties to review monitoring reports, respond to requests for investigation of environmental complaints, and to carry out routine compliance monitoring during both construction and operation phases of the project.

#### **ARTICLE #**

~~An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.~~

#### **ARTICLE #**

~~The Project Proponent shall make payment of Environmental Endowment Fund based on the~~

~~agreement between MoE and Project Proponent, on an annual basis until the end of business, based on the type and scale of development project.~~

## ~~Title 7~~ **TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING**

- This Title will outline the principles and requirements for environmental audits and for reporting requirements under the relevant provisions of the Environmental Code. An environmental audit will be a key mechanism to ensure that permit holders and those undertaking development projects are complying with the conditions of approval. This will include EIA, IEE and environmental protection agreements as well as any conditions attached to permits or licenses or ELC.
- The Title will also establish a PROPER system for self-report of pollution by companies and a color-coded registration for environmental compliance. Companies will be designated from Green and Blue (Beyond Compliance) to Black (Compliance) to Yellow and Red (Below Compliance)
- The aim of this Title is not to increase the regulatory burden on the holder of a license or approval but to ensure that environmental and social obligations are carried out in accordance with the approval conditions.

### **CHAPTER # ESTABLISHMENT OF SELF-REPORTING FOR ENVIRONMENTAL COMPLIANCE**

### **CHAPTER # OBLIGATION TO REPORT BREACHES OF ENVIRONMENTAL CODE**

### **CHAPTER # ESTABLISHMENT OF SYSTEM OF ENVIRONMENTAL COMPLIANCE**

### **CHAPTER # REGISTER OF APPROVALS, PERMITS, LICENSES AND MONITORING REPORTS**

### **CHAPTER # UNIFIED REGISTER TO BE PUBLICALLY AVAILABLE AND EASILY ACCESSIBLE**

### **CHAPTER # ENVIRONMENTAL AUDITS**

### **CHAPTER # APPOINTMENT AND QUALIFICATIONS OF ENVIRONMENTAL AUDITORS**

**Commented [F100]:** CCC: Highly problematic. It does not work. Suggest delete.

Reporting , audit, monitoring must be independent, verifiable and include independent experts

**Commented [M101]:** e.g., PRTR

**Commented [M102]:** Per NGO Forum. Ensure mandatory audits.

**Commented [CW103]:** Audits that involve comment from communities living in the project area<sup>22</sup>

CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL  
AUDITS

CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL  
CERTIFICATION TO INTERNATIONAL STANDARDS

CHAPTER # MONITORING REPORTS TO BE REQUIRED FOR SPECIFIC PROJECT  
AND ACTIVITIES

CHAPTER # MONITORING REPORTS REQUIRED UNDER EIA APPROVALS

CHAPTER # MONITORING REPORTS TO BE PUBLICALLY AVAILABLE

CHAPTER # RIGHTS AND RESPONSIBILITIES TRAINING

**BOOK 3** ENVIRONMENTAL MANAGEMENT AND  
SUSTAINABILITY MECHANISMS

Suggest include title: Environmental instruments like:

- Polluter pay principle
- Consumer pay principle
- Stick and carrot principle
- Subsidy principle

**Book 3** - Etc.

**TITLE 1** DISASTER RISK REDUCTION AND MANAGEMENT

- The Title will provide the requirements for reducing disaster risk by proper planning and incorporating risk reduction strategies into natural resource management decisions.
- Climate change strategy and action plan for disaster and management

CHAPTER # DISASTER MANAGEMENT PLANNING

CHAPTER # INCORPORATION OF RISK-REDUCTION PLANNING

CHAPTER # DEVELOPMENTS TO TAKE INTO ACCOUNT DISASTER  
MANAGEMENT PLANNING

CHAPTER # PLANNING FOR MAJOR POLLUTION INCIDENTS

Commented [M104]: Per NGO Forum. Link to risk identification and mitigation plans.

Commented [F105]: CCC: To include risk based due diligence in the context of monitoring. Or at least ensure ref to risk based due diligence somewhere in the monitoring chapter

Commented [M106]: Per NGO Forum. Propose "Responsible Business Conduct". Will promote better policy coherence with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises

Move Chapter to Book 7 Environmental Education and Awareness?

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**CHAPTER # RESPONDING TO ENVIRONMENTAL DAMAGE**

**CHAPTER # DISASTER MANAGEMENT FOR PROTECTED AREAS AND  
HERITAGE LOCATIONS**

**CHAPTER # MANAGEMENT OF DISASTERS AT WASTE FACILITIES**

**CHAPTER # MANAGEMENT OF DISASTERS AT ENERGY PRODUCTION AND  
STORAGE FACILITIES**

**CHAPTER # MANAGEMENT OF DISASTERS AT CHEMICAL FACILITIES**

**CHAPTER # OBLIGATION TO REPORT POTENTIAL DISASTERS**

**TITLE 2 CLIMATE CHANGE ADAPTATION AND MITIGATION**

- This Title will outline how to mainstream Climate Change assessment into the management of natural resources in Cambodia. Adopting existing strategies to adapt to and mitigate the impacts of climate change in Cambodia, this Title will provide the details on how those matters should be taken into consideration during the EIA process and the natural resource management process.
- The Title will incorporate international climate change mechanisms such as REDD+ CDM and other climate change mechanisms into Cambodia law.
- This Title will outline how to reduce greenhouse gas emissions by Cambodia and the promotion of Green Growth.
- This Title will also link to Title 6 – Sustainable Energy and ~~Book 8 Title 1~~ – Environmental Incentives.
- It will also address some key issues in relation to other relevant Titles, including building resilience to climate change through planning and construction standards (referencing Book 2 ~~Book 2 Title 3~~ – Urban Land Use Planning and ~~Title 4 Title 3~~ – Sustainable Cities)
- Climate change adaptation and mitigation technologies
- NAMA, low carbon development and Paris agreement
- 

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**CHAPTER # OBLIGATION TO ADDRESS CLIMATE CHANGE**

**CHAPTER # INCORPORATING CLIMATE CHANGE MITIGATION IN ALL  
NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS**

**CHAPTER # INCORPORATION OF CLIMATE CHANGE ADAPTATION IN ALL  
NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS**

**TITLE 3      SUSTAINABLE CONSUMPTION AND PRODUCTION**

Commented [M107]: Per Z. Fadeeva.

- This Title will address the issues of resource use, inclusive manufacturing, consumption, product requirements, public procurement, etc.

**TITLE 4      SUSTAINABLE CITIES**

- This Title will require that land use planning and management for urban areas be conducted to promote sustainable and resilient cities.
- It will ensure that planning takes into account long-term impacts on urban areas, including climate change, energy, water, population and economic development.
- It will also examine the management of trees along public roads and the development of people and nature friendly cities, including the promotion of renewable energy in urban areas.
- Establishment of special institution to promote capacity building and technical education on sustainable cities

**CHAPTER # DEVELOPMENT OF SUSTAINABLE URBAN CENTRES**

**CHAPTER # MAKING A SUSTAINABLE CITY PLAN**

**ARTICLE #**

Measuring progress towards sustainability

**CHAPTER # ESTABLISHMENT OF RECYCLING PLANS FOR URBAN AREAS**

**CHAPTER # PROMOTING ENERGY EFFICIENCY**

The following points should be added in this chapter:

- Training on energy efficiency
- Energy label
- Incentive and penalty on energy efficiency implementation

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## CHAPTER # SETTING OF ENERGY EFFICIENCY STANDARDS

## CHAPTER # SETTING OF STANDARDS FOR GREEN BUILDINGS

The following points should be added in this chapter:

- Energy efficiency benchmarking for building, industries, end-user products, power plant for rural electrification
- Procedure for monitoring on the implementation of energy efficiency
- Energy audit
- Provision of independent institute for testing and measure

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## CHAPTER # INTERIM ADOPTION OF INTERNATIONAL STANDARDS

## CHAPTER # CREATION OF SUSTAINABLE AND BETTER HOUSING

### ARTICLE #

Identifying and remedying threats to human and environmental health in existing housing stock

### ARTICLE #

Implementing an environmentally sound, sustainable and affordable social housing programme

## CHAPTER # OPEN SPACE, PUBLIC PARKS AND GREEN SPACES

## CHAPTER # ENSURING CLIMATE RESILIENCE IN URBAN AREAS

## TITLE 5 SUSTAINABLE TOURISM AND ECO-TOURISM

- This Title will create a framework for encouraging appropriate eco-tourism activities in Cambodia.
- Eco-tourism activities include small scale, community based tourism opportunities.
- This Title will also create a framework to promote sustainable tourism in general, including larger scale tourism with reduced environmental impact.

Commented [SL108]: Caution re this chapter. It could easily become a marketing /PR exercise and does assume that all ecotourism is good. Which is not necessarily the case. If land is taken from communities by developers in the pursuit of ecotourism, issues around consent, loss of livelihoods remain

**CHAPTER # PROMOTION OF ECOTOURISM AND SUSTAINABLE TOURISM AS  
DEVELOPMENT PRIORITIES**

Commented [SL109]: Impacted communities need to determine if this is a development priority

**CHAPTER # DESIGNATION OF SPECIAL ECOTOURISM AREAS**

**ARTICLE #**

Ecotourism in protected areas or wildlife reserves

**ARTICLE #**

Zoning for ecotourism

**CHAPTER # FINANCIAL INCENTIVES FOR ECOTOURISM OPERATIONS**

Commented [CW110]: Eligibility guidelines for these must be very clear.

**CHAPTER # ECOTOURISM OPERATIONAL STANDARDS (COMMUNITY  
GUIDELINES, COMMUNITY MANAGEMENT, COMMUNITY FUND, ETC.)**

**ARTICLE #**

Standards for ecotourism benefits to the local economy

**ARTICLE #**

Protecting cultural heritage

**ARTICLE #**

Independent Certification of Ecotourism

**CHAPTER # MARKETING AND PROMOTION OF ECOTOURISM**

**ARTICLE #**

Regulating false claims in ecotourism

**CHAPTER # SUSTAINABLE TOURISM: DEVELOPING STANDARDS, GUIDELINES,  
AND APPLICATION FOR THE GENERAL TOURISM SECTOR**

**ARTICLE #**



Independent certification for sustainable tourism

## CHAPTER # CODE OF CONDUCT FOR ECO-TOURISM DEVELOPMENT

### TITLE 6 **SUSTAINABLE ENERGY**

- This Title will set goals and standards for the development of sustainable energy for Cambodia.
- This Title will address sustainable energy for all aspects of energy issues, including access, efficiency, and renewables.
- It will detail the mechanism to achieve the rapid development of energy sources in Cambodia, with a focus on alternative, carbon-free or low carbon energy sources, such as hydropower, wind energy, solar energy, biogas, geothermal, tidal energy and nuclear energy.
- It will also examine the development of oil and gas as energy sources in a manner that promotes sustainable development and transparency.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

### CHAPTER # SUSTAINABLE ENERGY PLAN

The following points should be added in this chapter:

- Adoption Feed-in Tariff (FIT) for renewable energy sources

### ARTICLE #

Procedures for developing a Sustainable Energy Plan

### ARTICLE #

Setting targets for percentage of renewable and non-renewable energy production sources

## CHAPTER # STANDARDS AND TECHNOLOGY FOR SUSTAINABLE ENERGY

Commented [M111]: Per STWG 3/5 Members.

Commented [M112]: Per Z. Fadeeva.

Commented [M113]: Per NGO Forum.

Commented [CW114]: Unsustainable with no ability to recycle or reuse the toxic waste from this source of energy. UN definition of sustainable development is, "development which meets the needs of the present without compromising the ability of future generations to meet their own needs."

Leaving toxic waste in the ground hinders future generations from meeting their needs.

It would be good to define exactly what is meant by sustainable before it gets applied to the production of energy

Commented [CW115]: These are not renewable, and are not sustainable in any way. Their continued use decreases the ability of future generations to meet their needs. The language here should be developing alternatives to keep oil and gas in the ground. The current language speaks volumes to the insincerity of the entire document

Other renewable energy sources like wind energy and other new energy technology like hydrogen should be mentioned in the code.

**ARTICLE #**

Standards for approval of proposed hydropower projects

**Commented [M116]:** Per NGO Forum. Limit large- and medium-scale hydropower with preference for small-scale projects.

**ARTICLE #**

Issuing of permits for hydropower projects

**ARTICLE #**

Standards for management of hydropower projects

**Commented [M117]:** Per NGO Forum. Reference HSAF and HSAP.

**ARTICLE #**

Standards for approval of proposed wind and solar projects

**Commented [CW118]:** Limit large-medium scale projects in these sectors as well  
Small-scale projects have smaller carbon offset problems

**ARTICLE #**

Issuing of permits for wind and solar projects

**ARTICLE #**

Standards for management of wind and solar projects

**ARTICLE #**

Promoting the diffusion of sustainable energy technology

**CHAPTER # STANDARDS AND TECHNOLOGY FOR COAL-FIRED POWER  
PLANTS**

This comment covers all the fossil fuel power plant. It should mention in the code the mechanism of monitoring the utilization of fossil fuel resources which are exploited in Cambodia.

**Commented [M119]:** Per NGO Forum. Recommend Cambodia follow international trend of practices and standards that limit the use of coal.

**ARTICLE #**

Standards for approval of proposed coal-fired power plants

**ARTICLE #**

Issuing of permits for coal-fired power plants

**ARTICLE #**

Standards for management of coal-fired power plants

**CHAPTER # STANDARDS AND TECHNOLOGY FOR NATURAL GAS-FIRED  
POWER PLANTS**

**ARTICLE #**

Standards for approval of proposed natural gas-fired power plants

**ARTICLE #**

Issuing of permits for natural gas-fired power plants

**ARTICLE #**

Standards for management of natural gas-fired power plants

**CHAPTER # PROVISION OF CLEAN ENERGY FOR RURAL COMMUNITIES**

Some small rural electricity enterprise (REE) are using biomass power plant for generating electricity. These plants cause environmental impact (water and air) to the surrounding. The current EIA does not target power plants whose capacity is smaller than 5 MW.

A new title or chapter should be created to talk about recycling energy material like PV module, battery, and electronic device etc.

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**ARTICLE #**

Extending the energy grid and promoting smaller-scale energy production.

Commented [M120]: Per NGO Forum.

**CHAPTER # DEVELOPMENT OF MICRO AND MINI-GRID SYSTEMS**

The energy service in rural area are currently under the responsibility of REEs (Rural Electricity Enterprises). However, these REEs focus mainly on the grid extension in the most populated area, while ignoring the most remote in their licensing zone. The use of solar power for rural electrification is not interested by energy service provider. A subsidy and regulation should be established to push the use of sustainable energy sources for rural electrification and also in order to accelerate the electrification rate of rural households.

## TITLE 7 **SUSTAINABLE EXTRACTIVE INDUSTRIES**

- This Title will examine the Laws relating to Mining in the provision of sustainable economic benefits to Cambodia.
- This will link to the Title on EIA, to promote efficient and effective extractive industry development in Cambodia.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

### CHAPTER # **ADOPTION OF BEST PRACTICE IN EXTRACTIVE INDUSTRY**

This chapter will include, but is not limited to, best practices related to assessment of gender impacts, resettlement, FPIC, human rights impacts and due diligence (including access to remedy), meaningful stakeholder engagement (including access to information and participatory decision making, use of security personnel, waste management (tailings management, riverine waste disposal, water usage and treatment, corruption, bribery, facilitation payments, and extractives infrastructure (road, rail, ports, energy grids).

### ARTICLE #

Extractive Industries Transparency Initiative (EITI) requirements and standards

### CHAPTER # **ADDRESSING CUMULATIVE IMPACTS**

### CHAPTER # **FINANCIAL AND ECONOMIC ARRANGEMENTS TO ENSURE PROPER SITE MANAGEMENT**

### CHAPTER # **PROVISIONS AND FINANCING FOR CLOSURE (INCLUDING PLANS) AND REHABILITATION, REMEDIATION AND RESTORATION OF**

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**Commented [M121]:** Per STWG 3/5 Members.

**Commented [M122]:** Per NGO Forum. Review of translation needed per 6 April Workshop comments.

Frame Title within "Do No Harm" and rights-based, due diligence framework.

Link to newly established Extractive Industry Governance Framework Platform.

**Commented [F123]:** CCC: It was noted on April 6 meeting there are significant translation inaccuracies in this Title / Book

**Commented [F124]:** find the detoa; inputs/recommendations from Oxfam and DPA in the recommendation form

**Commented [SL125]:** Highly recommend review of Oxfam (Australia and America) work on best practice in extractives.

<https://www.oxfam.org.au/what-we-do/mining/>

<http://politicsofpoverty.oxfamamerica.org/category/resource-rights/>

Also review ICMM sustainable development framework, principles and guidance.

<http://www.icmm.com/our-work/sustainable-development-framework>

<http://www.icmm.com/document/9520>

and OECD Meaningful stakeholder Engagement and Due Diligence in the Extractives Sector

<https://mneguidelines.oecd.org/OECD-Guidance-Extractives-Sector-Stakeholder-Engagement.pdf>

and related OECD Guidance on conflict minerals and gold

See also:

<https://www.csr.uq.edu.au/publications/agreement> ... [1]

**Commented [M126]:** NGO Forum. References for best practices in extractives provided in comment.

**Commented [M127]:** Per NGO Forum.

**Commented [M128]:** Per NGO Forum. Cambodia is not an "EITI Candidate Country".

**Commented [M129]:** Per NGO Forum. Link to EIA section.

**Commented [SL130]:** This will need to include language and provisions around benefit-sharing, noting that impacted communities need to participate in negotiating benefit sharing arrangements / compensation on a case-by-case ... [2]

## EXTRACTIVE INDUSTRY SITES

### CHAPTER #

### # LICENSING AND PERMITTING SYSTEM FOLLOWING EIA APPROVAL

### CHAPTER # SAND MINING

### CHAPTER # ROCK AND AGGREGATE MINING

### CHAPTER # MINERALS

### CHAPTER # METAL MINING

### CHAPTER # OIL AND GAS

## BOOK 4 SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES AND ECOSYSTEMS

### Should include Titles as following:

- Ecosystem approaches for natural resource and ecosystem management
- Adaptive management approaches for natural resource and ecosystem management
- Conflict management for natural resource and ecosystem management
- Local knowledge systems for natural resource and ecosystem management
- Good governance system for natural resource and ecosystem management

### Book 4

## TITLE 1 COLLABORATIVE MANAGEMENT OF NATURAL RESOURCES

- The Title would examine options for community use of natural resources, hunting, community fishing and use of land for sustainable community needs.
- To include a revision of current CF and CPA procedures. Address CFi and CBET (provisions for ecotourism under development) under a unified management framework.
- This title will contain or reference the outcome of an ongoing, concurrent process to

Commented [M131]: Per NGO Forum. Including required insurance, bond or fund for decommissioning costs.

Commented [SL132]: Must be linked to FPIC.

Commented [SL133]: Suggest include something about cross checking with other ministries, and generally best practice for issuing of licences. Note, it is known that the greatest risk of bribery and corruption is at the licencing / project expansion phase. So need to include something on that in this chapter

Commented [M134]: Pper STWG 3/5. New Book.

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Commented [M135]: Per Mang M. Recommend applying decentralization and deconcentration reform to speed up lengthy 11-step process for establishing Community Forestry as outlined in the 2006 Prakas on CF. Need translation.

Commented [M136]: Per Mang. M.

Commented [M137]: Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.

- This Title will include provisions as relates to the Title on Collaborative Management of Conservation Landscapes in the Book on Conservation and Protection of Biodiversity and Cultural Heritage (as relates to the ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources).

## ~~Title 1~~ **TITLE 2 SUSTAINABLE WATER RESOURCES MANAGEMENT**

- This Title will provide details of water management and water planning. Plans for water management should be prepared under the provisions of ~~Book 2~~ Title 1 Book 2 ~~Title 1~~ dealing with National, Regional and Local Management Plans.
- This will need to consider the benefit-sharing arrangements for the use of transboundary watercourses in accordance with international legal obligations.
- Waste water and water pollution will be dealt with in Book 6 Waste and Pollution Management and Sustainable Production.

Should consider including:

- Domestic water use (water supply and irrigation).....
- Groundwater exploitation ....
- Environmental flow....

- Water use from surface and groundwater should be managed to ensure sustainable management of natural resources and ecosystem. At the meantime, overexploitation can also cause more damage to riverine biodiversity, thus, environmental flow should be taken into consideration for all kind of water infrastructure development.

### **CHAPTER # WHOLE-OF-CATCHMENT CONCERNS (INCLUDING RELATIONSHIPS BETWEEN UPPER AND LOWER RIVER REACHES AND BETWEEN DIFFERENT USERS)**

**Commented [M138]:** Proposed revision to “co-management” by STWG 3/5 is “collaborative management.”

**Commented [M139]:** Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

**Commented [M140]:** STWG 3/5 proposes the term “collaborative management” (easier to understand in Khmer and English; “co-management” is apparently already misunderstood).

**Commented [M141]:** Per STWG 3/5 Members.

**Commented [SL142]:** Will need to link to hydropower and HSAF /HSAP

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**CHAPTER # IDENTIFYING AND QUANTIFYING (THROUGH MONITORING AND MAPPING) ALL SURFACE AND GROUND WATER SOURCES**

**CHAPTER # IRRIGATION SYSTEM AND WATER SUPPLY FOR AGRICULTURAL PURPOSES**

**Commented [M143]:** Per NGO Forum. Ensure irrigation systems do not capture rice field water.

**CHAPTER # EROSION CONTROL (RIPARIAN ~~AND WETLAND~~ VEGETATION MANAGEMENT)**

**Commented [M144]:** Per NGO Forum. Including wetland rehabilitation and policies to preserve remaining wetlands.

Link to Protection of Plants, Important Habitats and Significant Ecosystems Title.

**CHAPTER # MAN-MADE WATERWAY**

**CHAPTER # WATER RESERVOIRS FOR PUBLIC USE (REFERENCING URBAN PLANNING IN ~~BOOK 2~~TITLE 3~~BOOK 2~~ TITLE 3)**

**CHAPTER # GROUNDWATER MANAGEMENT**

**Commented [M145]:** NGO Forum. Include community participation and regional planning for wells.

**ARTICLE #**

Establishing requirements for monitoring wells, with triggers for conservation measures if such wells fall below a **critical level**

**Commented [M146]:** Per NGO Forum. Clear and precise definition required.

**CHAPTER # ALLOCATION AND TRADE OF ENTITLEMENTS TO USE WATER**

**ARTICLE #**

Groundwater

**ARTICLE #**

Rivers, streams and lakes

**CHAPTER # INTRODUCING MONITORING AND REPORTING SYSTEMS (IN REFERENCE TO ~~BOOK 2~~ TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING)**

**ARTICLE #**

Mandatory reporting of normal emissions and effluents.

**ARTICLE #**

Mandatory reporting of sudden discharges during maintenance or accidents

### ~~Title 2~~ **TITLE 3** COASTAL ZONE MANAGEMENT

- This Title will provide a planning framework for the use and management of the marine and coastal zone.
- It will provide details for the management of tourism and economic development in the marine and coastal zone. It will adopt strong interim controls and safeguards to protect the marine and coastal zone from poor development.
- This will include existing areas receiving special treatment and a system for designating new areas for development, including existing and proposed new institutional management.

Commented [F147]: Marine and Coastal Resources Management are broader than Coastal Zone Management within limited activities in only 5km seaward from the shoreline (coastal water) and not include Territorial Zone, Contiguous Zone, and EEZ

#### CHAPTER 1. GENERAL PROVISIONS

1) The Kingdom of Cambodia finds that there is a national interest in the effective management, beneficial use, protection, and development of the marine and Coastal Zone.

2) The appropriate ministry shall have the authority to manage natural resources of all waters and lands, both emergent and submerged, in the marine and Coastal Zone of the Kingdom of Cambodia, and to oversee and regulate all development or other activities affecting the waters, lands and associated natural resources of the marine and Coastal Zone.

2) Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, the appropriate ministry shall:

(a) Take full account of and minimize the potential impacts to Coastal Waters by managing natural resources and human activity in the coastal watershed, consisting of the river basins that flow directly to the Gulf of Thailand.

(b) Manage natural resources and human activity in the Coastal Zone in a fully integrated way, in order to avoid or minimize unintended impacts to Coastal Waters.

(c) Actively and comprehensively manage all land-based and shoreline sources of solid, liquid and airborne environmental contaminants that may enter Coastal Waters.

3) All activity, development, construction, mining or other type of projects which have an impact



on natural resources in the marine and Coastal Zone shall be subject to an EIA.

4) International Cooperation on Marine Environmental Matters

1. The Kingdom of Cambodia strongly promotes international cooperation on marine environmental matters with countries and regional and international organizations on the basis of international law and respect for independence, sovereignty and territorial integrity, equality and mutual benefit.

2. International cooperation on marine environmental matters includes:

(a) Marine environmental surveys and researches; scientific, technical and technological applications;

(b) Climate change response, natural disaster prevention, control and warning;

(c) Protection of marine biodiversity and ecology;

(d) Prevention and combat against marine environmental pollution, treatment of waste discharged from maritime economic activities, and response to oil spill incidents;

(e) Sustainable exploitation of marine resources and development of sea tourism.

## CHAPTER 2: COASTAL SUBZONES

1) The maritime zones of Cambodia cover the internal water, territorial sea, contiguous zone, exclusive economic zone and continental shelf under Cambodia's sovereignty, sovereign rights and jurisdiction, determined in accordance with Cambodian law, the treaties on boundaries and territory to which the Kingdom of Cambodia is a contracting party and in conformity with the 1982 United Nations Convention on the Law of the Sea.

24) The Coastal Zone shall be considered to consist of three subzones:

(a) Coastal Waters – Those waters extending seaward 5 km. from the shoreline, including the associated submerged lands.

(b) Coastal Lands – Those emergent lands extending inland from the shoreline for a distance of 5 km, including the intertidal zone.

(c) Coastal Watershed – The entirety of the combined watersheds draining to the marine waters of Cambodia.

23) The appropriate ministry shall develop regulations appropriate to each subzone in order to manage proposed future development and associated natural resources impacts.

### CHAPTER 3. MARINE AND COASTAL ZONE MANAGEMENT MANDATES

Pursuant to this authority, the appropriate ministry shall:

1) Consistent with the responsibilities listed in Article 5 of the Royal Decree on The Establishment of a National Committee on Coastal Zone Management and Development of Cambodia *[The status of this committee needs to be considered]*, undertake the following roles and responsibilities:

- (a) Prepare policies, strategic plans, master plans, action plans, programmes, and various projects pertaining to coastal management and development.
- (b) Produce necessary regulation and guidance to ensure the transparent, equitable, and sustainable management of the Coastal Zone.
- (c) Review and take any necessary action in regard to any passive activities affecting the environment and natural resources of the Coastal Zone.
- (d) Review and evaluate every project proposed for development and implementation in the Coastal Zone to ensure compliance with guidelines for Coastal Zone development issued by the Royal Government.
- (e) Participate in checking and providing comments to competent institutions on investment proposals that may impact the Coastal Zone.
- (f) Review, monitor, and mediate all activities undertaken, or planned to be undertaken, by ministries, institutions, sub-national administrations, national and international organisations, non-government organisations, civil societies, and private sectors that may have impacts in the Coastal Zone so as to ensure that their activities are coordinated in a smooth, effective, and sustainable fashion.
- (g) Provide guidance on laws and regulations governing Coastal Zone development to the sub-national administration, the private sector, and all other relevant stakeholders.
- (h) Submit a yearly report on Coastal Zone management activities for submission to the Royal Government.

2) Produce and openly distribute maps of the Coastal Zone and its subzones, so that all parties,

Commented [F148]: Maritime zones,

both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.

3) Ensure that all proposed developments in the Coastal Waters, Coastal Lands, and Coastal Watershed are consistent with the applicable zoning restrictions applying to these lands and waters. Development projects that are found to be inconsistent with such zoning shall not be allowed.

4) Consistent with the current Law on Fisheries, NS/RKM/506/11, ensure that coral reefs, sea grass and mangroves are designated Coastal Zone aquatic resources of special value, and are accorded protected status, and updated maps of the location and extent of these resources shall be prepared based on the existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014.

5) Ensure that any activity, construction, or other type of project that results in loss of coral reef, sea grass or mangroves shall be prohibited except under special permit from the appropriate ministry. In issuing such a permit, the following criteria must be applied:

(a) It must be demonstrated that there is no practical alternative site for the proposed activity, construction, or type of project that would avoid the loss of coral reef, sea grass or mangroves.

(b) If a certain degree of loss is unavoidable due to the requirements of the activity, construction, or other type of project, then best management practices must be specified in the permit issued by the appropriate ministry that will serve to minimize the total loss of coral reef, sea grass or mangroves. Failure to follow these best management practices shall be considered a permit violation, and the permittee subject to a fine set by the appropriate ministry.

(c) If an unavoidable loss of coral reef, sea grass, or mangroves is permitted, then the permittee must enter into an agreement with the appropriate ministry to ensure that an area of the same ecosystem type, and of same or greater quality, be set aside in permanent protected status as a mitigation offset. Because the benefit stream from protection of the mitigation area is probabilistic, a function of the year by year likelihood the habitat would be lost if not protected and not certain to be lost otherwise, a ratio of three times shall be applied on an areal basis. Such mitigation offsets may be added to existing protected areas in order to satisfy this requirement.

6) Produce updated maps of Future Inundation Hazard Areas for the coastal lands of Cambodia, based on existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014. Such Future

**Commented [M149]:** Link to process and system for access to and distribution of other environmental information, e.g., environmental information data repository.

**Commented [F150]:** Maritime zone,

**Commented [M151]:** Per M. Barash.

**Commented [M152]:** Per M. Barash. New text and mitigation ratio.

Inundation Hazard Areas shall consist of all areas of the Cambodian coastal lands that are projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

7) Ensure that development of roads, resorts, industrial facilities and other major construction or infrastructure shall not be allowed in Future Inundation Hazard Areas unless it can be demonstrated to the appropriate ministry that such developments are specifically designed to withstand such future inundation. Construction of homes, landfills, and power plants shall not be allowed in such zones.

8) Regulate the discharge of dredged and fill material into the waters of the coastal watershed through a permitting system. Applicants for such permits must demonstrate that they have taken all reasonable steps to avoid and minimize impacts to streams, wetlands, and marine waters within the Coastal Zone.

9) Evaluate the effects of current and proposed hydropower development projects on the natural resources of the Coastal Zone, and provide recommendations for minimizing or mitigating such impacts.

10) Preservation and protection of marine resources and the marine environment

(a) When operating in the maritime zones of Cambodia, vessels, organizations and individuals shall observe all provisions of Cambodian laws and relevant international law relating to the preservation and protection of marine resources and the marine environment.

(b) When transporting, loading or unloading goods or equipment that may cause damage to marine resources and human life, or may pollute the marine environment, vessels, organizations and individuals shall use specialized facilities and measures as prescribed to prevent and minimize the possible damage to human beings, marine resources and the environment.

(c) Vessels, organizations and individuals may not discharge, sink or dump industrial waste, nuclear waste or other toxic waste in the maritime zones of Cambodia.

(d) Vessels, organizations or individuals causing harmful effects to the marine resources and environment in the maritime zones of Cambodia, seaports, harbors or piers, in violation of the provisions of Cambodian law and relevant international law, shall be dealt with in accordance with the provisions of Cambodian law and treaties to which the Kingdom of Cambodia is a contracting party; those vessels, organizations or individuals are responsible for cleaning up and restoring the environment, and compensate for any damage as prescribed by law.

(e) Organizations or individuals operating in the maritime zones of Cambodia are obliged to pay taxes, fees, charges and other contributions for environmental protection in accordance with the provisions of Cambodian law and treaties to which the Kingdom of Cambodia is a contracting party.

#### CHAPTER 4. COASTAL ZONE MANAGEMENT DISCRETIONARY AUTHORITIES

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Develop watershed management plans for each major river basin in the Coastal Watershed, including at a minimum the Kampot, Pongrol, Areng, Tatai, and Koh Pao river basins. Such plans shall contain:

- (a) A description and characterization of the watershed.
  - (b) A strategy to control sedimentation and pollution within the watershed.
  - (c) Proposed management measures.
  - (d) Monitoring and evaluation protocols to measure the success of the sedimentation and pollution controls.
- 2) Assist in education and development of human resources to properly address Coastal Zone management and development.

#### CHAPTER # PLANNING FOR CLIMATE CHANGE IN COASTAL ZONE MANAGEMENT

#### CHAPTER # ROLES AND RESPONSIBILITIES OF MINISTRIES

#### CHAPTER # ROLES OF CITIZEN AND COMMUNITIES

#### CHAPTER # REQUIREMENTS FOR PUBLIC CONSULTATION

#### CHAPTER # PROMOTION OF SUSTAINABLE DEVELOPMENT IN THE COASTAL ZONE

#### ~~Title 3~~ **TITLE 4 SUSTAINABLE LAND MANAGEMENT**

- This Title will review the role and functions of Economic Land Concessions and the implementation of projects on ELCs.

Commented [M153]: Per STWG 3/5 Members.

Commented [CW154]: Add section that discusses the role and function of ELC inside protected area

- This title will also include selected revisions of the current Cambodian Land Management Framework.
- This title will establish a framework for soil protection and management

**CHAPTER # PROCEDURES FOR GRANTING, MONITORING AND TERMINATING  
ELCS**

**CHAPTER # MANAGEMENT OF ELCS, INCLUDING MANAGEMENT PLANS,  
TRANSPARENCY, AND RELATION TO SUSTAINABLE TIMBER  
PRODUCTION AND BIODIVERSITY RESTORATION**

**CHAPTER # – REVISIONS OF THE CURRENT CAMBODIAN LAND MANAGEMENT  
FRAMEWORK.**

**ARTICLE #**

Reviewing land cadastral system and making changes as needed (considering problems of transference of title, mistaken title, etc.).

**ARTICLE #**

Procedures for expedited land titling.

**ARTICLE #**

Increasing land security among the poor, including streamlining and clarification of indigenous peoples' communal land rights and possession rights.

**ARTICLE #**

Consistent land tenure approaches for Community Protected Areas, Community Forests and Co-management areas.

**ARTICLE #**

Formalizing and regulating informal settlements.

**CHAPTER # – SOIL PROTECTION AND MANAGEMENT**

**Commented [CW155]:** This suggests the granting of ELC is set to resume.

**Commented [CW156]:** That include FPIC, attention to laws protecting the rights of indigenous people, Human Rights standards

**Commented [CW157]:** This needs to be integrated with the 'Management of ELCs' above. Inadequate cadastral management should not result in companies claiming community land.

**Commented [M158]:** Per STWG 3/5 Members. Revise Title to Chapter for Soil Protection and Management within Title for Land Management.

- This Chapter will set out the procedures for developing a national policy of soil protection and management.
- Soil is generally a forgotten element of environmental law. Where water resource, air or biodiversity benefit from a status of protection, soil issues are split into different branches of the law, regarding different activities. Therefore, land degradation and land restoration mechanisms are not built according to a standard of environmental quality, but according to the uses planned by different stakeholders. This chapter will provide a proper soil status in environmental law.
- It will include provisions on the use of fertilizers, pesticides, herbicides and other agricultural chemicals.
- It will also include provisions to create a programme to monitor soil health.

Commented [M159]: Per M. Descrousseaux.

#### **ARTICLE 1 SUBJECT-MATTER AND SCOPE**

This Chapter establishes a framework for the protection of soil and the preservation of the capacity of soil to perform any of the following environmental, economic, social and cultural functions:

- (a) Biomass production, including in agriculture and forestry;
- (b) Storing, filtering and transforming nutrients, substances and water;
- (c) Biodiversity pool, such as habitats, species and genes;
- (d) Physical and cultural environment for humans and human activities;
- (e) Source of raw materials;
- (f) Acting as carbon pool;
- (g) Archive of geological and archeological heritage.

To that end, it lays down measures for the prevention of soil degradation processes, both occurring naturally and caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. Such measures include the mitigation of the effects of those processes, and the restoration and remediation of degraded soils to a level of functionality consistent at least with the current and approved future use.

#### **ARTICLE 2**

Soil is a common heritage, and its protection is in the public interest.

### **ARTICLE 3**

Land planning policies must take into account the scarcity of the soil and integrate soil functions and services in order to ensure the appropriate and economic use of the land and its properly ordered settlement.

### **ARTICLE 4**

Obligations to Prevent Hazards:

(1) Any person who is by his action affecting the soil shall act in such a manner that harmful soil changes do not occur.

(2) The property owner and the occupant of a real property shall be obligated to take measures to prevent harmful soil changes originating from their property.

(3) The party who caused a harmful soil change or a contaminated site, and his universal successor, as well as the relevant property owner and the occupant of the relevant real property, shall be obligated to remediate the soil and contaminated sites, and any water pollution caused by harmful soil changes or contaminated sites, in such a manner that no hazards, considerable disadvantages or considerable nuisances for individuals or the general public occur in the long term. In cases of burdens from pollutants, in addition to decontamination measures also securing measures are to be taken into consideration, that permanently prevent spread of pollutants. Where such measures are not possible or cannot be reasonably required, other protection and restriction measures shall be carried out. Persons who, for reasons of commercial law or company law, are required to answer for a legal entity that owns a real property that is encumbered with harmful soil changes to the soil or site contamination, and persons who give up ownership of such properties, is also obliged to carry out remediation.

(4) As part of fulfilment of obligations relative to the soil and to contaminated sites, pursuant to paragraphs (1) through (3), the permissible use of the piece of land under planning law, and the resulting protection requirements, shall be taken into account, as far as this is compatible with the protection of the soil functions. If relevant determinations under planning law are lacking, the nature of the relevant area, taking into account its expected development, shall determine the requirements for protection. The requirements to be fulfilled in connection with rehabilitation of bodies of water shall be determined by law pertaining to water.

(5) If harmful soil changes or contaminated sites have occurred after *(to be determined)*, pollutants shall be eliminated, where this is a reasonable requirement with respect to the previous



soil pollution. This shall not apply to a party who, at the time the pollution was caused, expected that such impacts to the soil would not occur because he had fulfilled the applicable legal requirements, and whose good faith is worthy of protection, taking the circumstances of the relevant individual case into account.

(6) The former owner of a real property is obligated to carry out remediation if he has transferred his property after (to be determined), and if he was aware of, or should have been aware of the relevant harmful soil change or site contamination. This shall not apply to a party who, when purchasing the real property, confided that such harmful soil changes or contaminated sites would not be present, and whose confidence is worthy of protection, taking the circumstances of the relevant individual case into account.

#### ~~Title 4~~ **TITLE 5** SUSTAINABLE FORESTRY

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable timber management.

##### The following chapters need to be addressed:

- REDD+ mechanism
- Civil society involvement in planning, monitoring, utilization and exploitation of forest products
- Sustainable woodfuel consumption, including harvesting and use
- Private forest area
- Siviculture, agroforestry, integrated farming
- Eco-tourism

Suggest adding Chapter # Standards require for SFM

##### o Sustainable and optimal production of forest

#### **CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FORESTRY SECTOR; OBJECTIVES AND LIMITATIONS OF SUSTAINABLE TIMBER MANAGEMENT**

#### **CHAPTER # DEVELOPMENT OF SUSTAINABLE FORESTRY MANAGEMENT PLANS**

#### **CHAPTER # PROHIBITION OF THE CUTTING, REMOVAL, TRANSPORT, EXPORT AND USE OF TIMBER WITHOUT A PERMIT GRANTED IN**

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**Commented [CW160]:** Plantation timber is fine  
It is vital that these plantations grow on already cleared land and not convert existing forest for the purpose of growing plantation timber

**ACCORDANCE WITH THE CODE**

**CHAPTER # ASSESSMENT OF APPLICATIONS FOR PERMITS TO HARVEST  
TIMBER OR EXPORT OF TIMBER**

**CHAPTER # PROHIBITION OF REMOVAL OF TIMBER ON ECONOMIC LAND  
CONCESSIONS WITHOUT THE PROPER PERMIT**

**CHAPTER # PERMIT TO CUT OR REMOVE TIMBER ONLY TO BE GRANTED  
FOLLOWING ENVIRONMENTAL ASSESSMENT OF THE ACTIVITY**

**CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-  
TIMBER FOREST PRODUCTS IN FOREST PRODUCTION ZONES;  
INCLUDING INTERNATIONAL CERTIFICATION MECHANISMS**

**CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-  
TIMBER FOREST PRODUCTS FROM COMMUNITY FORESTS,  
COMMUNITY CO-MANAGEMENT AREAS  
AND INDIGENOUS COMMUNAL TITLED LANDS**

**CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND  
OVERSIGHT OF SUSTAINABLE TIMBER MANAGEMENT OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS**

**Title 5 TITLE 6 SUSTAINABLE MARINE FISHERIES**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable marine fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on marine fishery landings, regulate fishing gear and other aspects of marine fishing.

**Commented [M161]:** Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

**CHAPTER 1 GENERAL PROVISIONS**

The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive fishery management authority over all fish and other marine fishery resources within its Exclusive Economic Zone.

The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to all types of fishing, both commercial and non-commercial, for marine fishery resources in the Exclusive Economic Zone of the Kingdom of Cambodia, including intertidal zones, also referred to collectively as the Marine Fishery Domain.

**Commented [MS162]:** What ministry should have authority over the marine fisheries. MAFF is the only agency responsible for marine fisheries management in which Fisheries Administration is the key agency under MAFF, and so it should state clearly that FiA/MAFF is the appropriate agency for marine fisheries management

The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence, and shall prevent overfishing while achieving on a continuing basis the optimum yield for any given fishery stock or stock complex. To the extent possible, individual fishery stocks shall be managed as a single unit throughout their entire range in the Marine Fishery Domain of Cambodia, rather than as individual stocks within individual provinces.

## CHAPTER 2 MARINE FISHERIES MANDATES

Pursuant to this authority, the appropriate ministry shall:

1) Require a license for all fishing activities in the Marine Fishery Domain, consistent with Article 32 of the Law on Fisheries, NS/RKM/506/11. This license shall include an annual fee in order to help support the fishery research and management activities of the appropriate ministry. The amount of the annual fee shall be determined by the appropriate ministry. Fishing without obtaining such a license shall result in a notice of violation and fine.

**Commented [M163]:** Per NGO Forum. Subsistence vs. commercial?

2) Require that all motorized fishing vessels with motors greater than 5 horsepower, if used in whole or in part for fishing purposes in the Marine Fishery Domain, be registered with the appropriate ministry. This registration shall include an annual fee. The amount of the annual fee shall be determined by the appropriate ministry. Failure to register such a vessel shall result in a notice of violation and fine. For vessels operating in the Marine Fishery Domain, this provision shall replace the registration requirement in Article 33 of the Law on Fisheries, NS/RKM/506/11.

3) Require that data on marine fishery landings be collected from all entities or individuals who purchase marine fishery resources harvested in the Marine Fishery Domain. This data collection shall take the form of a monthly report to the appropriate ministry detailing the individual types of marine fishery resources purchased (preferably identified to the level of species), the number of pieces of each type purchased, the total pounds of each type purchased, the sources from which the fishery resources were purchased, including those sources' license numbers, and the port or ports of landing for each type of purchase. This report shall be filed on a form provided

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by the appropriate ministry. Failure to file this report within 30 days of the end of each month shall result in a notice of violation and fine of not less than US\$100. Failure to file such a report for three consecutive months shall result in a notice of violation and fine of not less than US\$500. Failure to file such a report for more than three months shall result in a notice of violation and revocation of the company's or individual's business license. For the Marine Fishery Domain, this provision shall replace the daily logbook requirement in Articles 34 and 45 of the Law on Fisheries, NS/RKM/506/11, with Article 45 being hereby repealed.

**Commented [MS164]:** This is very heavy work. FiA has done best to do this, but lack of resources and staffs constrain them in fulfilling this task. It is good if this can be done, but it needs institutions responsible to provide this. I believe this is an heavy work

4) Issue an updated and revised list of all fishing gear types prohibited for sale, possession, or use in the Marine Fishery Domain, consistent with gears already banned as per Articles 20 and 21 of the Law on Fisheries, NS/RKM/506/11. In addition to the banned gears already listed in Articles 20 and 21, use of trawl gears and take of fish by spear while using SCUBA shall both also be prohibited in the Marine Fishery Domain. Any types of fishing gear not included on the prohibited list produced by the appropriate ministry shall be presumed to be allowed unless specifically designated otherwise.

**Commented [MS165]:** This has been done by FIA, but it needs reinforcement given the lack of resources and skills.

5) In cooperation with the Ministry of Foreign Affairs, establish a system by which foreign fishing vessels may purchase fishing rights to harvest marine resources in the Exclusive Economic Zone of the Kingdom of Cambodia. The amount of the annual fee for obtaining such fishing rights shall be determined by the appropriate ministry. Continued retention of such fishing rights by any foreign fishing vessel shall be contingent upon the maintenance of a daily logbook detailing the number of daily gear sets, and the weight and type of daily catch, with the logbook open to examination by the appropriate ministry upon request; and the filing of a monthly catch report with the appropriate ministry detailing the individual types of marine fishery resources harvested (preferably identified to the level of species), the number of the total pounds of each type harvested, and the port or ports of landing for the catch. Foreign fishing vessels purchasing fishing rights in the EEZ of the Kingdom of Cambodia must also comply with the following terms and conditions:

**Commented [MS166]:** This is a new

(a) The owner and operator of any foreign fishing vessel will abide by all laws of the Kingdom of Cambodia;

**Commented [MS167]:** Law enforcement is key in marine fisheries, and in doing so, zoning the marine fishery domain will improve law enforcement

(b) Any officer authorized to enforce the laws of the Kingdom of Cambodia shall be permitted to board, search and inspect any foreign fishing vessel at any time, and to make arrests, and seizures whenever such officer has reasonable cause to believe, as a result of such search or inspection, that the vessel or any person upon it has violated the laws of the Kingdom of Cambodia;

**Commented [MS168]:** Is this the fishery officer? Who is the officer authorize to enforce the laws? This needs to be redefined and this is very vague as a Code.

(c) The owner or operator of the foreign fishing vessel shall not, in any year, harvest an amount

of fish or other marine life which exceeds any limits on harvest that may be set by the appropriate ministry of the Kingdom of Cambodia.

**Commented [MS169]:** How to do that? This will induce under table fee. I am not sure this will work in the open sea.

6) Designate and delineate marine zones in which various types of fishing activities are allowed, specially managed, or banned. Such zoning shall include a coastal waters zone extending from the shoreline to 5 km offshore, which shall supersede the definition of a nearshore zone extending from the shoreline to 20 m depth. Community Fishing Areas may be established within this nearshore zone, consistent with the Sub-Decree on Community Fisheries Management. Such zoning shall also include an exclusion zone in the inshore waters of the Marine Fishery Domain for vessels using large-scale fishing gears as defined in Article 31 of the Law on Fisheries, NS/RKM/506/11, such that gears of this type may not be used in areas lying within 25 km of the shoreline. Such an exclusion zone shall also apply uniformly to foreign fishing vessels of any size which have purchased annual fishing rights in the Exclusive Economic Zone of the Kingdom of Cambodia.

**Commented [MS170]:** Yes, zoning is essential in marine fishery management. However, this zoning is still vague. 20m depth water is in the current Fishery Law, and based on experience, it does not work, and so, it needs a study to redefine the zoning.

7) In relation to highly migratory fishery stocks, cooperate directly or through appropriate international organisations, such as the South East Asian Fisheries Development Centre, with those nations involved in fisheries harvesting such species with a view to ensuring conservation and to promote the achievement of optimum sustainable yield of such species throughout their ranges, both with and beyond the EEZ of the Kingdom of Cambodia.

**Commented [MS171]:** This is not practical in Cambodia, and we do not know how it will work in the future.

8) Issue an updated and revised list of all activities prohibited in the Marine Fishery Domain, consistent with activities already prohibited as per Article 52 of the Law on Fisheries, NS/RKM/506/11. In addition to the prohibited activities already listed in Article 52, the harvest and landing of sharks or shark products (such as shark fins), as well as the harvest and landing of sea turtles or sea turtle products (such as shells or portions thereof) shall be specifically prohibited.

9) Issue an updated and revised list of all activities that may be undertaken in the Marine Fishery Domain under a permit from the appropriate ministry, consistent with those listed in Article 23 of the Law on Fisheries, NS/RKM/506/11.

**Commented [MS172]:** Who is the appropriate ministry. This is confusing and without that clear, it conflicts the current management system.

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10) Ensure that fishery management in the Marine Fishery Domain is based upon the best available scientific information, and undertake fishery research that adds to this base of scientific knowledge.

**Commented [MS173]:** This is vague! What is the available scientific information? Does this suggest that the current marine fisheries management is not based on scientific information?

11) Undertake a programme to produce updated maps of the distributions of species harvested and the location and extent of key marine fishery resources in the Marine Fishery Domain, with special reference to coral reefs, seagrass beds, and mangroves.

**Commented [MS174]:** This has been undertaken by FiA and it is important to improve it.

12) Monitor and issue an annual summary of changes to marine fishery resources, with special reference to coral reefs, seagrass beds, and mangroves, and analysing links to climate change and other driving factors.

**Commented [MS175]:** This is undertaken to, but perhaps it needs to be reinforced. It has been constrained by a limit of resources.

13) Regulate aquaculture in the Marine Fishery Domain consistent with the provisions in Articles 53-58 of the Law on Fisheries, NS/RKM/506/11.

14) Regulate the landing, transport, and international trans-shipment of marine fishery resources harvested in the Exclusive Economic Zone of the Kingdom of Cambodia, consistent with the provisions in Articles 64-69 of the Law on Fisheries, NS/RKM/506/11.

**Commented [MS176]:** This is about inforcement.

15) Regulate the import into Cambodia of marine fishery resources harvested in the waters of a foreign nation, and require importers to certify that such resources have been harvested in accordance with the fishery laws prevailing in their countries of origin.

**Commented [MS177]:** This is critical, but it has been violating by foreign fishing operators inside Cambodian marine fishery domain.

16) Undertake measures to combat illegal, unreported, and unregulated fishing, including market-based measures to prevent the trade or importation of fish or other marine life caught by vessels identified as having engaged in such unauthorized fishing;

17) Develop a National Fishery Management Plan as per Article 15 of the Law on Fisheries, NS/RKM/506/11. This plan shall be reviewed and amended as necessary every 5 years.

18) Undertake enforcement actions against those entities or individuals who violate fishery laws in the Marine Fishery Domain, as per Articles 72-85 of the Law on Fisheries, NS/RKM/506/11.

19) Assess penalties against those entities or individuals found guilty of violating fishery laws in the Marine Fishery Domain, as per Articles 86-107 of the Law on Fisheries, NS/RKM/506/11.

### CHAPTER 3- MARINE FISHERIES DISCRETIONARY AUTHORITIES

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Utilize the following conservation and management measures in order to ensure sustainability of marine fishery resources in the Marine Fishery Domain, depending on which method is most appropriate to the species and circumstances involved:

(a) Set daily individual fisher bag limits for any species of marine life, or for the combined catch from any stock complex consisting of multiple species;

(b) Set minimum or maximum size limits for any species of marine life, below or above which harvest is not permitted;

(c) Set a total allowable catch for any given species of fish or marine life, or for any defined fishery stock or stock complex, during the course of a year, or any other period of time;

(d) Create limited entry systems in relation to a harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(e) Allocate non-transferable individual fishing quotas over a given period of time for any particular marine fishery resource, stock or stock complex;

(f) Implement seasonal closures for any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(g) Implement permanent or temporary area closures for the harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(h) Implement restrictions on the type, size and amount of gear used to harvest any particular marine fishery resource, or their use in any particular geographic area.

2) Implement spatially-based management by designating various types of Marine Managed Areas in the Marine Fishery Domain, including:

(a) Marine National Park (MNP) – Such areas shall fall under strict protected status, with all entry and activities controlled by a permit from the appropriate ministry. Such areas may be established consistent with the Protected Areas Law, NS/RKM/0208/007, and with Article 19 of the Law on Fisheries, NS/RKM/506/11, such that no fishing of any type shall be allowed, no entry for navigation shall be allowed without a permit except by the appropriate ministry's enforcement agents or within strictly defined transit corridors, and no new settlements shall be allowed within 2 km of the boundaries of such areas. Such MNP areas may have subzones, including those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

**Commented [MS178]:** This sounds good for marine fishery management. However, we do not know the stock, and often marine fisheries domain has been open access for many generation. Setting this limit would affect small-scale and subsistent fishers.

However, there has been foreign fishing operators operate in Cambodia and how this applies to foreign fishing operators

**Commented [MS179]:** It needs study in order to

**Commented [MS180]:** How this could be done since we do not have a clear information about the marine fishery stock?

**Commented [MS181]:** The marine fishery domain in Cambodia is managed more or less open access. It is part of culture and livelihood practice. Fishing is essential for rural communities. Setting a limited entry system undermines the livelihoods of rural communities along the coast.

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**Commented [MS182]:** The proposed fishing quotas in marine fishery domain is taken from European countries where marine fisheries management is non-territorial. However, Cambodian marine fishery domain is still territorial and fish migrate across the boundary, and so fishing quotas and limited entry system will not work in Cambodia marine fishery domain.

**Commented [MS183]:**

**Commented [MS184]:** How this is implemented since fish migrate. If you are not fishing in one season, fish will migrate to other place internationally?

**Commented [MS185]:** In the open seas, open access is allowed and more fishing is taking place in order to maximize fish catch by countries as fish migrate across the boundaries. The Marine National Park for the purpose fishery conservation will make less benefits to the country. However, the Marine National Park for tourism perhaps is better.

(b) Marine Life Conservation Area (MLCA) – Such areas may be established consistent with Articles 18, 19 and 26-29 of the Law on Fisheries, NS/RKM/506/11, and shall be used to protect marine resources of particular importance to fishery recruitment, including but not limited to mangrove, seagrass and coral reef. Fishing may be prohibited in such areas, whereas freedom of navigation is allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

**Commented [MS186]:** Why fishing is not allowed in MLCA? This could be a mistake, since this area is rich in fish habitat and many fish reside in this area. It is a place where small fishers fish to sustain their livelihoods. Is not allowed for fishing, fish will migrate and it will move to other place

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(c) Fishery Management Area (FMA) –

Such areas shall be used to implement management measures for designated fishery stocks or stock complexes. Fishing shall be allowed, although there may be harvest restrictions or prohibition of take imposed for certain species in need of special management to ensure long-term sustainability. Freedom of navigation shall be allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

**Commented [MS187]:** Restriction and prohibition for marine fishery stock is not beneficial for local people, and this will benefit foreign vessels.

3) Implement community-based sub-zoning, for non-commercial subsistence fishery purposes only, within Marine Reserves or Marine Life Conservation Areas as described above. Such community-based subzones shall have restrictions on the types of fishing gears allowed for use. Such gear restrictions shall be determined by the appropriate ministry, which may restrict allowable gear types to pole-and-line, handline, cast net, and fish traps.

**Commented [MS188]:** This sounds good but it will not benefit this country and its people, but it will benefit our neighbouring countries.

4) Set limits on the number, size and type of vessels that may participate in any given fishery, or that may enter designated marine zones or marine managed areas, so as to adequately control fishing effort and ensure sustainability of harvest for any given stock or stock complex.

**Commented [MS189]:** How you do this since fish has no boundary. If we do not catch, our neighbors will catch.

5) Based on the best available scientific information, create

Fishery Management Plans for individual fisheries. Such plans shall be deemed sufficient to justify any management measures applied within any given fishery, and should contain at a minimum;

**Commented [MS190]:** What is the individual fisheries?

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(a) A description of the fishery in question, including the number of vessels involved, the type of quantity of fishing gear used, the species of marine life harvested, and the geographic extent of the fishery;



- (b) An estimate of optimum sustainable yield from the fishery and its probable future condition, including a summary of the information used in making this determination;
- (c) A description of the conservation and management measures that can be best applied to the fishery to prevent overfishing while achieving, on a continuing basis, the estimated optimum yield.
- 6) Enact measures to limit fishery bycatch of non-target species such as seabirds, marine mammals and sea turtles.
- 7) Create special licensing, vessel registration and catch reporting provisions for sport charter fishing vessels, with daily limits on catch of individual species, and daily special license fees for fishers. Such fees may be set higher at higher levels for citizens of foreign countries in comparison to those charged to citizens of the Kingdom of Cambodia.
- 8) Issue permits for marine fisheries research, and for the collection and export of specimens related to such research.

**CHAPTER # AQUACULTURE**

**CHAPTER # TENURE OF FISHERIES**

**CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS**

**CHAPTER # COMMUNITY FISHERIES**

**CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS  
WITHOUT A PERMIT**

**CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE  
GRANTED IF SUSTAINABLE**

**CHAPTER # CITIZEN ROLES IN MONITORING AND OVERSIGHT OF  
SUSTAINABLE FISHERIES MANAGEMENT OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITAT OR AQUATIC  
ECOSYSTEMS**

**~~Title 6~~ TITLE 7 SUSTAINABLE FRESHWATER FISHERIES AND  
AQUACULTURE**

**Commented [M191]:** Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable freshwater fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on freshwater fishery landings, and regulate all aspects of freshwater fisheries and aquaculture.

- There should be a Chapter on ricefield fisheries
- Chapter on Aquaculture for inland fisheries should be promoted

**CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FISHERIES INDUSTRY**

**CHAPTER # PROVISION FOR CAPTURE FISHERIES AND AQUACULTURE AND  
FISHERIES PROTECTION AREAS**

**CHAPTER # PROTECTION OF FISHERIES AND AQUATIC ECOSYSTEMS**

**CHAPTER # TENURE OF FISHERIES AND AQUACULTURE OPERATIONS**

**CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS**

**CHAPTER # PROHIBITION ON COMMERCIAL FISHING THAT IS NOT  
SUSTAINABLE**

**CHAPTER # ASSESSMENT OF APPLICATIONS FOR COMMERCIAL FISHING**

**CHAPTER # COMMUNITY FISHERIES**

**CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS  
WITHOUT A PERMIT**

**CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE  
GRANTED IF SUSTAINABLE**

**CHAPTER # SUSTAINABLE MANAGEMENT OF FISHERIES AND FISH BREEDING  
AREAS**

**CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND  
OVERSIGHT OF SUSTAINABLE FISHERIES MANAGEMENT  
OPERATIONS**

CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITATS OR AQUATIC ECOSYSTEMS

CHAPTER # MANAGEMENT OF ACTIVITIES THAT IMPACT FISHERIES AND AQUATIC ECOSYSTEMS

CHAPTER # ESTABLISHMENT OF FRESHWATER FISHERIES RESERVES

CHAPTER # ESTABLISHING REGULATIONS FOR AQUACULTURE OPERATIONS INCLUDING PERMITTING, MONITORING AND ENFORCEMENT

**BOOK 5 CONSERVATION AND PROTECTION OF BIODIVERSITY AND CULTURAL HERITAGE**

This should include the following titles:

- Ecosystem approaches for conservation and protection of biodiversity and cultural heritage
- Adaptive management approaches for conservation and protection of biodiversity and cultural heritage
- Conflict management for conservation and protection of biodiversity and cultural heritage
- Local knowledge systems for conservation and protection of biodiversity and cultural heritage
- Good governance system for conservation and protection of biodiversity and cultural heritage

- This Book will examine the conservation, protection, and management of biodiversity, and include different Titles on conservation landscapes/corridors; protected areas; wildlife; plants, habitat, and ecosystems; and cultural heritage.
- Specific Titles or Chapters could address key priority areas including Tonle Sap Lake, the Mekong River, and the Sesan River.

**TITLE 1 COLLABORATIVE MANAGEMENT OF CONSERVATION LANDSCAPES**

- This title will contain the outcome of an ongoing, concurrent process to develop provisions

**Commented [CW192]:** This book seems to undermine many of the provisions made in the book on collaborative management. Recommend that the titles in this book are part of collaborative management and not have their own section.

**Commented [M193]:** Per STWG 3/5. New Book.

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**Commented [CW194]:** Prey Lang, Boeung Per, Prey Preah Roka, Prasap Kulan, Cheap wildlife sanctuary

**Commented [M195]:** Per NGO Forum.

**Commented [M196]:** Per STWG 3/5 Members. New Title.

**Commented [M197]:** Per STWG 3/5 Members. Revised Title heading ("community management" implies management of communities).

for collaborative management **co-management of protected areas and natural resources**, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.

- This Title will link to Title on Collaborative Management of Natural Resources in Book on Sustainable Management of Natural Resources and Ecosystems.

## **TITLE 2 PROTECTED AREAS MANAGEMENT**

### **CHAPTER 1: GENERAL PROVISIONS**

### **CHAPTER 2: MINISTRY OF ENVIRONMENT/RESPONSIBLE INSTITUTIONS**

### **CHAPTER 3: ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS**

### **CHAPTER 4: ZONING OF PROTECTED AREAS**

### **CHAPTER 5: PROTECTED AREAS MANAGEMENT PLANS**

### **CHAPTER 6: ACCESS AND USER RIGHTS OF LOCAL COMMUNITIES AND INDIGENOUS ETHNIC MINORITY COMMUNITIES**

### **CHAPTER 7: PROHIBITED ACTIVITIES IN PROTECTED AREAS**

### **CHAPTER 8: PERMITS AND AUTHORITIES**

### **CHAPTER 9: ENFORCEMENT AND PROTECTION**

### **CHAPTER 10: MONITORING AND EVALUATION OF EFFECTIVENESS**

### **CHAPTER 11: STAFFING OF PROTECTED AREAS**

### **CHAPTER 12: PROTECTED AREAS BUDGETS AND FINANCING**

### **CHAPTER 13: PROCEDURES TO RESOLVE OFFENCES**

### **CHAPTER 14: OFFENCES AND LEGAL PENALTIES**

### **CHAPTER 15: IMPLEMENTATION OF COURT VERDICT**

**Commented [M198]:** Proposed revision to “co-management” by STWG 3/5 is “collaborative management.”

**Commented [M199]:** Some sections under Community-Based NRM Title in the Sustainable Management of NR and Ecosystems may more appropriately be included in this Title.

**Commented [M200]:** Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

**Commented [M201]:** Per STWG 3/5 Protected Areas group. New Title and Chapters on protected areas management. This proposed structure follows and adds to the structure of the existing PA Law.

**Commented [M202]:** To refer to co-management (collaborative management) legal instrument here/ responsibilities of other stakeholders in PA management.

**Commented [CW203]:** Rather than maintain the current zones in protected areas- dissolve the previous zones in favour of the new zones

One zoning system is vital to effective management

**Commented [M204]:** STWG 3/5 recommends that the number and name of zones for Co-Management ... [3]

**Commented [M205]:** Per NGO Forum. Projects must not be implemented inside already designated conservation area ... [4]

**Commented [M206]:** This will include reference to the title on wildlife/species protection.

**Commented [M207]:** Permitting process for all controlled activities/access inside Pas.

**Commented [CW208]:** Provides clear rights and responsibilities for community members to enforce res ... [5]

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**CHAPTER 16: FINAL PROVISIONS**

**DEFINITIONS**

**CHAPTER # ESTABLISHMENT OF FRESHWATER PRODUCTION ZONES**

**CHAPTER # ESTABLISHMENT OF MARINE RESERVES**

**TITLE 3 WILDLIFE PROTECTION, CONSERVATION AND  
MANAGEMENT**

**CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO BIODIVERSITY  
MANAGEMENT AND ENDANGERED SPECIES PROTECTION**

**CHAPTER # BIOREGIONAL PLANNING FOR BIODIVERSITY CONSERVATION**

**CHAPTER 1: GENERAL PROVISIONS**

**CHAPTER 2: RESPONSIBLE INSTITUTIONS**

**CHAPTER 3: CLASSIFICATION OF WILDLIFE SPECIES**

**CHAPTER 4: PROHIBITIONS ON HUNTING**

**CHAPTER 5: SPECIAL EXCEPTIONS ON HUNTING OF WILD ANIMALS**

**CHAPTER 6: GRANTING OF PERMITS FOR SPECIAL PURPOSES (INCLUDING  
FOR SCIENTIFIC AND EDUCATIONAL PURPOSES)**

**CHAPTER 7: SUSPENSION OR CANCELLATION OF PERMITS**

**CHAPTER 8. PROHIBITION OF TRADE (DOMESTIC AND INTERNATIONAL),  
TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES,  
ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS**

**CHAPTER 9: ADHERENCE TO OTHER INTERNATIONAL CONVENTIONS AND  
AGREEMENTS**

**CHAPTER 10: MANAGEMENT OF CONFISCATED WILDLIFE**

**CHAPTER 11: MANAGEMENT OF CAPTIVE BREEDING, WILDLIFE RESCUE  
CENTRES AND ZOOLOGICAL INSTITUTIONS**

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All caps

**Commented [CW209]:** This section seems to forget that there are people living in the areas where conservation is taking place.

There is no discussion of the interaction between people and the environment and the section is focused on institutional interventions that seek to limit sustainable livelihood activities and attempt to 'enforce' particular types of activities. This model has been deployed for the past 20 years in Cambodia and has proven to be ineffective.

It is difficult to understand why it is here with little or no changes to the current model for wildlife conservation.

The ideas in the 'collaborative management' document aim to put communities living inside protected areas in charge of managing wildlife and other resources that are vital to their collective survival.

**Commented [M210]:** Per STWG 3/5 Members. New Title heading.

**Commented [CW211]:** Subsistence hunting for food is different from hunting for profit  
Stronger management of transport and sale of wild game will be more effective and will not punish the poor for the activities of the elite.

**Commented [CW212]:** It is madness that scientists can hunt animals for research, but regular people cannot use them for food

**Commented [M213]:** To include CITES, international and regional resolutions, mechanisms for inter-agency and international collaboration on wildlife trafficking.

**CHAPTER 12: MANAGEMENT OF WILDLIFE FARMS\*\*\***

**CHAPTER 13: SPECIES MANAGEMENT AND RECOVERY PLANS (INCLUDES  
IDENTIFYING KEY THREATENING PROCESSES AND DEVELOPING  
THREAT ABATEMENT PLANS AND RECOVERY PLANS)**

**CHAPTER XX: MANAGEMENT OF INVASIVE SPECIES**

**CHAPTER 14: PROCEDURES TO RESOLVE OFFENCES**

**CHAPTER 15: OFFENCES AND LEGAL PENALTIES**

**CHAPTER 16: IMPLEMENTATION OF COURT VERDICT**

**CHAPTER 17: FINAL PROVISIONS**

\*\*\*A submission has been received from some combined NGOs on the policy of Wildlife (or Wild Animal Farming) in Cambodia. The discussion paper raises a number of significant issues and concerns about the possibility of introducing the farming of wild animals in Cambodia. Consideration is being given to the matters raised by the submission.

**CHAPTER # PROHIBITION OF OR MANAGEMENT AND APPROVALS FOR, USE  
OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS**

(Definition of Genetically Modified Organisms to be included in Code Definition Section)

**TITLE 4 PROTECTION OF PLANTS, IMPORTANT HABITATS  
AND SIGNIFICANT ECOSYSTEMS**

- This title will address the protection of plant species, important habitats for both plants and wildlife, and significant ecosystems in Cambodia. The structure will likely be similar to the structure for the Title for Wildlife Protection, Conservation and Management, but will need to include additional chapters.

**CHAPTER # PROTECTION OF PLANTS AND PLANT COMMUNITIES**

**CHAPTER # PROTECTION OF NATIVE PLANT AND WILDLIFE HABITAT AND  
IMPORTANT ECOLOGICAL COMMUNITIES (INCLUDING “CRITICAL  
HABITAT” FOR ENDANGERED PLANT AND ANIMAL SPECIES)**

**CHAPTER # WETLANDS CLASSIFICATION, MANAGEMENT AND**

Commented [M214]: Per STWG 3/5 Protected Areas Group. Proposed headings/structure.

Commented [CW215]: This section also seems to forget about the people

Commented [M216]: Per STWG 3/5 Members. New Title.

## CONSERVATION

### CHAPTER # PROHIBITION ON DAMAGING OR DESTROYING NATIVE VEGETATION AND FOREST PROTECTED AREAS

Commented [CW217]: How will this be defined?

### CHAPTER # RESTORATION OF DAMAGED ECOSYSTEMS

### CHAPTER # MANAGEMENT OF INVASIVE SPECIES

### CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS (DEFINITION OF GENETICALLY MODIFIED ORGANISMS TO BE INCLUDED IN DEFINITION SECTION)

Commented [CW218]: Really, should be prohibition.

## TITLE 5 CULTURAL AND NATURAL HERITAGE CONSERVATION

Commented [M219]: Per STWG 3/5 Members.

- This Title will examine the identification, protection and management of cultural and natural heritage. It will consider the need to protect both tangible and intangible items of cultural heritage.
- This Title establishes the Heritage Council of Cambodia with representatives from relevant Ministries, NGO and private sector. The Heritage Council will develop policies to protect Colonial and modern Cambodian heritage as well as Angkor and Pre-Angkor heritage. The Heritage Council will have the task to set up and maintain the Heritage Register for Cambodia. This Heritage Register will be a list of places, objects, buildings and other items that are to be protected or preserved. An interim list for the Heritage Register will be prepared to protect these items until a detailed assessment can be undertaken to assess the heritage value.
- This Title will regulate the activities of heritage site establishment to ensure the protection of the rights of citizens living in those areas.
- This Title will look at the operation of the APSARA Authority and related legislation to ensure a consistent approach to the protection and management of natural, cultural and built heritage, including both tangible and intangible heritage.
- Ministry of Culture and Fine Arts and other authorities related to heritage protection and management should retain a strong role in heritage protection but this should include consultation and liaison with other Ministries, including Ministry of the Environment and

Commented [M220]: Per NGO Forum.

the Minister for Land Use Planning.

Commented [M221]: Per STWG 4.

- This would examine both World Heritage and Ramsar listed areas, as well as local and national heritage areas, with special attention to ethnic minorities and indigenous people.
- It will regulate key activities in heritage areas, including tourism, research, archaeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archaeological surveys
- Other protection mechanisms will include anti-trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.

Commented [M222]: Per NGO Forum.

## **CHAPTER 1 – GENERAL PROVISIONS**

### **ARTICLE 1 – OBJECTIVE**

This provision has the following objectives:

- a) To preserve, protect, and manage natural resource and to conserve historic and cultural heritage.
- b) To preserve, protect cultural identity of the nation which is the workmanship of our forefathers (intellectual property of national identity).
- c) To preserve the beauty and protect the historical identity of the capital, province, urban area, ancient site and shrine (worship place).
- d) To preserve and conserve biodiversity and ecosystem.
- e) To create the balance of nature and society.
- f) To promote the development of tourism.
- g) To create the collaboration between the Ministry of Environment and relevant institutions as well as National and International Organizations and development partners.
- h) To improve the livelihood, tradition, culture and custom of indigenous community.
- i) To create funds to preserve and protect cultural and natural heritage.



## **ARTICLE 2 – SCOPE**

This provision has the scope of application throughout the Kingdom of Cambodia over both state land and private land.

## **ARTICLE 3**

Definition of cultural heritage.

## **ARTICLE 4**

Definition of built heritage.

## **ARTICLE**

Definition of natural heritage.

## **ARTICLE 6**

Definition of intangible heritage.

## **ARTICLE 7**

Adoption of UNESCO Guidelines.

## **ARTICLE 8**

Obligation to protect the national heritage of Cambodia.

## **CHAPTER 2 – CREATION OF THE HERITAGE COUNCIL OF CAMBODIA**

## **ARTICLE 1**

The Royal Government shall create the Heritage Council of Cambodia.

## **ARTICLE 2**

Purpose of the Heritage Council of Cambodia.

## **ARTICLE 3**

Membership of the Heritage Council of Cambodia.

**ARTICLE 4**

Duties of the Heritage Council of Cambodia.

**CHAPTER 3 – INVENTORY AND CLASSIFICATION**

**ARTICLE 1**

Establishment of a Heritage Register for Cambodia.

**ARTICLE 2**

Listing on the Heritage Register for Cambodia.

**ARTICLE 3**

Categories to be listed on the Heritage Register for Cambodia.

**ARTICLE 4**

Interim listing on the Heritage Register for Cambodia.

**ARTICLE 5**

Emergency listing on the Heritage Register for Cambodia.

**ARTICLE 6**

Legal protection granted to items listed on Heritage Register for Cambodia.

**ARTICLE 7**

Procedure for updating the Heritage Register for Cambodia.

**CHAPTER 4 – APPOINTMENT OF HERITAGE PROTECTION OFFICERS**

**ARTICLE 1**

Each Province and regional government shall appoint a Heritage Protection officer.

## **ARTICLE 2**

Duties of HPO.

## **ARTICLE 3**

Qualifications of HPO.

## **ARTICLE 4**

HPO may work with other HPO in other Provinces.

## **ARTICLE 5**

The HPO must be consulted prior to any action that may damage or harm an item or place or area on the Heritage Register for Cambodia.

## **CHAPTER 5 – ZONING OF HERITAGE PROTECTION AREAS**

## **ARTICLE 1**

Plans and zoning maps may include the following provisions for the following heritage protection areas:

- a) Historical parks
- b) Cultural landscape
- c) Cultural village
- d) Site museum
- e) Ancient sites
- f) Urban Heritage Zones

## **ARTICLE 2**

The zones for heritage protection areas will require the preparation of a report prior to any approval for altering or demolition within those areas.

## **CHAPTER 6 – CRITERIA**

### **ARTICLE 1**

The following shall be considered as "cultural heritage":

- a) Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
- b) Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- c) Sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

### **ARTICLE 2**

The following shall be considered as "natural heritage":

- a) Natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
- b) Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- c) Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

### **ARTICLE 3**

Determination of cultural property heritage can be made by:

- a) Determining the number of years, the age of the property, or based on its era for example French Colonization Era and Sangkim Reas Niyum Era.

- b) A number of workmanship is not so old but it is of a special value which cannot be found elsewhere.
- c) A new innovation which is valuable to the society.
- d) Cultural property which is of a special value for the nation.
- e) A movement of architecture which reflect national identity.
- æ)f) An architectural workmanship which influence the next generations.

## **CHAPTER 7 – INVENTORY AND CLASSIFICATION**

### **ARTICLE 1**

Competent Institutions shall prepare cultural property inventory.

### **ARTICLE 2**

Cultural Property Inventory shall be updated every five years.

1. Obligation of competent institutions
2. Obligation of owners of cultural property
  - a) Sell to the State;
  - b) Prohibition to any damage to the outside beauty;
  - æ)c) Do not have the right to build any new or additional construction)
3. Preservation and usage of cultural property inventory
- 1-4. Budget used for the work on cultural property inventory

### **ARTICLE 3**

The state may pay a portion of the cost for repairing private building (built in Sangkum Reas Niyum Era).

### **ARTICLE 4**

The owners of the building must submit request for support to repair the building from the state.

#### **ARTICLE 5**

The state shall provide technical experts to help repair the building.

### **CHAPTER 8 PREVENTIVE AND SALVAGE EXCAVATION**

#### **ARTICLE 1**

Discovery of heritage items during demolition, construction or other activities

#### **ARTICLE 2**

Work must halt to protect the heritage item

#### **ARTICLE 3**

Obligation to notify Heritage Council and HPO

#### **ARTICLE 4**

Determination of heritage significance

#### **ARTICLE 5**

Permission required before destruction of heritage item

#### **ARTICLE 6**

Activities to salvage the heritage item

#### **ARTICLE 7**

Obligation to record and photograph heritage item

### **CHAPTER 9 IDENTIFICATION AND DESIGNATION OF CULTURAL AND NATURAL HERITAGE SITES**

#### **ARTICLE 1**

The Heritage Council may recommend that a site for designation as a heritage site

## **ARTICLE 2**

The Heritage Council may require preparation of a management plan

## **ARTICLE 3**

Preparation of a management plan

## **ARTICLE 4**

Implementation of a management plan

## **ARTICLE 5**

Failure to comply with the management plan

# **CHAPTER 10 DAMAGE AND CONSERVATION STATUS CLASSIFICATIONS**

## **CHAPTER 11 SPECIAL CONSIDERATIONS IN EIA | HERITAGE SITES**

Commented [M223]: Per STWG 4.

## **ARTICLE 1**

All projects requiring EIA in a heritage protection zone must make an assessment of the impact of the project on the heritage values

## **ARTICLE 2**

All projects having an impact or potential impact on an item of heritage or a item listed on the Heritage Register must have a permit before any work can be done that may harm the item.

## **ARTICLE 3**

Procedures to grant a permit to be determined by the Heritage Council.

## **ARTICLE 4**

It is prohibited to damage or destroy or harm an item on the Heritage Register without a permit.

# **CHAPTER 12 PROTECTION FOR HERITAGE SITES FROM ACTIVITIES NOT COVERED BY EIA**

**ARTICLE 1**

Any construction permit or approval cannot be granted until a permit has been granted by the Heritage Council or the HPO

**ARTICLE 2**

No permit can be granted until the Heritage Council or HPO has assessed the heritage value of the item.

**CHAPTER 13 MANAGEMENT PLANS FOR SITES**

**ARTICLE 1**

The Minister may require for a Heritage Management Plan to be prepared for a cultural and natural heritage site listed on the National Inventory

**ARTICLE 2**

The Heritage Management Plan shall be developed in consultation with the local community and interested stakeholders.

**ARTICLE 3**

The Heritage Management Plan shall also establish protected zones and core zones for heritage management of the site.

**ARTICLE 4**

Ensuring sustainable use of cultural and natural heritage sites

**CHAPTER 14 ORDER TO HALT CONSTRUCTION OR CLEARING IF A HERITAGE SITE IS THREATENED OR ENDANGERED**

**ARTICLE 1**

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if a heritage site is threatened or endangered.

**ARTICLE 2**



The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if an item on the Heritage Register is threatened or endangered.

### **ARTICLE 3**

The order to halt will last for 14 days and may be extended for a further 14 days.

### **ARTICLE 4**

Any person or legal entity who does not follow the order to halt work commits an offence.

## **CHAPTER 15 - IMPACT OF PROTECTED SITE ON COMMUNITIES**

## **CHAPTER 16 ILLEGAL TRAFFICKING OF ARTEFACTS**

### **ARTICLE 1**

Illegal trafficking defined

### **ARTICLE 2**

Mechanisms to prevent illegal trafficking

## **CHAPTER 17 EDUCATION AND PUBLIC AWARENESS OF CULTURAL AND NATURAL HERITAGE**

## **CHAPTER 18 INCENTIVES FOR CONSERVATION OF CULTURAL AND NATURAL HERITAGE**

## **CHAPTER 19 FUNDING MECHANISMS FOR NATURAL AND CULTURAL HERITAGE SITES**

### **ARTICLE 1**

Entrance fees

### **ARTICLE 2**

Public-private partnerships

## **BOOK 6 WASTE AND POLLUTION MANAGEMENT**

Commented [CW224]: Should contain provisions whereby communities can claim sites to be protected  
Community rights of access and habitation must be respected

## **AND SUSTAINABLE PRODUCTION**

- This book will include provisions relating to the General Obligations for Pollution Control, including the prohibition of polluting activities. There would then be a lawful exception to the prohibition of these polluting activities. This would enable a permit to be granted to a legal entity or person for certain emissions or activities. However the legal entity or person would have to prove that they had a lawfully granted permit and that the emissions or activities were undertaken in accordance with the permit. If the legal entity or person could not show these two things then they would have committed an offence under the Environmental Code.
- The Book will cover all aspects of pollution control and sustainable production.
- This Book will address contaminated land.
- The Book will re-examine the provisions of the Sub-Decree on Solid Waste Management 36 ANRK.BK 1999. It will update the relevant provisions about solid waste and hazardous waste management. It will also update and incorporate the provisions dealing with the Sub-Decree on Water Pollution 27 ANRK.BK 1999.
- This Book will address hazardous waste and chemicals, including agricultural, industrial, and extractive industries use or manufacture of hazardous waste or chemicals.
- This Book will include environmental controls on agricultural practices, including fertilizer, pesticide and herbicide use.
- Fees and charges will be provided in accordance with Book 8.
- Reporting and monitoring requirements, including public disclosure, will be dealt with in Book 9.
- Procedures for investigation on breaches and offences will be dealt with in Book 9. The aim is that investigations and proceedings for all waste management and pollution offences will be the same as for other offences and breaches of the Environmental Code.

**Commented [M225]:** Per STWG 2: New section heading and content structure.

This draft has included recommendations from Submissions 42, 43, 44, 63, the inputs from STWG dated 7 July 2016, comments from the National Consultation Workshop.

**Commented [M226]:** Per NGO Forum.

## **TITLE 1      GENERAL OBLIGATIONS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION**

### **1. Prohibition on pollution of air**

2. Prohibition on the pollution of water
3. Prohibition on the pollution the soil
4. Prohibition on the transport, treatment and disposal of waste
5. Prohibition on chemical substances
6. Lawful exception to the prohibition with lawful permit
7. Commitment of the Royal Government to Sustainable Production
8. All activities must consider the best practice for sustainable production
- 4.9. All activities must consider the best practices for pollution and waste minimization

## **TITLE 2      STANDARDS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION**

1. The limit of public air quality standards
2. The maximum standard limited for the authorized of hazardous substance in the air
3. The maximum standard for the noxious substances discharge from the fixed source in the atmosphere
4. The standard level of emission from mobile sources
5. The maximum standard of the sound level permitted to vehicle on the road
6. The maximum standard of sound level permitted in the public and residence area
7. The standard level for the sound control in the area of the workshop and industrial factory
8. The standard of the toxic level permitted to contain for the fuel and burning substance
9. The standard level for air quality in the building
- 4.10. The vibration standard level

## **TITLE 3      HAZARDOUS SUBSTANCES MANAGEMENT**

1. Hazardous waste determination, classification and labelling
2. Hazardous waste collection, packaging, storage, recycling and treatment
3. Disposal of hazardous waste (incineration, destruction, and landfill)
4. Monitoring and inspection of hazardous waste

- 5. Operational requirements for all hazardous waste facilities
- 6. Import and export of hazardous waste
- 7. Transitional provision
- 8. Administrative requirements (Registration, license, shipments, analytical methods, etc.)
- 9. Management of specific hazardous wastes (waste asbestos, oil, paint, etc.) application of international conventions on hazardous waste
- 10. Standard for classification of hazardous waste
- 11. Standard for disposal of hazardous waste
- 12. Penalty

#### **TITLE 4      MANAGEMENT OF HAZARDOUS CHEMICAL SUBSTANCE TO ENVIRONMENT**

- 1. Definition
- 2. Institutional Responsibility
- 3. Prohibition on Hazardous Substances
- 4. Research, Registration and Information Disclosure of Hazardous Substances
- 5. Inventory, Classification and Labelling of Hazardous Substances
- 6. Production, Distribution, Storage, Transportation, Usage and Disposal
- 7. Import and Export
- 8. Monitoring and Inspection of Hazardous Substances Safety Assessment
- 9. Accident Prevention, Preparedness and Responses
- 10. Application of International Convention on Hazardous substances
- 11. POPs Convention

[12. Minamata Convention](#)

[13. International Agreements](#)

[14. Penalty](#)

**CHAPTER # MANAGEMENT OF CHEMICAL SUBSTANCES**

**GENERAL PROVISIONS**

Editorial note: The use of the terms “chemical substance,” “chemical product,” and “chemical” in the following articles needs to be analysed and rationalised.

**ARTICLE 1**

This Law has the following objectives:

1. To promote effective management and safe use of hazardous chemical substances and hazardous chemical products in Cambodia;
2. To ensure proper registration, classification and labelling of chemical substances and chemical products in order to prevent misuse and to promote safe handling in the work place;
3. To enhance public awareness and access to information on safety and mitigation of risks throughout chemical life cycle, including production, storage, transportation, use and disposal;
4. To set up appropriate institutional coordination mechanism and information system for effective management and control of hazardous substances and hazardous chemical products in all stages of chemical life cycle;
5. To ensure an operational national system to incorporate cleaner production solutions in all manufacturing and service sectors, as well as in households.

(2)

**ARTICLE 2**

This law has the goal of protecting the social infrastructure, human life, animals and environment from risks and hazards caused by misuse and mishandling of hazardous chemical substances and hazardous chemical products throughout chemical life cycle;

[Fourth](#) Draft Environmental Code of Cambodia | [12 August](#) 2016

**Commented [M227]:** Per NGO Forum. Link to sections on planning for and management of extractive industries.

**Commented [MB228]:** From Draft legislation on the management of chemical substances.

### ARTICLE 3

This law covers all hazardous chemical substances or hazardous chemical products and applies to all organisations or individuals that produce, transport, purchase, sell, use, store, release or discard these chemical substances and their chemical derivatives at different stages of their life cycles.

This law does not apply to radioactive substances, pharmaceuticals, cosmetics, food additives, food products and household appliances or toys that are governed by separate law and regulations.

### ARTICLE 4

The definitions of the main technical terms related to hazardous chemicals are provided in annex 1.

## CHAPTER 2 INSTITUTIONAL RESPONSIBILITY

### ARTICLE 5

The Ministry of Environment is responsible for administration and implementation of this law in cooperation with relevant ministries and institutions, and in harmonization with existing laws and regulations related to the management of chemicals and chemical wastes in Cambodia.

### ARTICLE 6

The Royal Government of Cambodia shall set up appropriate mechanisms for effective management and control of hazardous chemicals through its life cycle, especially for information sharing, inspection, classification, and hazard communication and risk assessment of registered and new hazardous chemicals circulating in Cambodia.

### ARTICLE 7

The Ministry of Environment shall coordinate implementation of international treaties or conventions relevant to hazardous chemical substances.

### ARTICLE 8

No person shall undertake the following activities:

- (a) The introduction or delivery of any misbranded hazardous substance or banned hazardous substance.
- (b) The alteration, destruction, or removal of the whole or any part of the label of any hazardous substance during shipment or sale (whether or not the first sale).
- (c) The receipt of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

#### **ARTICLE 9**

No person can manufacture, use and distribute persistent organic pollutants (POP) totally banned by Stockholm Convention as listed in the annex 2 of this Law. This list shall be updated according to the revised decision of COP under the Stockholm Convention to which the Royal Government of Cambodia is a party.

#### **ARTICLE 10**

Any misbranded hazardous chemical substance or hazardous chemical product or banned hazardous substance or hazardous chemical product shall be subject to confiscation and seizure.

#### **ARTICLE 11**

No person shall manufacture, possess, handle, store, transport, import, export, distribute or use a hazardous chemical substance or hazardous chemical product that is not registered under Sub-decree dated October 2009 on “Management of Classification and Labeling of Chemicals”.

#### **ARTICLE 12**

No person shall store, import, export or distribute a hazardous chemical that is not packaged in accordance with the regulations and the conditions of registration.

#### **ARTICLE 13**

No person shall package or advertise a hazardous chemical in a way that is false, misleading or likely to create an erroneous impression regarding its character, value, quantity, composition, safety or registration.

#### **ARTICLE 14**

No person is allowed to use chemical substances such as acid, gasoline, or toxic chemicals that

can cause corrosion, burn, oxidation, injury and destruction of human organs implicating health and human life, except in accordance with international safety standards. In the case of chemical reactions, burns or oxidation causing damage to human or environmental health, responsible legal entities or natural persons shall pay a fine and compensation for the damages.

#### **CHAPTER 4 REGISTRATION AND INFORMATION DISCLOSURE**

##### **ARTICLE 15**

Organisations and individuals shall have the duty to hold valid official registration of any hazardous chemical substances and hazardous chemical products intended for manufacture, distribution, sale and use in Cambodia.

##### **ARTICLE 16**

An application for registration shall be submitted to the respective agencies with at least a minimum information on the manufacturing company, name of chemicals, hazard classification, amount, purpose of import or use, safety data sheets, hazard statement, potential risks to human health and address of delivery.

##### **ARTICLE 17**

Information on hazardous chemicals shall be reviewed and endorsed by the Ministry of Environment before submission to the respective ministry for approval. The Ministry of Environment in cooperation with respective agencies may conduct additional tests and consultation to verify the correctness of information provided.

##### **ARTICLE 18**

The relevant ministries having the mandate to approve registration shall provide information on all hazardous chemical substances and products to the Ministry of Environment for inventory, monitoring, risk assessment and inspection purposes.

##### **ARTICLE 19**

Following official registration, organisation or individual shall prepare appropriate action plan for prevention, emergency response, mitigation, monitoring and risk management for hazardous chemical substances. He or she shall act in good faith to provide accurate information on hazardous chemical substances to the responsible agencies when requested.



## CHAPTER 5 CLASSIFICATION AND LABELLING

### ARTICLE 20

Classification and labelling of hazardous chemical substances shall follow regulations specified by the Sub-decree No 180 dated 20 October 2009 on Management of Classification and Labeling of Chemicals.

### ARTICLE 21

Hazard criteria for physical hazards, health hazards and environmental hazards shall be specified by an inter-ministerial task force with members designated from line agencies and universities following the Globally Harmonized System for Classification and Labeling (GHS). Role and functions of this inter-ministerial task force shall be specified by a sub-decree.

### ARTICLE 22

Organisations or individuals involved in packaging, distribution, transportation, and sale of hazardous chemical substances or products shall put correct labelling on hazard substances and chemical products following regulations specified in the Sub-decree No 180 dated 20 October 2009 before distribution, transportation or sale.

### ARTICLE 23

Organisations or individuals shall publish brochures or newsletters on safety data sheet, hazards prevention and mitigation, and health risks for all hazardous substances intended for distribution and sale in Cambodia.

## CHAPTER 6 TRANSPORTATION

### ARTICLE 24

An organisation or individual that transports hazardous chemicals shall abide by the provisions on transportation of hazardous chemical substances or products as prescribed in this Law and other relevant laws.

Transport operators and transport owners shall prepare staff health and safety plans and response plans for substance specific hazardous materials incident response plans in order to:

- (a) Identify and take necessary measures to minimize potential incidents and remedy

consequences if they take place, including training all staff involved in transportation in safety measures and response plans, and

(b) Identify and notify the nearest local authorities and concerned ministries about the incident if an incident occurs en route – either on road, inland waterway, railway, air or sea transport.

Transport operators and transport owners shall ensure that any vehicle used in the transport of hazardous chemical substances or products is suitable for the transport of that substance or product and that the vehicle is visibly marked with the appropriate hazard warning marks and symbols.

#### **ARTICLE 25**

The Ministry of Environment shall coordinate with the Ministry of Public Works and Transport, concerned ministries and competent agencies to formulate additional technical regulations on transportation of hazardous chemical substances or hazardous chemical products.

### **CHAPTER 7 USE AND DISPOSAL**

#### **ARTICLE 26**

All Cambodian people have the rights to use hazardous chemicals according to regulations stipulated by this law and shall follow technical specifications, labeled description and safety instructions of any hazardous substance.

#### **ARTICLE 27**

Organisation or individual that uses hazardous substances for manufacturing or production of goods and products shall be responsible for compensation or rehabilitation of the social infrastructure, human health, animal health and the environment damage caused by chemical hazards and accidents for which they have been deemed responsible.

#### **ARTICLE 28**

No person can burn and dispose of any part or whole of chemical substances or chemical waste into the environment, including water, soil and air without the approval of the Ministry of Environment.

Disposal of any part of hazardous chemical and its package shall follow regulations and

guidelines specified by the sub-decree No 36 ANRK.BK dated 27 April 1999 on Solid Waste Management and the Sub-decree No 27 ANRK.BK dated 06 April 1999.

Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a Prakas of the Ministry of Environment.

#### ARTICLE 29

Organisation or individual using hazardous chemicals for scientific research shall have the following duty:

- Use of hazardous chemical substances following regulations stipulated by this Law;
- Laboratory shall have sufficient equipment for safe storage and handling of hazardous chemical substances and personal protective equipment for workers;
- Hazardous substances shall have correct labelling according to the regulations specified by the Sub-decree dated October 2009;
- The Laboratory shall have an appropriate filing systems and records of hazardous chemical substances being used;
- Disposal of hazardous substance or chemical wastes shall follow regulations specified under Article 25 of this Law.
- Identifying and minimizing any potential hazards which may be caused by the use and disposal of hazardous substance or chemical wastes through setting up effective mechanisms to minimize risk and mitigate effects of any hazard which may occur.

#### ARTICLE 30

No person shall use hazardous chemical substances in food products, cosmetics, and toys that can cause direct health hazards to human beings.

### CHAPTER 8 CHEMICAL INDUSTRY

#### ARTICLE 31

Organisation or individual engaged in production of chemical substances shall have technical capacity for environmental and social safeguarding as shown below:

- Workshops, storehouse and technological equipment;
- Safety equipment and devices, equipment and devices for prevention and fighting of fire, explosions, lightning, chemical leakages or dispersal and other chemical incidents;
- Labour protection equipment and devices;
- Environmental protection equipment and devices,
- Waste disposal and treatment systems;
- Prevention and response plan, including posting visible hazard pictogram and hazard communication;

#### ARTICLE 32

Organisations and individuals engaged in production of chemical substances shall have professional staff with qualifications relevant to the scope, type, and scale of the chemical-related activity along with thorough knowledge about technologies and chemical safety plans and measures.

#### ARTICLE 33

Organisations or individuals are encouraged to review manufacturing processes that can produce chemical substances or products involving less greenhouse gases emission, less energy consumption, and minimal hazard and toxicity to the environment and human.

#### ARTICLE 34

Organisations or individuals engaged in production of chemical substances or products shall have proper registration of the substances and manufacturing permits issued by relevant responsible ministry or authority.

#### ARTICLE 35

In case of production of hazardous chemicals or hazardous chemical products, organisation or individual shall provide annual report on manufacturing processes, the amount of hazardous ingredients, intended use, point of delivery, waste disposal and treatment systems, and safety plan and measures to the respective ministries and the Ministry of Environment. The format of reports shall be developed by responsible Ministry in cooperation with the Ministry of

Environment.

## CHAPTER 9 PREVENTION AND RESPONSE

### ARTICLE 36

Organisations or individuals shall have the duty to:

- Strictly follow technical specification, labelling and safety instruction defined by each hazardous substance;
- Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;
- Organize training on safe use and safe handling of hazardous substances, including a safe-drill toward the occurrence of hazard to human health and/or the environment;
- Set up a chemical emergency response.

### ARTICLE #

In case of accidents caused by hazardous chemical substances, organisation or individual shall cease immediately the activities in question and immediately inform the relevant authorities and the Ministry of Environment. Adequate action shall be taken according to the prevention and emergency response plan aiming for reducing hazards and damage to human health, environment and the property.

Any organisation or individual directly involved in the accident shall immediately inform any local members of the public who may be affected by the accident of the exact risks posed to the public's health and property by the accident and advise the public on measures to mitigate those risks.

### ARTICLE #

A Hazard Chemical Insurance Mechanism shall be set up by a financing mechanism for prevention, response and compensation of hazards or accidents associated with hazard substances. The regulations and operation of this insurance shall be specified by a Sub-decree.

## CHAPTER 10 PUBLIC AWARENESS

## ARTICLE #

Organisation or individual involved in distribution, sale and use of hazardous chemical substances shall provide all information related to safety data sheets, hazard communication, prevention and mitigation measures to the responsible ministries, the users and the public.

### **CHAPTER # -- DIRECTIVE FOR PRTR**

*(To be included in titles on Hazardous Waste Management and Hazardous Substances Management)*

1. Interpretation (definition: pollutant, transfer, release, register, etc.)
2. Design and structure (materials list, form and environmental media release)
3. Reporting by generator/facilities (schedule for submission information/report...)
4. Estimation standard for emission release (to air, water, land, etc.)
5. Quality assurance and assessment
6. Access to information (public participation, awareness, raising)
7. Confidentiality
8. Penalty
- 4-9. Prosecution of offense

### **TITLE 5 WATER POLLUTION CONTROL**

1. Responsible institutions
2. Measures to prevent water pollution
3. Permission of liquid waste discharge
4. Water pollution source control
5. Monitoring and evaluation of public water pollution
- 4-6. Sewage System and Sewage Treatment System management

**Commented [F230]:** Wastewater: The increase in urban residential and industrial zones that generate waste and pollution should be well controlled and monitored before discharging to the river systems.

Improving rural sewage treatment  
Improving urban sewage treatment  
Improving coastal sewage treatment  
Seasonal adaptations in sewage treatment  
Separation of storm water drainage and sewage infrastructure  
Understanding and supporting the role of wetlands in waste filtration and preserving wetlands  
Promoting and regulating private septic tanks  
Mandatory reporting of normal discharge, effluents and sudden discharge.

7. Responsible institutions

8. Responsibilities of site owner

9. General measure to sewage management

10. Provision of sewage system management and sewage treatment system management services

11. Natural storing basin and Sewage Treatment System management

12. Penalty

2-13. Water pollution offenses

**TITLE 6 MARINE POLLUTION CONTROL**

*(This title should be included in water pollution/coastal zone management/separate section?)*

1. Application of MARPOL and Conventions

2. Prevention of pollution by oil & oily water

3. Discharging oil into State waters from a ship

4. Causing discharge of oil into State waters from a ship

5. Control of pollution by noxious liquid substances in bulk

6. Offences relating to carrying uncategorized noxious liquid substances

7. Offences relating to discharge of noxious liquid substances

8. Cleaning of tanks of ships

9. Prevention of pollution by harmful substances carried by sea in packaged form

10. Offences relating to carriage

11. Offences relating to jettisoning

12. Pollution by sewage from ships

13. Offences relating to discharge of sewage

14. Pollution by garbage from ships

15. Offences relating to discharge of garbage

16. Prevention of air pollution from ships

17. Offences relating to release of smoke

18. Prevention of disposal of hazardous waste from ships

19. Application of the Base Convention to ships

## **7. AIR POLLUTION, NOISE AND VIBRATION CONTROL**

- This Title will revise and incorporate the Control of Air Pollution and Noise Disturbance 42 ANRK 2000.

### **Section 1 Air Pollution Source Control**

1. Indoor air pollution

2. The flow of toxic air from mobile sources

3. The flow of toxic air from fixed sources (Air pollution from immobile source)

4. The air pollution in buildings

5. The technology to reduce and prevent air pollution



- 6. The control of air pollution
- 7. The request for approval of a permit
- 8. The monitoring of atmosphere quality
- 9. The procedure of inspections
- 10. The transboundary air pollution

## **Section 2 Noise and Vibration Control**

- 1. Noise emission from mobile source
- 2. Noise emission from immobile source
- 3. Noise emission in workplaces/inside buildings
- 4. The sound emitted from mobile source
- 5. The sound emitted from fixed source
- 6. The voice in the workplace
- 7. The technology of sound deduction
- 8. The monitoring of sound diffusion
- 9. The request for approval
- 10. The vibrant causing
- 11. The monitoring of vibration levels
- 12. The technology for vibrant reduction
- 13. The request for approval of a permit

## **Section 3 Controlling and Monitoring of Atmospheric Quality**

## **~~Section 1~~Section 4 Measures to Prevent and Reduce Air Pollution, Noise and Vibration**

## **TITLE 8 OZONE LAYER PROTECTION**

1. Importing and exporting of ozone depleting substances control
2. Exportation and usage of ozone depleting substances control
3. Cleaning up, recycling and destructing of ozone depleting substances control
4. Cooling substances and tools control
5. Program to eliminate ozone depleting substances control
6. Monitoring, controlling and managing of ozone depleting substances control
7. Formality of registration and license application

## **Title 7 TITLE 9 HOUSEHOLD SOLID WASTE MANAGEMENT**

Radiological and biological waste

Electronic waste

Identifying and promoting alternatives to landfills

Landfills including monitoring and reporting requirements

Waste incinerators including monitoring and reporting requirements

Industrial waste reduction through regulations, financial incentives and other mechanisms.

Reducing the use of plastic bags

Identification, management and rehabilitation and remediation of contaminated land

Commented [N231]: To be harmonised with prakas under development.

1. Management plan and responsible jurisdiction
  - a. Urban/household waste is waste from houses, public administrative buildings, service and business locations, clinics, hospital, markets, super markets, commercial centers, gardens, public areas, tourism sites, a septic tank, all of which excludes hazardous waste.
  - b. Labeling of waste (Shall be included in the below chapter that states about hazardous waste in details)
  - c. Regulation of waste management facilities, including rubbish dumps (shall states in details from the establishment, collection, transport, 3R, resources exploitation, treatment, compost production, biogas incinerators until the final disposal, export, and import of non-toxic rubbish or solid waste for the future)
  - d. Standards for classification of waste

e. Management of waste incinerators (details about incinerator standard and technique, incinerator operation and limit standard of ash discharge from burning)

2. Provisions for management:

a. Effectiveness of management:

- i. Separation, packaging, and disposal at the source:
- ii. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
- iii. The setting of rules and conditions of proper packaging
- iv. The setting of rules and conditions of disposal at the source in order not to affect aesthetic value, order, traffic, transport, ...
- v. The setting of time of solid waste discharge awaiting to be collected
- vi. What are obligations of waste producers?

b. Provisional disposal location (joint): The setting of rules and conditions on selecting location for managing, time for receiving , and transporting of waste and rules for controlling that location

c. Collection and transport

- i. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
- ii. The setting of rules and conditions of transport, loading
- iii. Collection and transport divided based on waste types
- iv. Obligations of companies providing services of collection and transport
- v. Obligations of competent institutions on collection and transport task (monitor, check, instruct, and recommend service companies)

d. Reduce, reuse, and recycle (3R) Compost production

- i. The setting of rules to courage the practice of 3R: provide support and encourage investors and 3R activities
  - ii. Obligations of competent institutions in 3R activities
  - iii. Obligations of citizens in 3R activities
- e. Resources exploitation from rubbish, solid waste (Biogas incinerator): The setting of methodology of exploiting biogases from organic waste
- f. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
- g. The final disposal:
  - i. Measures to reduce at maximum waste poured into the dump site
  - ii. Measures to control the final disposal with safety
  - iii. Construction, operation, and maintenance when shutting the dump site
  - iv. Waste incinerator sets technical standard for construction and operation of waste burning
- h. Obligations and participation of relevant institutions and private sectors on solid waste management
- i. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
- j. Education and knowledge enhancement for the public relating to solid waste management
- k. Penalty provisions on committing offenses

## **TITLE 10 INDUSTRIAL SOLID WASTE MANAGEMENT**

1. Sources: Industrial solid waste is waste from factories, enterprises, handicrafts (from production), sewage system treatment, agricultural sector, all of which excludes hazardous waste.

2. Effectiveness of management:

a. Separation, packaging, and disposal at the source:

- i. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
- ii. The setting of rules and conditions of proper packaging
- iii. The preparation of location or place to dispose waste based on types and with safety.
- iv. The setting of rules and conditions of disposal in order not to affect people's health and the environment
- v. What are the obligations of waste producers? cleaning premise outside and around factories

3. Collection and transport

- vi. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
- vii. The setting of rules and conditions of transport, loading
- viii. Collection and transport divided based on waste types

4. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment

5. The final disposal:

- ix. Measures to reduce at maximum waste poured into the dump site
- x. Measures to control the final disposal with safety
- xi. Construction, operation, and maintenance when shutting the dump site
- xii. Waste incinerator sets technical standard for construction and operation of waste burning

6. Obligations and participation of relevant institutions and private sectors on solid waste management

7. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions

8. Education and knowledge enhancement for the public relating to solid waste management

9. Penalty provisions on committing offenses
3. Solid waste management department, MoE requested that there shall be a separation of provisions on non-toxic solid waste and toxic waste, so that it is easy to check and practice when the law comes into force.
4. 4Rs principle – Reject, Reduce, Reuse and Recycle
- a. Promoting waste avoidance and reduction
  - b. Encouraging and facilitating recycling (including regulating recycling businesses)
  - c. Roles and responsibilities of government, private sector and citizens in recycling, waste reduction, and waste management
5. Management of plastic bags and plastic packaging materials use reduction
6. Measures on disposal

## **TITLE 11 ENVIRONMENTAL POLLUTION CHECK AND INSPECTION**

- Role of Environmental Pollution Inspectors: Articles 1, 2, 3 and 4
- Notification of Complaints and Inspections: Article 5 and 6
- Recommendations for Future Actions: Articles 7, 8, 9, 10 and 11

### **ARTICLE 1**

- 1. Environmental pollution inspection officers appointed by the proclamation of the minister of environment ministry shall have following duties:
- 2. Daily check source of pollution and polluting activities
- 3. Inspect environmental pollution
- 4. Suppress environmental pollution offenses
- 5. Fulfil other duties assigned by the minister of environment ministry.

### **ARTICLE 2**

An environmental pollution inspection officer is rehabilitated as a police of justice for checking

environmental pollution offenses stated in this code, in accordance with criminal procedure code of kingdom of Cambodia.

The formality and procedure of rehabilitation for pollution inspection officers are determined by joint proclamation of the minister of justice ministry and the minister of environment ministry.

### ARTICLE 3

Environmental pollution inspection officers shall have uniforms, labelling, and ranking signs determined by sub-degree.

During the operation of implementing this law, an environmental pollution inspection officer shall have mission command letter and wear a uniform, labelling, and ranking sign as stated in the first paragraph above.

### ARTICLE 4

On duties to daily check pollution source and pollution activities, environmental pollution inspection officers shall have the following rights:

1. Check controlling means and facilities and treatment of waste and pollutants from pollution source in consistence with provisions and procedure of this law.
2. Monitor and control activities relating to discharge of waste and pollutants from pollution source.
3. Guide, at the controlled scene, owners or pollution controllers to change or correct their waste and pollution discharge.
4. Take photo of and bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
5. Require people who are owners or pollution controllers provide information and disclose documents, records, permission letters, and documents relevant to waste or pollutants.
6. Take measure to temporarily stop serious pollution activities found while checking and implementing inspection procedure or procedure to suppress environmental pollution offences continuously.

### ARTICLE 5

In case there is a notification or a complaint on environmental pollution case or a serious pollution offence which harms public health or destroy property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on inspection work immediately.

On duties to inspect environmental pollution cases, environmental pollution inspection officers shall have the following rights:

1. Search for reasons and a person who causes environmental pollution.
2. Bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
3. Collect and seize any object relating to environmental pollution cases.
4. Take provisional measure on any activity or means relating environmental pollution cases found during the inspection and implementation of procedure to suppress environmental pollution offenses continuously.

The procedure of inspection on an environmental case is set by a proclamation of the minister of environment minister.

#### **ARTICLE 6**

In case of a flagrant environmental pollution offense which is harmful to the environment, public health, or damage property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on environmental pollution offense suppression work immediately.

On duties to suppress an environmental pollution offense, environmental pollution inspection officers shall have the following rights:

1. Take provisional action on any activity contributing to an environmental pollution offence.
2. Check, observe causes of an environmental pollution offence.
3. Bring and analyse a pollutant sample, an environmental sample, or a relevant sample which is polluted for verification, assessment, and assertion.



4. Limit and evaluate scope of impact.
5. Collect evidences for making a complaint in consistence with law procedure.
6. Take immediate action to eliminate environmental pollution.

#### **ARTICLE 7**

Case filing of an environmental pollution offense shall follow the criminal procedure code of Kingdom of Cambodia.

Application form for taking minutes of an environmental pollution offense shall be determined by join proclamation of the minister of justice ministry and the minister of environment ministry.

#### **ARTICLE 8**

Cost on an environmental pollution elimination operation is an offender responsibility. In case that identity of the offender is not known, all cost is the state responsibility.

#### **ARTICLE 9**

In case of an environmental pollution offense which affects or harms the environment or damage public property, environment ministry shall make a complaint to demand damages for destruction or damages for environmental quality restoration from the offender.

An impact scope assessment shall be made by environment ministry and have assessment participation from line competent ministries, institutions based on a proposal of the minister of environment ministry.

#### **ARTICLE 10**

Competent ministries, institutions, sub-national administration, and the public shall have good and active cooperation in participating in inspecting or suppressing an environmental offence based on a proposal of environment ministry or municipal, provincial environment department.

#### **ARTICLE 11**

Any person who is not satisfied with any measure taken by environmental pollution inspection officers as stated in this law, except for a decision on transitional punishment, may file a complaint to the minister of environment ministry within thirty (30) days after receiving

decision.

The minister of environment ministry shall decide on the complaint and make a written response to complaint owner within forty (40) days after receiving the complaint.

In case that a person who is the complaint owner is still not happy with the decision of minister of environment ministry, that person has right to file a lawsuit to court based upon the court procedure.

## **BOOK 7 ENVIRONMENTAL EDUCATION AND AWARENESS**

Commented [M232]: Per STWG 7. New Book.

- Environmental Education (EE) has been defined as the process of helping people, through formal and non-formal/informal education, to acquire understanding, skills and values that will enable them to participate as active and informed citizens in the development of an ecologically sustainable and socially-just society. (ASEAN 2014-2018).
- Education for Sustainable Development (ESD), training and awareness are seen as processes for developing values, understanding and skills consistent with environmentally sustainable and socially just society and assisting citizen participation in effective public participation and decision making. ESD balances human and economic and environmental development.
- “Education, including formal education, public awareness and training should be recognized as a process by which human beings and societies can reach their fullest potential. Education is critical for promoting sustainable development and improving the capacity of the people to address environment and development issues. While basic education provides the underpinning for any environmental and development education, the latter needs to be incorporated as an essential part of learning. Both formal and non-formal education are indispensable to changing people's attitudes so that they have the capacity to assess and address their sustainable development concerns. It is also critical for achieving environmental and ethical awareness, values and attitudes, skills and behaviour consistent with sustainable development and for effective public participation in decision-making. To be effective, environment and development education should deal with the dynamics of both the physical/biological and socio-economic environment and human (which may include spiritual) development, should be integrated in all disciplines, and should employ formal and non-formal methods and effective means of

Commented [CW233]: This education should be directed at citizens, policy makers, business entrepreneurs, international donor organizations, and government officials at all levels of governance.

There is an assumption here that the writers of this document are exempt from the lessons of such education – they are in fact in the most dire need of education and re-training

communication. “ (Agenda 21 1992 United Nations Conference on Environment and Development)

## **TITLE 1      GENERAL PROVISIONS**

The Kingdom of Cambodia considers that it is in the national interest to align the development objectives of the Kingdom with Environmental Education (EE) and knowledge development [reference National Green Growth Strategy and other relevant documents indicating commitment for national sustainable development].

Further, the Kingdom of Cambodia considers that education, public awareness and access to information are critical for achieving all objectives of the Environmental Code.

The Kingdom of Cambodia considers EE as a mechanism for implementing the Principle of Intergenerational Equity.

The appropriate Ministries and authorities shall have the authority to design, implementation and enforcement of curricula.

Consistent with [insert legal documents here], the appropriate Ministries shall:

- a) Strengthen capacity of educational system and relevant processes to address environmental and development challenges of the Kingdom of Cambodia;
- b) Encourage sustainable development;
- c) **Increase scientific and intellectual innovation;**
- d) Assure provisions for continuous development of professional skills and knowledge of environment and sustainable development for all sectors including in education, industry, private sector, agriculture, transport and public administration, media, civil society organizations;
- e) Assure inclusion of knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into education;
- f) Assure inclusion of latest achievement of science and technology into education and development;
- g) Assure that relevant EE content, methods and materials are provided for the trainings and

**Commented [CW234]:** That includes re-assessing the value of locally produced knowledge about sustainable practices and livelihoods

learning;

- h) Assure variety of opportunities to engage in learning processes at the levels of communities, professional associations, interest groups;
- i) Ensure regulatory, policy and operational frameworks for the integration of EE and ESD into education at all levels.

The overall objective of the actions is to empower Cambodia citizens, through environmental education and public participation, to contribute to cleaner and more socially just society, and, ultimately, to environmentally sustainable development, through support in developing values, attitudes and skills and capable to ensure sustainable development of the country and the region.

## **TITLE 2 POLICY MAKING**

Development provisions that affect environment and health of Cambodian citizens shall be accompanied by supporting provisions of the Ministry of Education Youth and Sport as well as other relevant ministries and authorities (inter-ministerial collaboration that aligns, at the policy level, development and education/training);

Relevant ministries shall include principles and provisions of EE and ESD into any sectoral and cross-sectoral policy and decision making processes affecting national and sub-national development; such provisions shall be accompanied by plans to develop and deliver necessary competencies into such development.

## **TITLE 3 TRAINING**

Relevant Ministries should include knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into professional qualifications and certificates.

Relevant Ministries create provisions to include relevant EE content, appropriate methods and materials are provided for the trainings and other learning processes.

Training should be provided to include environmental topics.

Relevant Ministries are responsible for creating training materials supporting educational processes aiming at addressing environmental challenges.

Relevant ministries and authorities should create variety of learning opportunities addressing environmental issues at the levels of communities, professional associations, and interest groups.

#### **TITLE 4 AWARENESS**

Relevant ministries and authorities shall assure that key groups of stakeholders of development processes are informed about environmental implications of these processes and potential remediation

Relevant ministries and authorities facilitate engagement of key stakeholders through main information channels including through media, festivals, and events, as appropriate and specified by Title 3 Public Participation and Title 4 Access to Information.

#### **TITLE 5 FORMAL EDUCATION SYSTEM**

Relevant ministries and authorities shall:

- a) Assure Inclusion of requirements for environmental and sustainability knowledge into qualification criteria (certification and re-certification) for professions
- b) For the EE/ESD to be effective for supporting human and national development, its themes shall be integrated into all levels of education (general education, tertiary education, professional and vocational trainings), across relevant subject (mainstreaming) as well as to form specific programmes and courses (specialized educational processes).
- c) Assurance that areas of EE/ESD knowledge reflect development priorities and latest achievements of science and technology.
- d) Assure development of guidelines for integration of the EE/ESD into curricular of students and educators (in-service and pre- service).
- e) Educational materials – pedagogic, didactic, methodological publications as well as textbooks and other relevant resources shall be developed to support teaching and learning processes related to environment and other associated aspects of sustainable development:
  - Ensure development and production of printed and electronic (including Internet-based) materials, video, audio and other materials for primary, secondary and vocational schools.

Commented [CW235]: This should be retroactively applied and opportunities for accreditation should be provided

- Ensure development and production of printed, electronic and other materials for higher education institutions.
  - Stimulate production of pedagogic, didactic and methodological materials supporting EE and ESD at higher education institutions.
  - Ensure development of information and learning materials for media on environmental protection, sustainable resource use and other associated issues.
  - Support informational portal that will provide access to resources related to environment and sustainable development relevant for the Kingdom of Cambodia.
  - Create an internet portal to give easy access to information and resources on sustainability, including on teaching and learning.
- f) Ensure support for the development of environmental management systems at schools, institutions of higher education and other learning organizations.
- g) Stimulate and support integration of EE and ESD principles and approaches into education and training environment (whole-institution approach).
- h) Facilitate and support different approaches in education including an interdisciplinary and transdisciplinary approach, ways of including EE into different subjects, programmes and learning processes, draws on local context.

**Commented [CW236]:** Also, and ESPECIALLY Produce pedagogic, didactic and methodological materials that can provide EE and ESD to government line ministries, government law enforcement and governing bodies, as well as industry managers coming to do business in Cambodia

## **TITLE 6 COMPETENCES AND CAPABILITY OF EDUCATORS, TRAINERS, AND CHANGE AGENTS**

To improving competences of educators, change facilitators, leaders and decision makers in formal and non-formal education to support knowledge development towards greener and more sustainable society, the relevant ministries and authorities shall:

- a) Assure that competences of educators that support education towards more sustainable development are defined as well as qualification criteria for educators in formal educational system;
- b) Assure development of programmes for training pre-service and training and retraining in-service educators as well as development of required educational materials.

Relevant ministries and authorities shall promote environmental and sustainability ideas at all

levels of education and in all educational processes by:

- a) Assuring development and support of national network on EE and ESD competencies, methodologies and approaches.
- b) Supporting and promoting results of research into EE and ESD including its content, teaching and learning methods, ways of integrating it into programmes and other educational activities, including methods of assessment.

## **TITLE 7 RESEARCH AND INNOVATION**

Relevant ministries and authorities:

- a) Should develop a process that implementation of in-service teacher training programmes based on latest scientific knowledge related to environment and sustainable development.
- b) Should support development and implementation of programmes that bring together education and research and aim at solutions for environmental challenges.
- c) Should regularly update educational and training materials ensuring based on the latest scientific knowledge.
- d) Should facilitate support for relevant research and education by providing resources for research as well as opportunities for studies and exchange.

Relevant ministries and authorities should align knowledge on environmental protection and sustainable resource use with development of knowledge and expertise in other areas of sustainable development (link to SDGs) by:

- a) Assuring collaboration between traditional knowledge holders and scientific knowledge
- b) Supporting cross-sectoral collaboration, stimulate interaction between science (natural and social), technology development and business, development of appropriate technologies with a smaller negative impact on the environment.
- c) Support transdisciplinary research and innovation.
- d) Developing action research programmes that aim at addressing solutions/innovations for environmental and sustainability challenges; should prioritize research that brings together the different dimensions of SD, as well as focuses on issues of local sustainable

development.

### **Title 3 TITLE 8 REGULATION AND OPERATIONAL FRAMEWORK**

The Government should have provisions for regulatory, financial and organizational support of EE and research by:

- a) Assure provisions on sharing responsibilities – stakeholders are invited in defining priorities for various sectors; government carries ultimate responsibility.
- b) Should create mechanism for education coordination and training on the environment and development including provisions for creation of the (Inter-agencies Committee on EE).
- c) Should use economic and organizational instruments to increase in international scientific and educational exchanges, international programmes for research and technology development.
- d) Should create informational resource for support of environmental education.
- e) Assure provisions on research that demonstrates effective ways of working with EE and ESD
- f) Assure provisions on monitoring.
- g) Assure provisions for funding – to assess costs for implementation of provisions (EE Strategy?) and secure necessary funding.
- h) Assure funds for supporting environmental research.

The Government of the Kingdom of Cambodia is to have in place EE national action plan with provisions for its implementation.

### **Book 7 BOOK 8 ENVIRONMENTAL INCENTIVES, FEES, TAXES AND FUNDING**

- This Book will set out the mechanism by which the responsible Ministries will be able to charge fees.
- This Book will include clear provisions to ensure that all fees and taxes that are levied and received and all economic instruments that are established such as environmental



funds will be managed in accordance with international standards on accountability and transparency.

## **TITLE 1 ENVIRONMENTAL INCENTIVES**

### **CHAPTER # ECONOMIC INCENTIVES FOR GREEN INVESTMENT AND SUSTAINABLE FINANCING IN THE BANKING SECTOR**

#### **CHAPTER # SPECIAL INCENTIVES FOR PUBLIC/PRIVATE PARTNERSHIPS**

#### **CHAPTER# FINANCIAL INCENTIVES AND TAXATION MEASURES TO REDUCE DEFORESTATION AND PROMOTE BIODIVERSITY AND NATURAL RESOURCE CONSERVATION, GREEN URBAN INFRASTRUCTURE, ECO-TOURISM AND SUSTAINABLE TOURISM, COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT, SUSTAINABLE LOW CARBON ENERGY PRODUCTION, SUSTAINABLE FORESTRY, AND SUSTAINABLE FISHERIES**

#### **CHAPTER # ECO-LABELLING**

##### **ARTICLE #**

Financing for eco-labelling

##### **ARTICLE #**

Independent Certification for eco-labelling of products and services

##### **ARTICLE #**

Incentives to switch to more efficient consumer appliances and the phasing out of inefficient devices

## **TITLE 2 VALUATION OF RESOURCES AND ECOSYSTEMS SERVICES**

### **CHAPTER # SCOPE AND PROCEDURES FOR VALUATION OF RESOURCES AND ECOSYSTEM SERVICES, INCLUDING NATURAL CAPITAL ASSESSMENT**

#### **CHAPTER # PAYMENT FOR ECOSYSTEM SERVICES**

### **TITLE 3 ENVIRONMENTAL TAXES, FEES AND OTHER FUNDING OPTIONS AND FUND MANAGEMENT**

- A submission has been received that highlights that Cambodia does not have a Trust Fund Law that would assist in developing funding arrangements to finance the protection of protected areas and protected forests. Consideration should be given to enabling Trusts to be created.

#### **CHAPTER # ENVIRONMENTAL TAXATION**

#### **CHAPTER # FEES PAYABLE FOR SERVICES PROVIDED BY MINISTRY**

#### **CHAPTER # OTHER FEES**

#### **CHAPTER # OTHER FUNDING OPTIONS (E.G., FUNDING OPTIONS FOR FOREST CONSERVATION)**

#### **CHAPTER # BENEFIT SHARING AGREEMENTS**

#### **CHAPTER # ESTABLISHMENT OF THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND; GOALS OF THE FUND**

#### **CHAPTER # ESTABLISHMENT OF OTHER FUNDS**

(e.g., community initiative funds)

#### **CHAPTER # SOURCES OF REVENUE ~~TO FOR~~ THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND AND OTHER FUNDS**

#### **ARTICLE #**

The Project Proponent shall make payment of a minimum of 1 percent of the project costs to the Environmental and Social Fund of MoE. An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.

#### **ARTICLE #**

The Project Proponent shall make payment of Environmental Endowment Fund based on the agreement between MoE and Project Proponent, on an annual basis until the end of business.

Fourth Draft Environmental Code of Cambodia | 12 August 2016

Commented [M237]: Funding Options for Forest Conservation under development.

Commented [M238]: Per NGO Forum.

based on the type and scale of development project.

## CHAPTER # TRANSPARENCY AND GOVERNANCE PROCEDURES FOR FUNDS

### CHAPTER # AUDITING OF FUNDS

## CHAPTER # CRITERIA FOR GRANT-MAKING AND DISBURSEMENT FROM THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND

## CHAPTER # ENVIRONMENTAL LIABILITY INSURANCE MECHANISMS FOR PAYMENTS BY POLLUTERS OR FOR ENVIRONMENTAL DAMAGE (E.G. BOND, ENVIRONMENT AND SOCIAL FUND)

# **BOOK 9 ENVIRONMENTAL OFFENSES, ENFORCEMENT AND REMEDIES**

## ~~Title 3~~ **TITLE 1 INVESTIGATION, ENFORCEMENT AND ACCESS TO REMEDIES**

- This Title will deal with the powers of the relevant Ministries to investigate the environmental offences outlined in Book 9 ~~Title 2~~.
- It will make provision to allow for citizens and organisations to follow dispute resolutions procedures and bring proceedings to the relevant review body. These provisions will also identify mechanisms for citizens and organisations to bring general complaints and other proceedings.
- This Title will also examine the use of relevant dispute resolution procedures and grievance mechanisms, including Environmental Courts and Tribunals (ECTs), to deal with environmental and natural resources development decisions. This Title will examine options for the Ministry of Environment to establish an Environmental Tribunal to re-examine environment and natural resource management decisions made under the Environmental Code.
- This Title will also look at other options such as Administrative Tribunals and an Ombudsman or Environmental Commissioner, to review problems and concerns relating to environmental and natural resources decisions. These would be established to be

**Commented [BR239]:** These two articles are moved from the EIA title, and presented here in the form in which they existed in the final version of the draft EIA Law.

**NOTE:**

Discussion is currently underway regarding the different types of funds that are required in order to 1) ensure proper project performance 2) guarantee any needed environmental restoration at project conclusion, and 3) to provide sufficient contribution to overall environment and conservation activities.

Discussion is also underway regarding the amounts of fees that Project Proponents will be required to provide to these respective funds.

**Commented [SL240]:** Suggest reference to UN Guiding Principles on Business and Human Rights which includes access to remedy

**Commented [F241]:** CCC: Include something on access to both judicial and non-judicial mechanisms, e.g. the OECD Guidelines for Multinational Enterprises, the IFC CAO Ombudsment

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accessible to the community and open and transparent. For example, one matter would be the use of municipal planning tribunals to resolve conflict between planning and land use decisions in the urban context.

- Legal entity and local-level dispute resolution and grievance mechanisms.
- The mechanisms in this Title will be consistent with international recognized criteria, including legitimate, accessible, predictable, equitable, rights-based, and transparent.

Commented [M242]: Per NGO Forum.

## CHAPTER # ENVIRONMENTAL COMPLAINTS

### CHAPTER # PROCEDURES FOR RESOLUTION OF ENVIRONMENTAL COMPLAINTS

#### SECTION 1 GENERAL PROVISIONS

##### ARTICLE #

Objective

##### ARTICLE #

Scope of Code Application

##### ARTICLE #

General Principle

##### ARTICLE #

Type of Environmental Dispute Resolution

a) Ombudsman or Environmental Commissioner

b) Administrative Tribunal

c) Court

a)d) Out of Court / Mediation

##### ARTICLE #

Establishing Enforcement Priorities

## **CHAPTER # ESTABLISHMENT OF OMBUDSMAN OR ENVIRONMENT COMMISSIONER**

### **ARTICLE #**

Role of the Ombudsman or Environment Commissioner.

## **CHAPTER # ESTABLISHMENT OF ENVIRONMENTAL ADMINISTRATIVE TRIBUNAL**

### **ARTICLE #**

All citizens may bring complaints before the Administrative Tribunal for breaches of the Environmental Code.

### **ARTICLE #**

Rights of review of environmental and natural resources decisions.

### **ARTICLE #**

NGOs may assist citizens and communities to bring matters to the Administrative Tribunal.

### **ARTICLE #**

Obligation of Administrative Tribunal to hear and determine matters quickly and fairly.

## **SECTION 3 RESOLUTION OF ENVIRONMENTAL DISPUTE THROUGH THE COURT**

### **SECTION 2 TYPE OF ENVIRONMENTAL COMPLAINT**

### **ARTICLE #**

Civil Complaints

### **ARTICLE #**

Criminal Complaint

**Commented [CW243]:** Clarify relationship between Ombudsman/Commissioner and the tribunal. Will the tribunal utilize the Ombudsman?

What entities will make up the administrative tribunal

**ARTICLE #**

Complaint against Administrative Decision of the Government or Governmental Authorities

**ARTICLE #**

Relation of Civil and Criminal Complaint

**SECTION 1 PARTIES OF ENVIRONMENTAL COMPLAINT**

**ARTICLE #**

Directly Affected Parties

**ARTICLE #**

Participation of Relevant NGOs in Environmental Complaint

**ARTICLE #**

The Governmental authorities in the Environmental Complaint

**ARTICLE #**

Rights of Affected Parties

**ARTICLE #**

Decision of Court

**ARTICLE #**

Appeal to Decision of Lower Court to Higher Court

**SECTION 4 COMPLAINT AGAINST TO DECISION OF ADMINISTRATION OF  
GOVERNMENTAL AUTHORITIES**

**ARTICLE #**

Right of Affected Natural Person/Legal Entities

**ARTICLE #**

Time Limitation of Issuance of Decision on the Complaint

**ARTICLE #**

Appeal to Decision of Higher Administration Institute

Commented [CW244]: What is the highest administration institute that will be recognized by this code?

**SECTION 2 OUT OF COURT RESOLUTION OF ENVIRONMENTAL DISPUTE**

**ARTICLE #**

Objective

**ARTICLE #**

Appointment of Mediator/Arbitrator

**ARTICLE #**

Obligation of Government to Create the Environmental Arbitration Institute

**ARTICLE #**

Appeal to the Decision of Arbitrator to the Court

**CHAPTER # MONITORING, COMPLIANCE AND CITIZENS RIGHTS TO BRING PROCEEDINGS**

**SECTION 1 GENERAL**

- a) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against any natural or legal person who violates or fails to comply with the provisions of this Code and its implementing regulations [by emitting restricted substances into the environment, harming protected species, habitats or ecosystems, beginning work without a license on construction or extraction projects that require a license, or any other act that is clearly in violation of this Code].

- b) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against a Minister or Ministry charged with a nondiscretionary duty in this Code to enforce any of the Code's provisions or to create regulations, where the Minister or Ministry has failed to discharge that duty within a reasonable time.
- c) Any plaintiff pursuing an action under Section 1 shall do so for the public good and does not need to be directly impacted.
- d) Any plaintiff pursuing an action under this Section 1 shall do so for the public good and must not receive economic benefit.
- e) An action under this Section 1 shall not affect the rights of any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society in an action for personal injury or damage due to the same conduct that is the subject of a Section 1 complaint.

#### SECTION 2 NOTICE

- a) Before any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursues any action under Section 1, they must give notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.
- a)b) A Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing any action under Section 1 must also give notice to
  - i) the relevant Ministry; and
  - ii) the administration of the District in which the violation or failure to comply has occurred.
- c) No action may be commenced under Section 1
  - i) within 30 working days of notice provided under Subsection 2(a) and (b); or
  - ii) if the relevant Ministry or District has commenced and is diligently prosecuting a civil action in Court to require compliance with the Code provision in question.
- d) Notwithstanding Subsections 2(a), 2(b), and 2(c), where the violation of the Code



represents a public health or environmental emergency, any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing action under Section 1 may commence any action under Section 1 immediately after giving notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.

### **SECTION 3 VENUE**

- a) An entity filing a written complaint under Subsection 1(a) must do so with the Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal.
- b) An entity filing a written complaint under Subsection 1(b) may do so with
  - i) The Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal; or
  - ii) The Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.
- c) Notwithstanding Subsections 3(a) and 3(b), where the violation of a provision of the Code represents a public health or environmental emergency, an entity filing any complaint under Section 1 must do so with the Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.

### **SECTION 4 PROCEDURE**

- a) An entity filing any written complaint under Section 1 with the Administrative Tribunal must comply with the procedures for the Administrative Tribunal.
- b) Notwithstanding the procedures for the Administrative Tribunal, the Administrative Tribunal must give notice to the public of its acceptance of the action within ten working days of its acceptance.
- c) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Administrative Tribunal to participate in the complaint under Subsection 1(a) within thirty working days of the announcement under Subsection 4(b).
- d) An entity filing a written complaint under Subsection 1(b) of this Code shall do so in

compliance with the Code of Civil Procedures.

- e) Notwithstanding the Code of Civil Procedures, the Court shall give notice to the public of its acceptance of an action under Subsection 1(b) within ten working days of its acceptance.
- f) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Court to participate in the complaint under Section III of the Code of Civil Procedures.

#### **SECTION 5 REMEDY, AWARDS AND CIVIL PENALTIES**

- a) The Administrative Tribunal, in issuing any final order in any action brought under Subsection 1(a), may require the natural or legal person to perform its duty under the Code.
- b) The Administrative Tribunal in issuing any final order in any action brought under Subsection 1(a), may have recourse to any appropriate civil penalties.
- c) The Court, in issuing any final order in an action brought under Subsection 1(b) may require the Minister or Ministry to perform its nondiscretionary duty.
- d) The Administrative Tribunal or the Court, upon motion of the complainant, may issue a provisional disposition establishing a provisional status.
- e) The Administrative Tribunal or the Court, in issuing any final order in any action brought under Section 1, may issue an injunction requiring the defendant to stop all illegal activity and to pay for the costs of remedying all of the environmental damage or human injuries resulting from violations of the Code.
- ⌘f) The administrative tribunal or Court, in issuing any final order in any action brought under Section 1, may require a defendant found to have violated the Environmental Code to pay
  - i) a successful plaintiff's costs of litigation (including reasonable attorney and expert witness fees) to the plaintiff; and/or
  - ii) any fee established by law as a consequence of violating the Code into a special fund for licensing, the costs of the Minister or Ministry as defendant in an action under Subsection 1(b), and other services; and/or

iii) any civil penalty to be paid into the fund specified in Subsection 5(f)(ii).

- g) The administrative tribunal or Court, in issuing an order under Subsection 5(f)(iii), shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in Subsection 5(f)(iii), be used in beneficial mitigation projects which are consistent with this Code and enhance the protection of the environment.
- h) The award of costs of litigation to a plaintiff must not be considered an economic benefit to the plaintiff.

#### **SECTION 6 PLAINTIFF'S COSTS**

- a) The Court shall exempt an action under Section 1 from the payment of filing fees until either the complaint is proven to be without merit or a final order is issued, in which case such fees shall be included as part of a successful plaintiff's costs of litigation under Subsection 4(d)(ii).

#### **SECTION 7 TIME**

- a) Claims raised under Section 1 shall be resolved within one year of filing.

#### **SECTION 8 STRATEGIC LITIGATION TO DETER PUBLIC PARTICIPATION (SLDPP)**

- a) Where a counter-suit is filed or administrative action undertaken against a Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society who has filed an action under Section 1 or has given notice under Section 2, the court or administrative decision-maker must make a determination in not less than thirty working days from the commencement of the counter-suit or action on whether said counter-suit or action is intended to harass, vex, exert undue pressure, or stifle the resources of the entity filing under Section 1 or the entity giving notice under Section 2. If the court or administrative decision-maker makes such a determination supported by evidence, the Court shall dismiss the counter-action or administrative action and award attorney's fees and double damages to the SLDPP defendant.
- b) Subsection 7(a) also applies where a court action is filed or an administrative action undertaken against a government official or entity acting in their official capacity, provided that the court or administrative decision-maker has made a determination based on evidence that the government official or entity was acting in the course of enforcing this Code, and that there was no abuse of authority.

**CHAPTER # COMMUNITY DRIVEN OPERATIONAL GRIEVANCE MECHANISMS**

**CHAPTER # JUDICIAL POLICE OFFICERS**

**ARTICLE #**

Role and Obligation of Judicial Police Officers

**ARTICLE #**

Procedure of Qualification of Judicial Police Officers

**ARTICLE #**

Territory of Judicial Police Officers

**ARTICLE #**

Investigation of Environmental Crime of Judicial Police Officers

**ARTICLE #**

Obligation of Relevant Authorities in Co-Operation to Environmental Crime Investigation

**ARTICLE #**

Procedure of Environmental Complaint Compilation

**CHAPTER # ESTABLISHMENT OF ROYAL ACADEMY OF RANGER  
PROFESSIONALS**

**ENVIRONMENTAL OFFENCES AND REMEDIES (PENALTIES)**

- This Title will outline the Environmental Offences that will be subject to possible action under the Civil Code or Criminal Code.
- It will provide an outline for determining which breaches of the Code should be subject to criminal prosecution.
- The Title will identify specific offences and failures to comply with relevant provisions of the Code.

**Commented [CW245]:** Should provide space for grievance against local-level authorities, ministry representatives, police, military, and companies

Also against fellow community members

**Commented [CW246]:** Solicit enrolment of community members through royal scholarships

- It will provide options for penalties from fines to imprisonment and remediation orders. It will be based on the work done on the draft EIA Law.

**CHAPTER # BREACH OF ANY PROVISION OF THE ENVIRONMENTAL CODE**

**CHAPTER # PENALTY PROVISIONS**

**CHAPTER # ENVIRONMENTAL IMPACT ASSESSMENT OFFENSES**

**CHAPTER # AIR POLLUTION OFFENSES**

**CHAPTER # CLASSIFICATION OF OFFENSES**

**CHAPTER # TABLE OF PENALTIES FOR OFFENSES**

**CHAPTER # APPLICATION OF CRIMINAL CODE TO ENVIRONMENTAL  
OFFENSES**

**CHAPTER # APPLICATION OF CIVIL PENALTIES FOR ENVIRONMENTAL  
OFFENSES**

**TITLE 2 RESTORATION AND COMPENSATION FOR INJURIES  
TO NATURAL, CULTURAL, HISTORIC AND  
ARCHAEOLOGICAL RESOURCES**

- This Title will provide relevant information about compensation and restoration orders, if a breach of the Code has led to environmental harm or harm to human health.

**CHAPTER 1 GENERAL PROVISIONS AND OBJECTIVES**

**ARTICLE 1**

There is a national interest in restoring and compensating for injuries to resources of Cambodia.

**ARTICLE 2**

Application of the polluter pays principle requires that any person found responsible for any injury to any resources of Cambodia shall be required to restore all such injuries, and or otherwise compensate for all losses resulting therefrom.

**ARTICLE 3**

Fourth Draft Environmental Code of Cambodia | 12 August 2016

Timely restoration and just compensation critical to long term well-being of the people of Cambodia.

## **CHAPTER 2 LIABILITY PROVISIONS**

### **ARTICLE 4**

Liability.

### **ARTICLE 5**

Liability in rem (directed towards property).

### **ARTICLE 6**

Liability of corporate officials.

### **ARTICLE 7**

Joint and several liability.

### **ARTICLE 8**

Right to seek contribution from other potentially liable persons.

## **CHAPTER 3 DEFENCES AND EXCEPTIONS TO DEFENCES**

### **ARTICLE 9**

Defences.

### **ARTICLE 10**

Exceptions to defences.

## **CHAPTER 4 – ENVIRONMENTAL COMPENSATION**

### **ARTICLE 11**

Measure of environmental compensation.

## **CHAPTER 5 – PARTIES CLAIMANT**

**ARTICLE 12**

Parties who can make claims for Environmental Compensation.

**CHAPTER 5 – RESTORATION PLANNING COUNCIL AND COMPENSATION  
EVALUATION PROCESS**

**ARTICLE 13**

Restoration Planning Council.

**ARTICLE 14**

Duties and authority of the Council

**ARTICLE 15**

Restoration Compensation Evaluation.

**CHAPTER 6 – RESTORATION CONSULTATION AND RESOLUTION**

**ARTICLE 16**

Restoration consultation process.

**CHAPTER 7 – SETTLEMENT REQUIREMENTS AND JUDICIAL STANDARD OF  
REVIEW**

**ARTICLE 17**

Administrative and judicial resolutions.

**ARTICLE 18**

Judicial standard of review of a restoration compensation claim.

**CHAPTER 8 – ADMINISTRATIVE ORDER AUTHORITY**

**ARTICLE 19**

Authority of the Minister of the Environment to order support of Restoration Compensation

Evaluation, and Restoration Council activities.

#### **ARTICLE 20**

Authority of the Minister of the Environment to order emergency restoration.

### **CHAPTER 9 – AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION**

#### **ARTICLE 21**

Notwithstanding any other provision of this Code, the Minister of the Environment may undertake the necessary restoration of injuries to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.

Chapter 10 – Management and Use of Recovered Funds

#### **ARTICLE 22**

Monies recovered as payment towards or reimbursement of the costs and expenses of Restoration Compensation Evaluation and Restoration Council activities shall be paid directly to the party incurring, or who will be incurring, said costs and expenses, and shall be used for that purpose only.

#### **ARTICLE 23**

Monies recovered for the implementation of restoration shall be held in a special account. (Restoration Implementation Fund).

#### **ARTICLE 24**

Authorization for release of funds.

#### **ARTICLE 25**

Fund Manager shall be personally responsible for maintaining the Restoration Implementation Fund and insuring that all transactions are properly recorded and made available for viewing online.

### **CHAPTER 11 – SCOPE OF TITLE AND RELATIONSHIP OF OTHER ACTIONS**

### **CHAPTER 12 – STATUTE OF LIMITATIONS**



## **ARTICLE 26**

Statute of limitation for right to claim for environmental compensation.

## **~~Book 8~~BOOK 10 TRANSITIONAL PROVISIONS**

- This Book will provide details of the transitional provisions required to allow the Code to become effective in the shortest period of time.
- It will provide details of how existing protected areas and relevant reserves will be maintained, based on the principles of the Environmental Code, until they have been reviewed and assessed in accordance with the provisions of the Code.
- The development of the Environmental Code should not be used to allow continued environmental destruction during the period that new management plans are being developed.
- This Book will provide details of the laws and sub-decrees that will be repealed.
- This Book will clarify how the Environmental Code will amend the various existing natural resources laws and laws relating to environmental protection and natural resource management.

## **~~Book 9~~BOOK 11 FINAL PROVISIONS**

Highly recommend review of Oxfam (Australia and America) work on best practice in extractives.

<https://www.oxfam.org.au/what-we-do/mining/>

<http://politicsofpoverty.oxfamamerica.org/category/resource-rights/>

Also review ICMM sustainable development framework, principles and guidance.

<http://www.icmm.com/our-work/sustainable-development-framework>

<http://www.icmm.com/document/9520>

and OECD Meaningful stakeholder Engagement and Due Diligence in the Extractives Sector

<https://mneguidelines.oecd.org/OECD-Guidance-Extractives-Sector-Stakeholder-Engagement.pdf>

and related OECD Guidance on conflict minerals and gold

See also:

<https://www.csr.uq.edu.au/publications/agreement-making-with-indigenous-groups>

This will need to include language and provisions around benefit-sharing, noting that impacted communities need to participate in negotiating benefit sharing arrangements / compensation on a case-by-case, project-by-project basis

STWG 3/5 recommends that the number and name of zones for Co-Management (Collaborative Management) Protection Zones remains the same as the current zones for Protected Areas. Co-management Zones are likely to cover many Protected Areas and two separate zoning systems with similar names could be confusing to understand and apply for all stakeholders.

Per NGO Forum. Projects must not be implemented inside already designated conservation areas. 'Zero Tolerance'

Provides clear rights and responsibilities for community members to enforce resource protection

# Submission Form

## Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia

Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission:

September 20, 2016

Submitted by (provide individual and STWG contact information):

Karina Watkins, WWF-Cambodia in STWG1

### 1. Issue:

Implementation of SEA and ecosystems approach to planning.

### 2. Reference to Code Book and Title (if applicable):

BOOK2, TITLE 1 *Chapter: Adopting an ecosystems approach to planning including recognition and Valuation of ecosystem services*

BOOK2, TITLE6, CHAPTER# CHAPTER # IMPLEMENTATION OF SEA

### 3. Comparative Experience (if any):

*(Please include any Cambodian and international examples and experience.)*

### 4. Recommendation:

Add 2 articles (1) Establish the Ecosystem Services context, (2) Determine and assess priority ecosystem services

### 5. Proposed Language to be Inserted into the Draft Code (if any):

#### **ARTICLE # - Establish the Ecosystem services context**

Identification and mapping of ecosystem services and beneficiaries (link ecosystems, services and beneficiaries through a conceptual framework; and include all ecosystem services in order to see later on which ones are the most important)

Then review existing regulations concerning ecosystem services (analyse the possible implications for the strategic action of existing regulations that set conditions for the use or protection of ecosystem services)

Finally – identify links with other strategic actions. Harmonise the strategic action with existing actions at different tiers (national, regional and local); identify possible conflicts and synergies related to the supply or demand of ecosystem services.

#### **ARTICLE # - Determine and assess priority ecosystem services**

Determine priority ecosystem services. Identify a) the services upon which the strategic action depends, and b) the services that the strategic action may affect (positively or negatively). Consult all potentially affected stakeholders to properly set the boundaries of the SEA. Address the geographical relationships between the area where the ecosystem services are produced, and the area where they are used by beneficiaries

#### **ARTICLE # - Environmental Report**

[Add text below]:

Identify alternatives – e.g. identification of possible courses of action to enhance (priority) ecosystem services, or at least minimize negative effects on them. Alternatives can be generated as a reaction to proposals or as a response to issues that emerged during the previous stages, and that need to be adequately addressed by the strategic action. Consider an appropriate “hierarchy of alternatives”, from the more strategic to the most operational ones

Predict and evaluate impacts for each alternative. Determine which ecosystem services would benefit or be worse off, and which groups of people would win or lose, if a given alternative is selected. Predict impacts by describing the expected changes in the ecosystem services conditions due to the implementation of a given alternative. Evaluate impacts by describing the significance of the predicted changes for beneficiaries. Address cumulative effects, by considering all activities of the strategic action, as well as of other existing/ foreseen action. Make ecosystem services tradeoffs and synergies explicit.

Identify measures to enhance and mitigate impacts. Seek measures that, in order of priority: Enhance ecosystem services; Avoid negative effects on ecosystem services; Reduce negative effects; Repair negative effects; Offset negative effects.

#### **ARTICLE # - Review and Decision**

[Add text below]:

Test the quality of the SEA. Test the process iteratively, to highlight shortcomings and limitations and propose changes to address these that can be used to improve the strategic action. Disseminate lessons learned from quality control checks to improve the future practice of integrating ecosystem services in SEA.

#### **CHAPTER # - Monitoring**

[Add text below]

Monitor and manage ecosystem services during implementation by collecting evidence about contextual changes and actual impacts of the strategic actions on ecosystem services, and evaluating to what extent they differ from predictions.

Propose management interventions and adjustments to the strategic action early enough to improve its overall performance in terms of ecosystem services.

## **Chapter: Adopting an ecosystems approach to planning including recognition and Valuation of ecosystem services**

[Add text below]:

An ecosystems approach is a way of looking at the natural environment throughout the decision making process that helps to think about the way that the natural environment works as a system. It is a strategy for the integrated management of land water and living resources that promotes conservation and sustainable use in an equitable way. It enables decision makers to think about the spatial scale of society's interactions with the natural environment, the range of constraints and limitations at play and the people involved in supplying and receiving ecosystem services and benefits. Carrying out economic valuation of the ecosystem services involved could help decision makers to incorporate the value of the natural environment in decisions.

### **6. Cambodian Laws to be Abrogated or Modified (if any):**

*(Please include the law title and the titles of specific articles and clauses.)*

### **7. Drafting Team Analysis/Response** (to be included in public database):

## **Submission Form**

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- *Please submit all comments in Khmer and English when possible.*

Date of Submission: 21 September 2016

Submitted by (provide individual and STWG contact information): STWG4

1. Issue:

Cultural Heritage management

2. Reference to Code Book and Title (if applicable):

*(Please provide the Book and Title names and not just the number; the Book and Chapter numbers may change from one draft to the next if the Code is reordered.)*

3. Comparative Experience (if any):

*(Please include any Cambodian and international examples and experience.)*

4. Recommendation:

*(Please include here the text of the recommendation to address the issue provided in number 1 [“1. Issue”] above. If needed, note “See Attachment” for corresponding documents.)*

5. Proposed Language to be Inserted into the Draft Code (if any):

*(Optional. Note: when proposing modifications to existing draft Code text, please extract the relevant text and insert here, in track changes if possible.)*

6. Cambodian Laws to be Abrogated or Modified (if any):

*(Please include the law title and the titles of specific articles and clauses.)*

7. Drafting Team Analysis/Response (to be included in public database):

## **TITLE 5 – CULTURAL AND NATURAL HERITAGE MANAGEMENT**

- This Title will examine the identification, protection and management of cultural and natural heritage. It will consider the need to protect both tangible and intangible items of cultural heritage.
- This Title establishes the Heritage Council of Cambodia with representatives from relevant Ministries, NGO and private sector, The Heritage Council will develop policies to protect Colonial and modern Cambodian heritage as well as Angkor and Pre-Angkor heritage. The Heritage Council will have the task to set up and maintain the Heritage Register for Cambodia. This Heritage Register will be a list of places, objects, buildings and other items that are to be protected or preserved. An interim list for the Heritage Register will be prepared to protect these items until a detailed assessment can be undertaken to assess the heritage value.
- This Title will regulate the activities of heritage site establishment to ensure the protection of the rights of citizens living in those areas.
- This Title will look at the operation of the APSARA Authority and related legislation to ensure a consistent approach to the protection and management of natural, cultural and built heritage, including both tangible and intangible heritage.
- Ministry of Culture and Fine Arts and other authorities related to heritage protection and management should retain a strong role in heritage protection but this should include consultation and liaison with other Ministries, including Ministry of the Environment and the Minister for Land Use Planning.
- This would examine both World Heritage and Ramsar listed areas, as well as local and national heritage areas, with special attention to ethnic minorities and indigenous people.
- It will regulate key activities in heritage areas, including tourism, research, archaeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archaeological surveys
- Other protection mechanisms will include anti-trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.



## **Chapter 1**

### **General Provision**

#### **Article 1: Objective**

This provision has the following objectives:

- a) To preserve, protect, and manage natural resource and to conserve cultural heritage in a sustainable way;
- b) To preserve the beauty and history of capital, province, city and urban area;
- c) To preserve identity of historical and pre-historical stations and worship places of indigenous people;
- d) To preserve and conserve biodiversity and ecosystem;
- e) To preserve and improve the livelihood, tradition, culture and custom of indigenous community;
- f) To promote cultural identity of the nation;
- g) To promote the development of tourism;
- h) To create the balance between human society and nature;
- i) To create the collaboration between relevant ministries and institutions as well as National and International Organizations and development partners;
- j) To create a budget package to preserve, protect, and conserve natural resource and cultural heritage.

#### **Article 2: Scope**

This provision will clarify the scope of application throughout the Kingdom of Cambodia over both state land and private land.

#### **Article 3: Definition**

- Cultural Heritage:
- Natural Heritage:

#### **Article 7:**

Adoption of the Guideline of UNESCO

**Article 8:**

Obligation to protect national heritage of the Kingdom of Cambodia

## **Chapter 2 Inventory and Classification**

**Article 1:**

Competent Institutions shall prepare cultural property inventory.

**Article 2:**

Cultural Property Inventory shall be updated every five years.

1. Obligation of competent institutions
2. Obligation of owners of cultural property
  - a. Sell to the State;
  - b. Prohibition to any damage to the outside beauty;
  - c. Do not have the right to build any new or additional construction
3. Preservation and usage of cultural property inventory
4. Budget to be used for the work on cultural property inventory

**Article 3:**

The state may need to spend a portion of the cost for repairing private buildings (which were built in Sangkum Reas Niyum era).

**Article 4:**

The owners of the building must submit request for support to repair the building from the state.

**Article 5:**

The state has the duties to provide technical experts to help repair those buildings.

## **Chapter 3 Zoning of Heritage Protection Area**

**Article 1:**

Plans and maps determining the location shall include

- a. Heritage Park
- b. Historical garden
- c. Cultural landscape
- d. Cultural village
- e. Archaeological site
- f. Built heritage
- g. Heritage city

**Article 2:**

Determination of cultural property shall be done by Preah Reach Kret (Royal Decree).

**Article 3:**

Roles and duties of competent institutions for establishment and conservation of the heritage areas described above.

**Chapter 4  
Criteria****Article 1:**

- a. Heritage park refers to.....
- b. Historical garden refers to.....
- c. Cultural landscape refers to.....
- d. Cultural village refers to.....
- e. Archeological site refers to.....
- f. Built heritage refers to.....
- g. Heritage city refers to.....

**Article 3:**

Determination of cultural heritage:

- a. Determination based on the number of years (50 or 100) of the property or based on eras such as French colonization era, Sangkum Reas Niyum era;
- b. A number of workmanship is not so old but it contains a special value which cannot be found elsewhere
- c. A new innovation which is valuable to the society
- d. Cultural property which contains a special value for the nation
- e. A movement of architecture which reflects national identity
- f. An architectural workmanship which influences the next generations

# Submission Form

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- If needed, please submit large documents as an attachment.
- Please submit all comments in Khmer and English when possible.

Date of Submission:

21 September 2016

Submitted by (provide individual and STWG contact information):

*(Required, including relevant STWG, if any.)*

Teng Rithiny, WCS, member of STWG 6

### 1. Issue:

*(Please provide a brief description of the issue that is addressed by the recommendation included in number 4 [“4. Recommendation”] below.)*

Access to information

### 2. Reference to Code Book and Title (if applicable):

*(Please provide the Book and Title names and not just the number; the Book and Chapter numbers may change from one draft to the next if the Code is reordered.)*

Book 1, Title 4: Access to information

### 3. Comparative Experience (if any):

*(Please include any Cambodian and international examples and experience.)*

In Australia, all environmental impact reports are made available to public and provided 28 days for public comments period according to Environmental Protection and Biodiversity Conservation Act 1999. <https://www.environment.gov.au/protection/environment-assessments>

### 4. Recommendation:

*(Please include here the text of the recommendation to address the issue provided in number 1 [“1. Issue”] above. If needed, note “See Attachment” for corresponding documents.)*

Chapter 1: General provision

Suggest to add:

- The public has right to get information on action plan, monitoring plan and national budget for supporting the environmental protection including budget for supporting protected areas.

- Public have right to access to justice on environmental matters.
- The EIA report should be made available to public not necessary upon request.
- We should also include access to information relevant to protected areas management, conservation and development (according to existing law on PA article 21)

Chapter 2:

Suggest to add:

- All the environmental impact reports should made available to public and give appropriate time at less 30 days for public comment period.

Chapter 4:

- Should include which institutions have duty to disseminate information

Chapter 5:

- This chapter should include: establish national environmental centre and database where the public or relevant institutions can provide environmental information and request for information by electronic or any means.
- Information shall be made available as soon as possible and no later than 20 working days after the date of receipt of the request

*Please see attached recommendation in the Title 4*

5. Proposed Language to be Inserted into the Draft Code (if any):

*(Optional. Note: when proposing modifications to existing draft Code text, please extract the relevant text and insert here, in track changes if possible.)*

6. Cambodian Laws to be Abrogated or Modified (if any):

*(Please include the law title and the titles of specific articles and clauses.)*

7. Drafting Team Analysis/Response (to be included in public database):

## Title 4 Access to information

### ARTICLE 2: THE PRINCIPLE OF ACCESS TO INFORMATION

The principle of access to information, that individuals, legal entities and civil society shall have far-reaching access to information concerning the environment and natural resources, such as impact assessments and mitigations and resettlement plans and information on hazardous materials and development activities in their communities. Information on environmental protection and natural resource management shall be made widely available and publically accessible in a manner that maximizes the opportunity for public participation in planning and decisions affecting the environment and society.

**Commented [M1]:** The format of information and method of access to be outlined in other sections of the Code, with adaptability built in for changes in and access to technology.

**Commented [M2]:** Per NGO Forum.

**Commented [M3]:** Per NGO Forum.

**Commented [M4]:** Per USEPA.

### ACCESS TO ENVIRONMENTAL INFORMATION

- This Title will clarify and detail the requirements for access to environmental information. The aim of this Title is to provide a consistent approach across all ministries and pertaining to the various decisions made under the Environmental Code.

### CHAPTER 1 GENERAL PROVISIONS

(Right to access to information, refer to Principle of Access to Information in Book 1.)

A comprehensive regime of access to environmental information is one of the means to secure rights of people to live in clean environment and their obligations to assure it.

The Government of the Kingdom of Cambodia commits to transparency, accountability and public participation. The commitment is grounded in relevant Multilateral Environmental Agreements and national laws.

Management of natural resources, including ecosystems, environmental conservation, measures related to protection of health, shall be based on reliable information, including scientific information and knowledge of the local communities.

The people of the Kingdom of Cambodia have the right to obtain reliable environmental information from a public authorities and access to justice on environmental matters.

**Commented [M5]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Commented [TR6]:** The public has right to get information on action plan, monitoring plan and national budget for supporting the environmental protection including budget for supporting protected areas.

Public authorities/institutions shall give access to information must make environmental

information available to the public and will proactively disseminate it. Environmental information, such as environmental impacts in EIA, to be made publicly available upon request in a timely manner.

In general:

- They are to inform public about rights and how to exercise these rights.
- They should make efforts to maintain environmental information and have it accessible and reproducible.

MoE has responsibility to make a list of authorities responsible for maintaining and disseminating environmental information.

## **CHAPTER 2 – ENVIRONMENTAL INFORMATION**

Disclosed eEnvironmental information in any form includes information on:

- a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
- b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment and human health.
- c) Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements.
- d) Instances of non-compliance with environmental laws, policies, regulations, agreements.
- e) Information about environmental risks that can affect the state of human health and safety, cultural sites and built structures.
- f) The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above.
- g) Reports on the implementation of the measures in the item (c) above and in implementation

**Commented [M7]:** Per NGO Forum.

**Commented [TR8]:** The EIA report should be made available to public and open for public comment for 30 days not necessary upon request.

We should also include access to information relevant to protected areas management, conservation and development (according to existing law on PA article 21).

**Commented [M9]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Formatted:** Chapter Heading

**Commented [M10]:** Shall include all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting.

**Commented [M11]:** Per M. Desrousseaux.



of MEAs.

### **CHAPTER 3 – RELIABILITY OF INFORMATION**

To assure that environmental information is reliable, the relevant authorities have to provide rational of the measures in the item (C) above including life cycle analysis, environmental assessments, cost-benefit and other analyses and assumptions; these documents also have to be publicly accessible.

### **CHAPTER 4 ENVIRONMENTAL COMPLIANCE RECORDS**

The government is required to establish a format for documenting environmental review compliance.

### **CHAPTER 5 ACCESS TO INFORMATION**

The government shall establish informational systems, including registers to support environmental decision making. Includes, but is not limited to:

- Environmental Mapping Centre
- Pollutant Release and Transfer Register (PRTR)
- Biodiversity Clearinghouse
- Carbon Registry
- Database of EIA and SEA

Public shall be granted access to information specified by Chapter 2 unless stipulated by law.

### **CHAPTER 6 – PROVISION OF ENVIRONMENTAL INFORMATION**

The competent authorities shall publish a regulation on provision of environmental information including procedure, timing, format, grounds for refusing information and arbitration.

The state authorities shall provide information to fulfil requirements to comply with multi-lateral environmental agreements (MEAs) and local issues/national legislation.

Public authorities shall provide information on the results of EIA, SEA and other information as required by national law, including the results of commissions of inquiry into EIA or natural

**Commented [M12]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Commented [TR13]:** Should include which institutions have duty to disseminate information

**Commented [TR14]:** This chapter should include: establish national environmental centre and database where the public or relevant institutions can provide environmental information and request for information by electronic or any means.

Information shall be made available as soon as possible and no later than 20 working days after the date of receipt of the request

resources decisions.

Commented [M15]: National and provincial level reporting.

Private and public organisations shall provide information on aspects related to the environment as required by law, including on aspects specified in Chapter 2.

Mass-media organisations should dedicate xxx of their time to coverage of environment-related issues, including through informational and educational programmes.

#### **CHAPTER 7 – MONITORING OF INFORMATION PROVISION**

The government shall develop procedures that enable third party organisations to assess procedures of information provision mandated by law.

Commented [M16]: NGO Forum comments on responsibilities for monitoring and reporting and types of reporting will be addressed during final EIA review.

Chapter will be further developed to include types and methods of monitoring programs.

Public participation in environmental monitoring and gathering of information—development of shared or open-source systems.

#### **CHAPTER 8 –VIOLATIONS AND REMEDIES AND ENFORCEMENT**

Where there are instances of non-compliance with provision of environmental information, remedies should be applied.

The government is to establish minimum penalties for non-compliance with requirements for information provision; these provisions do not preclude other remedies established by relevant regulations.

Relevant authorities shall publish instances of non-compliance with environmental laws and regulations.

#### **CHAPTER 9 PROTECTION OF WHISTLEBLOWERS FOR PROVISION OF INFORMATION AND JOURNALISTS WHO PUBLISH INFORMATION**

## **Submission Form**

### Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia

Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission: 21 September 2016

Submitted by (provide individual and STWG contact information): Kris energy

*(Required, including relevant STWG, if any.)*

#### 1. Issue:

Overall Comment of the Code

#### 2. Reference to Code Book and Title (if applicable):

*(Please provide the Book and Title names and not just the number; the Book and Chapter numbers may change from one draft to the next if the Code is reordered.)*

#### 3. Comparative Experience (if any):

*(Please include any Cambodian and international examples and experience.)*

#### 4. Recommendation:

*(Please include here the text of the recommendation to address the issue provided in number 1 [“1. Issue”] above. If needed, note “See Attachment” for corresponding documents.)*

#### 5. Proposed Language to be Inserted into the Draft Code (if any):

*(Optional. Note: when proposing modifications to existing draft Code text, please extract the relevant text and insert here, in track changes if possible.)*

#### 6. Cambodian Laws to be Abrogated or Modified (if any):

*(Please include the law title and the titles of specific articles and clauses.)*

#### 7. Drafting Team Analysis/Response (to be included in public database):

# ENVIRONMENTAL CODE OF CAMBODIA

**Fourth Draft - DRAFT 4.0 – 12 August 2016**

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## BOOK 1 GENERAL PROVISIONS

### TITLE 1 GENERAL PROVISIONS

#### Chapter 1 OBJECTIVE OF THE ENVIRONMENTAL CODE

##### ARTICLE 1: PURPOSES OF THE ENVIRONMENTAL CODE

The purposes of this Environmental Code are the protection of the environment, the conservation of natural resources, and the sustainable development of Cambodia.

Commented [M1]: Per M. Barash.

##### ARTICLE 2: OBJECTIVES OF THE ENVIRONMENTAL CODE

- (1) The Environmental Code includes the following objectives:
  - (a) Conserve Cambodia's biodiversity, ecosystems and ecosystem services;
  - (b) Protect the environment from harm and damage, and sustainably manage natural resources, in accordance with Article 59 of the Constitution of Cambodia;
  - (c) Preserve and promote national culture, preserve ancient monuments and artefacts, and restore historic sites, in accordance with Article 69 of the Constitution of Cambodia;
  - (d) Guarantee the health of the people, in accordance with Article 72 of the Constitution of Cambodia;
  - (e) Safeguard the individual and collective rights of indigenous people as postulated in Sub-decree No 83 (No 83 ANK.BK) and So Chor No 653 (653 So Chor No SR).
  - (f) Ensure that environmental protection and sustainable development objectives are fully integrated into national and regional economic planning and into natural resources planning and management;
  - (g) Implement the National Environmental Strategy and Action Plan;

(h) Promote a collaborative approach to the protection and management of the environment involving government, communities, land-holders, indigenous and other vulnerable people including minorities, women, youth, and disabled people, and business;

Commented [M2]: Per P. Karpe.

(i) Promote environmental awareness and support for environmental protection through transparency and public participation, especially by women, the poor, indigenous people, and other traditionally marginalized communities;

Commented [M3]: Per Mang M.

(j) Assist the implementation of Cambodia's international environmental responsibilities;

(k) Implement the key principles of environmental law and policy as described in Chapter 2;

### ARTICLE 3: SCOPE OF THE ENVIRONMENTAL CODE

This Code regulates environmental protection activities; policies, measures and resources for protection of the environment; and the rights and obligations of organisations, community, family households and individuals with respect to protection of the environment.

### ARTICLE 4: APPLICABLE ENTITIES

This Code applies to Cambodian State bodies, organisations, family households and individuals; to Cambodians residing overseas and "foreign organisations" individuals with operations in the territory of Cambodia, and individuals or entities whose actions otherwise adversely impact or effect the Cambodian environment or its natural resources. Where an international treaty of which Cambodia is a member contains provisions, which are different from the provisions in this Code, the provisions of such international treaty shall prevail.

Commented [M4]: Per M. Barash.

**Commented [KEAPL5]:** International treaties signed by Cambodia have to be first adopted/ratified by Cambodian legislative body before application within Cambodia. Current draft could be a derogation of Cambodia's sovereign/legislative process:  
RECOMMEND  
1. Policy level review needs to be done to assess how (a) international treaties are to be implemented in Cambodia and (b) overlapping Ministries managing the relevant international treaty.  
Adoption of any international treaty requires specific adoption/ratification by Cambodian legislative body, especially when such treaty may conflict

### ARTICLE 5: DEFINITION/GLOSSARY

In this Code, the following terms shall be construed as follows:

- *Definitions will be based on existing definitions in Cambodian legislation where applicable, and relevant international usage of key terms.*

Non-exhaustive list to be defined:

Sustainable development  
Environmental protection  
Environmental conservation  
Environmental standards  
Best practices  
Natural resources  
Environmental disputes  
Environmental harm  
Ecosystem services  
Liability  
Jurisdictional organisation  
Forest  
Climate change  
REDD+  
Ecotourism

**Coastal Lands** – The normally dry land extending inland 5 km from the shoreline, including the intertidal zone.

**Coastal Waters** – Marine waters extending seaward 5 km from the shoreline, including the associated submerged lands.

**Coastal Watershed** – The river basins in the Kingdom of Cambodia that flow directly to the Gulf of Thailand, taken as a whole.

**Coastal Zone** – The totality of the coastal waters, shoreline, and land area behind the shoreline that interacts hydrologically with the coastal waters.

**Commercial fishing** – Fishing in which the marine fishery resources harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

**Exclusive Economic Zone of the Kingdom of Cambodia** – Waters with any detectable degree of salinity extending from the shoreline of the Kingdom of Cambodia to 200 nautical miles offshore, consistent with the 1982 Third United Nations Conference on the Law of the Sea.

**EEZ** – Exclusive Economic Zone (see definition above).

**Environment** – definition will be developed that is clear and through, reflects Cambodian values, and includes examples. Definition will be broad, comprehensive and robust.

**Significant Environmental Impacts**, means any impact on the environment, including human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, ecosystems, natural sites, material assets, cultural heritage and the interaction among these factors.

**Commented [M6]:** Per comments on EIA, definition of “significant environmental impact” will be further developed and clarified.



**Environmental Report as used in Book 2, Title 4, Strategic Environmental Assessment,** means a report that identifies, describes and evaluates the likely significant environmental, including, health, social and ecosystem effects of implementing the plan or programme and its reasonable alternatives, taking into account: (a) Current knowledge and methods of assessment; (b) The contents and the level of detail of the plan or programme and its stage in the decision-making process; (c) The interests of the public; and (d) The information needs of the decision-making body.

**Fisher** – Any person who engages in Fishing as defined below.

**Fishery** – One or more stocks of fish or other forms of marine life, occupying a particular geographic area or water depth range, which are deliberately harvested for commercial or non-commercial purposes.

**Fishery stock** – An individual species or subspecies of fish or marine life harvested for commercial or non-commercial fishery purposes.

**Fishery stock complex** – A group of species of fish or marine life occupying similar habitat that are harvested in a similar fashion using similar gears, for commercial or non-commercial fishery purposes, and are capable of being treated as a unit for fishery management purposes. Members of a fishery stock complex often share similar ecologies but need not be closely related taxonomically.

**Fishing** – Consistent with Article 4 of the Law on Fisheries, NS/RKM/506/11, within the Marine Fishery Domain of Cambodia refers to:

1. The catching, taking, or otherwise obtaining possession of live fish or other living marine resources;
2. The attempted catching, taking or otherwise obtaining possession of live fish or other living marine resources;
3. Any other activity which can reasonably be expected to result in the catching, taking or otherwise obtaining possession of live fish or other living marine resources;
4. Any operations at sea in support of, or preparation for, any activity described in subparagraphs (1) through (3) above.

This definition does not include any scientific research activity which is conducted by a researcher or research vessel approved by the appropriate ministry.

**Fishing vessel** – Any vessel, boat, ship or other craft used for or equipped for the harvest of marine life in the Marine Fishery Domain of Cambodia, or for aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including but not limited to

preparation, supply, storage, refrigeration, transportation or processing.

**Foreign fishing vessel** – Any fishing vessel not based in and registered by the Kingdom of Cambodia.

**Future inundation hazard area** – Any portion of the current Cambodian coastal lands that is projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

**Geographic Information System** – A computer system capable of capturing, storing, analysing, and displaying geographically referenced information.

**Geospatial information** – Data referenced to a specific set of geographic coordinates which can be gathered, manipulated, and displayed using a Geographic Information System.

**GIS** – See Geographic Information System.

**Harvest** – See Fishing above

**Individual fishing quota** – A ministerial permit under a limited access system to harvest a quantity of fish or other marine life, expressed by a unit of units representing a percentage of the total allowable catch of a fishery, that may be received or held for exclusive use by an individual person.

**Intertidal zone** – The fluctuating extent of the shoreline between mean higher high tide and mean lower low tide that is on a daily basis submerged to some degree by the coastal waters

**Limited entry system** – A system that limits participation in a fishery to those persons satisfying certain eligibility criteria or requirements.

**Mapping products** – Maps in both electronic and printed formats.

**Metadata** – A set of data that provides additional information about a geospatial data element, including the author, date of creation, etc.

**Marine fishery resources** – Consistent with Article 4 of the current Law on Fisheries, NS/RKM/506/11, marine fishery resources consist of all marine organisms, including but not limited to fish, molluscs, crustaceans, and all other forms of animal and plant life other than marine mammals and birds, and the habitats upon which these species depend, including but not limited to coral reefs, mangroves, estuaries, and seagrass beds.

**Marine fishery domain** – Waters with any degree of detectable salinity extending from the shoreline to the outer limit of the Exclusive Economic Zone of the Kingdom of Cambodia.

**Marine waters** – Those waters comprising or connected to the ocean, which possess a detectable degree of salinity and exhibit daily tidal fluctuations.

**Mean higher high tide** – The average height on an annual basis of the highest tide of the day. Equivalent to the term Mean Higher High Water as used in other countries.

**Mean lower low tide** – The average height on an annual basis of the lowest tide of the day. Equivalent to the term Mean Lower Low Water as used in other countries.

**Meaningful Stakeholder Engagement** – Provide meaningful opportunities for interested stakeholders to participate in planning and decision-making for projects or related activities that may impact communities, their livelihoods, land and the natural environment.

**Optimum sustainable yield** – The rate of harvest from a fishery that provides the greatest long-term level of catch and social benefit while retaining the ecological integrity of the fishery stock or stocks involved.

**Overfishing** – A rate or level of harvest in a fishery that exceeds the capacity of the fishery to produce the optimum sustainable yield on a continuing basis.

**Public** – Public includes but is not limited to citizens, communities, civil society, business . . .

**Remedy** – Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (or guarantees of non-repetition injunction such as fines), as well as the prevention of harm through, for example . . .

**Risk-Based Due Diligence** – To identify, prevent, mitigate and remedy actual and potential adverse impacts.

**SCUBA** – Self-contained underwater breathing apparatus.

**Shoreline** – The boundary between land and water at the average height of the daily higher high tide along the margins of lands bordering waters with any detectable degree of salinity. Equivalent to the term Mean Higher High Water as used in other countries.

**Strategic Environmental Assessment** means the evaluation of the likely environmental impacts, including health and social impacts. The steps of an SEA include the following: determination of the scope of an environmental report and its preparation, the carrying out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

**Transshipment** – Transportation of fish or other marine life by a foreign vessel or vehicle from a point within the Kingdom of Cambodia or its EEZ to a point outside the Kingdom of Cambodia or its EEZ.

**Waters of a foreign nation** – Any part of the territorial sea or Exclusive Economic Zone (or equivalent) of a foreign nation, to the extent such territorial sea or Exclusive Economic Zone is recognized by the Kingdom of Cambodia.

**Commented [M7]:** Per NGO Forum. Definition to be further developed.

**Commented [M8]:** A non-exhaustive but clear and thorough definition of “PUBLIC” will be developed.

**Commented [M9]:** Per NGO Forum. Definition to be further developed.

**Commented [M10]:** Per NGO Forum. Definition to be further developed.

**Commented [KEAPL11]: Principles:** The chapter is an adoption of principles without taking into account the local context and developmental requirements of Cambodia.  
**RECOMMEND**  
The principles to be adopted should be tailored to suit the local requirements and developmental needs of Cambodia. The principles described are distilled from jurisprudence and case law of more established jurisdictions where those countries have attained high levels of development with substantially lower levels of poverty.

## Chapter 2

## PRINCIPLES OF THE ENVIRONMENTAL CODE

This Environmental Code is premised on, and should be implemented and interpreted in accordance with, the following fundamental principles of environmental law and policy:

#### ARTICLE 1: THE PRINCIPLE OF PUBLIC PARTICIPATION

The principle of public participation, that those who may be affected by a decision shall be entitled to provide informed, timely and meaningful input prior to the decision being made. They shall also be able influence in a transparent, inclusive and accountable manner the ~~decision-making consultation~~ process. Participatory ~~decision-making consultation~~ leads to more well-informed decisions, enhances the ability of governments to respond to public concerns and demands and improves acceptance of and compliance with environmental decisions because stakeholders feel ownership over these decisions.

#### ARTICLE 2: THE PRINCIPLE OF ACCESS TO INFORMATION

The principle of access to information, that individuals, legal entities and civil society shall have far-reaching access to information concerning the environment and natural resources, such as impact assessments and mitigations and resettlement plans and information on hazardous materials and development activities in their communities. Information on environmental protection and natural resource management shall be made widely available and publically accessible in a manner that maximizes the opportunity for public participation in planning and decisions affecting the environment and society.

#### ARTICLE 3: THE PRINCIPLE OF ACCESS TO EFFECTIVE REMEDIES

The principle of access to effective remedies, that people, legal organisations and entities shall have access to appropriate venues, whether administrative, ~~or~~ judicial or other appropriate means, and to appropriate and effective remedies, to enable the resolution of environmental disputes. Impartial, effective and efficient procedures and remedies should exist to enforce procedural rights, punish those responsible for environmental harm, and establish an incentive structure that encourages a culture of compliance.

This principle needs to be aligned with the Cambodian Constitution and laws as the legal/judicial framework within Cambodia already exists.

#### ARTICLE 4: THE POLLUTER PAYS PRINCIPLE

The polluter pays principle, that all persons, including natural persons, private legal entities and public legal entities who have caused or ~~will cause environmental pollution~~ such as pollution by noise, vibration, smell, smoke, draining of liquid waste or emission of all kinds of waste or causing damage to the environment, health, economy or society or culture – shall bear the cost for repairing the damage and preventing, avoiding and mitigating the damage.

**Commented [M12]:** Incorporation of the additional eight principles for the guidance of the development and implementation of the Code per comments from experts and STWG members.

**Commented [KEAPL13]: Principle of Public Participation:** This adoption of FPIC (free, prior, informed consultation) principle should be tempered with the Government's need to bring development to the entire country against the needs of small affected communities. **RECOMMEND**  
This concept of FPIC (free, prior, informed consultation) should be clarified as one of consultation and not consent.

**Commented [M14]:** Per USEPA.

**Commented [M15]:** The format of information and method of access to be outlined in other sections of the Code, with adaptability built in for changes in and access to technology.

**Commented [KEAPL16]: Principle of Access to Information:** While we have no issue with disclosure and granting access to information, we are under confidentiality obligation to the Government (under relevant licence/petroleum agreement) to only provide information if approved by the Government. **RECOMMEND**  
1. Affected Ministries with control over relevant companies/persons (eg: MME for the oil & gas sector) need to coordinate with MoE to avoid inconsistent/conflicting laws and obligations.  
Limit the access to information directly related to environmental matters only.

**Commented [M17]:** Per NGO Forum.

**Commented [M18]:** Per NGO Forum.

**Commented [M19]:** Per USEPA.

**Commented [M20]:** Per NGO Forum.

**Commented [M21]:** Per NGO Forum.

**Commented [M22]:** Per USEPA.

**Commented [KEAPL23]: Principle of Access to Effective Remedies:** Setting up a separate judicial/enforcement body under the Code will only create more inconsistencies and possibly be contrary to the Constitution.

**Commented [KEAPL24]: Polluter Pays Principle:** Reference to “*or will cause environmental pollution*” is problematic and contrary to principle 9 (evidence based decision making). (A) Imposing punitive measures against an action that has not occurred does not have a basis under Cambodian jurisprudence. Claims/damages should only be imposed for a wrong/damage done and not one considered to occur in the future. It is impossible to determine who “*will cause*” environmental pollution and not reasonable to ask companies to pay for reparations if no damage has actually occurred. (B) How is the MoE to establish predictive or pre-emptive liability? What standard/threshold is to be ... [1]

#### ARTICLE 5: ~~THE PRECAUTIONARY PRINCIPLE~~

~~THE PRECAUTIONARY PRINCIPLE, THAT IN SITUATIONS WHERE THE ENVIRONMENT MAY BE FACED WITH THREATS OF SERIOUS OR IRREVERSIBLE DAMAGE, THE LACK OF FULL SCIENTIFIC CERTAINTY SHALL NOT BE USED AS A REASON FOR POSTPONING COST-EFFECTIVE MEASURES TO PREVENT ENVIRONMENTAL DEGRADATION.~~

#### ARTICLE 6: THE PREVENTION PRINCIPLE

The prevention principle, that negative impacts to the environment should be stopped before they occur. In applying this principle, action should be taken at an early stage to reduce or prevent environmental damage rather than wait for potentially irreversible effects to occur. The prevention principle is based on the idea that it is better – and often more cost effective – to prevent harm than employ measures to restore the environment after harm has occurred.

#### ARTICLE 7: THE PRINCIPLE OF INTERGENERATIONAL EQUITY

The principle of intergenerational equity, that the right to development, including decisions affecting natural resources and ecosystem services, must be fulfilled so as to equitably meet the developmental, social and environmental needs of both present and future generations.

#### ARTICLE 8: THE PRINCIPLE OF ENVIRONMENTAL LIABILITY

Liability to compensate for environmental harm applies to environmental damage and imminent threat of damage resulting from developmental activities, where it is possible to establish a causal link between the harm and the activity in question. Liability should cover the cost of ecosystem or resource restoration or of replacing the damaged resources, the cost of assessing the damage, and the interim losses pending restoration or replacement. Liability includes personal injury or environmental harm to public natural resources. Liability can be strict liability without the need for proof of fault and can be joint or several.

#### ARTICLE 9: THE PRINCIPLE OF EVIDENCE-BASED DECISION-MAKING

Environmental policy and natural resource decision-making should be open and evidence-based, utilizing the best available information. Information can be scientific and technical and can also be gathered from community and indigenous knowledge.

#### ARTICLE 10: PRINCIPLE OF GENDER-EQUALITY AND PARTICIPATION OF

**Commented [KEAPL25]:** Precautionary Principle: (A) The concept that a development can be stopped for concerns that cannot be supported given “*lack of full scientific certainty*” will set back Cambodia’s desire to develop its economy and people. (B) A principle that is not based on any scientific basis is contrary to principle 9 (evidence based decision making). (C) If scientific basis is not a standard to be adopted, what standard does MoE intend to apply that is able to balance the needs of development of the entire country against the fears of a small group that is not based on science or evidence?

##### RECOMMEND

1. Concerns about any development will already be addressed in the EIA process and in principle 6 (prevention). This principle should be deleted for now. It can be introduced in the future once more development has occurred in Cambodia’s economy and its body of case law dealing with environmental matters.

**Formatted:** Article Heading

**Commented [M26]:** Per USEPA.

**Commented [KEAPL27]:** What is meant by “*ecosystem services*”?

##### RECOMMEND

MoE to provide definition for “*ecosystem services*”.

**Commented [KEAPL28]:** If liability is to cover the cost of the ecosystem, how is the “*cost of ecosystem*” to be determined?

##### RECOMMEND

1. MoE to provide clarity/basis of who “*cost of ecosystem*” is to be determined.

If the “*cost of ecosystem*” valuation methodology is to be adopted, then this amount has to be set-off against the cumulative benefits brought on by the development to country, economy, environment, etc. For example, waters around offshore oil platforms are well known for improving marine flora and fauna.

**Commented [KEAPL29]:** (A) The imposition of “strict liability without the need for proof of fault and can be joint and several” is unprecedented. It is not found in the region and possibly contravenes Cambodian jurisprudence on the need to establish proof and culpability in order for punitive measures to be imposed. (B) This strict-liability-without-proof concept is unreasonable, unfair and is contrary to principle 9 (evidence based decision making).

## **OTHER VULNERABLE PEOPLE IN ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT FOR NATURAL RESOURCES DECISIONS**

The involvement ~~of women and other vulnerable persons, including youth, minority and indigenous people, and disabled people,~~ is to be promoted in environmental ~~protection and natural resource management planning and~~ decision-making at all levels. Impact assessments for development projects and environmentally relevant policies will include mechanisms to effectively assess the impacts on ~~women and other vulnerable people and develop risk management strategies to mitigate and prevent adverse impacts.~~ Gender ~~concerns and the perspective of women and other vulnerable groups concerns and perspectives~~ will be integrated into policies and programmes for sustainable development and into the implementation of this Code. Consideration is being given to separating this into two principles, one on gender and one on vulnerable persons.

### **ARTICLE 11: THE PRINCIPLE OF INTEGRATION**

Environmental protection and sustainable development objectives must be integrated into the development planning and decision-making process. There must be integration of environmental protection, economic development, and environmental rights at the conceptual level as well as the implementation stage of policies and laws.

### **ARTICLE 12: THE PRINCIPLE OF THE PUBLIC TRUST**

The government is the trustee of all natural resources, including both economically and ecologically important resources, and these resources must be held on behalf of the people and for the benefit of the people, including current and future generations.

### **ARTICLE 13: THE PRINCIPLE OF PUBLIC INTEREST IN PROTECTING THE ENVIRONMENT VS. PRIVATE INTEREST**

Priority should be given to public health and environmental protection over economic considerations or private interest. Standards for protection of health should provide an adequate margin of safety for vulnerable peoples.

### **ARTICLE 14: THE PRINCIPLE OF USER PAYS**

Natural resources, including ecosystem services, have value and the users of natural resources, including ecosystem services, should pay the direct and indirect cost for use of or the impacts from use of these resources and services.

**Commented [KEAPL30]:** A) While gender equality is important, it is not relevant in the Environmental Code which deals with environmental matters and not women's affairs. (B) This overlaps with the remit/jurisdiction of the Ministry of Women's Affairs.

#### **RECOMMEND**

Gender Equality is an important issue and should be addressed in a stand-alone legislation designed to protect women and recognise legal protection and rights for women. For example, a Women's Charter, etc. This should be addressed by the Ministry of Women's Affairs and not the MoE.

**Commented [M31]:** Per P. Karpe and NGO Forum.

**Commented [KEAPL32]:** Request for more detail

**Commented [KEAPL33]:** More information requested

**Commented [KEAPL34]:**

**Commented [M35]:** Per USEPA.

**Commented [KEAPL36]:** More detail required.

#### **ARTICLE 15: THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT**

States shall consult and cooperate in good faith with the indigenous peoples and local communities concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water, or other resources.

#### **ARTICLE 16: THE PRINCIPLE OF REJECT, REDUCE, REUSE RECYCLE**

### **Chapter 3 GENERAL DUTY TO AVOID ENVIRONMENTAL HARM**

#### **ARTICLE 1**

A person or legal entity must not carry out any activity that causes, or is likely to cause, environmental harm, unless the person takes all reasonable and practicable measures to prevent or minimize harm. (The general environmental duty).

### **Chapter 4 INTERNATIONAL ENVIRONMENTAL AGREEMENTS**

#### **ARTICLE 1**

Cambodia recognizes the value of international and regional environmental agreements as a response to environmental problems and the need to adopt or modify its laws accordingly and in a manner consistent with international and regional agreements to which it is party.

This Code hereby reflects the commitment of Cambodia to effectively implement in its laws and practices the international and regional agreements to which it is party.

- This Chapter will explain how the Environmental Code implements and is based upon existing international and regional agreements.
- It will also address future agreements and treaties and how these shall be integrated into the environmental responsibilities of the relevant Ministries.

### **TITLE 2 ORGANISATION OF JURISDICTIONAL INSTITUTIONS/JURISDICTIONAL ISSUES**

- This Title will establish the objective of inter-ministerial cooperation and the requirement

**Commented [M37]:** Per Z. Fadeeva, in collaboration with STWG 2.

Proposed new principle related to Sustainable Consumption and Production per USEPA and UNEP. Subject to further analysis and definition.

Sustainable consumption and production (SCP) approach deals with social and economic development that addresses poverty eradication and sustainable resource use. It is concerned with "the use of services and related products, which respond to basic needs and bring a better quality of life while minimizing the use of natural resources and toxic materials as well as the emissions of waste and pollutants over the life cycle of the service or product so as not to jeopardize the needs of further generations". (Oslo symposium 1994).

The critical insight offered by SCP is that in order to facilitate sustainable development, integrative approach (also pointed out by the national documents such as Report to Rio+20 and GG Strategy), has to be employed. These approach touches the whole material and energy flow through the society including selection of resources (and their sources), their processing, distribution, efficiency and effectiveness of consumption and end-of-life.

**Commented [KEAPL38]:** It must be recognised that all human activity will impact the environment. A blanket statement that a "person must not carry out any activity that causes, or is likely to cause, environmental harm" is unrealistic and would almost mean a standstill on development in Cambodia. This must be tempered with the Government's need to bring development to the entire country against the needs of small affected communities.

**Commented [KEAPL39]:** Cambodia's commitment to implement international/regional agreements should be determined by the Cambodian legislative body in accordance with Cambodia's legislative process and not automatically mandated by the Code. Current draft could be a derogation of Cambodia's sovereign/legislative process.

#### **RECOMMEND**

1. Policy level review needs to be done to assess how (a) international treaties are to be implemented in Cambodia and (b) overlapping Ministries managing the relevant international treaty.

Adoption of any international treaty requires specific adoption/ratification by Cambodian legislative body, especially when such treaty may conflict with existing laws/regulations.



for consultation and discussion between relevant line Ministries in order to achieve the objectives of the Code. Jurisdictional organisation will examine the roles, duties and means of collaboration for the following institutions:

- Ministry of Environment
- Ministry of Agriculture, Forests and Fisheries
- Ministry of Mines and Energy
- Ministry of Water Resources and Meteorology
- Ministry of Land Management, Urban Planning and Construction
- Ministry of Economics and Finance
- Ministry of Culture and Fine Arts
- Ministry of Tourism
- Council for the Development of Cambodia
- Provincial and Local Authorities
- Ministry of Women's Affairs
- Ministry of Education

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF AGRICULTURE,  
FORESTRY AND FISHERIES**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF MINES AND  
ENERGY**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF WATER  
RESOURCES AND METEOROLOGY**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF LAND  
MANAGEMENT, URBAN PLANNING AND CONSTRUCTION**

**Commented [M40]:** Per Mang. M.

**Commented [KEAPL41]:** If gender equality is a goal of MoE, then the Ministry of Women's Affairs should be part of the process.

**RECOMMEND**

The Ministry of Women's Affairs should be included in this process if the MoE wants to extend the ambit of the Code to include gender equality.

**Commented [KEAPL42]:** If Environmental Education is a goal of MoE, then the Ministry of Education should be part of the process.

**RECOMMEND**

The Ministry of Education should be included in this process if the MoE wants to extend the ambit of the Code to include educating the community on their responsibility to their Environment.

**Commented [KEAPL43]:** There are no details on how MME and MoE are intended to interact and which areas are overlapping.

**RECOMMEND**

All overlapping areas between MoE and MME need to be addressed to ensure consistency and workability. All expenses incurred by companies in respect of such areas need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, cost recoverability, tax deductibility, management of funds, etc.



**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF ECONOMY &  
FINANCE:**

**CHAPTER # CONFIRMING NATIONAL COUNCIL FOR SUSTAINABLE  
DEVELOPMENT (NCSD) ROLES AND RESPONSIBILITIES**

**CHAPTER # CONFIRMING NATIONAL PROGRAMME FOR SUB-NATIONAL  
DEMOCRATIC DEVELOPMENT (NCDD) ROLES AND RESPONSIBILITIES**

**CHAPTER # ROLE OF AUTHORITIES SUCH AS APSARA AUTHORITY, PREAH  
VIHEAR AUTHORITY, TONLE SAP AUTHORITY AND CAMBODIAN  
NATIONAL MEKONG COMMITTEE**

**CHAPTER # ESTABLISH MECHANISM TO PROMOTE INTERDEPARTMENTAL  
COMMITTEE**

**CHAPTER # ESTABLISH A NATIONAL ECOSYSTEM MAPPING AND PLANNING  
COMMITTEE**

**CHAPTER # FACILITATING ENVIRONMENTAL INFORMATION-SHARING  
BETWEEN RELEVANT MINISTRIES**

**ARTICLE 1**

Assigning environmental monitoring and information gathering responsibilities among governmental institutions

**CHAPTER # CENTRAL REPOSITORY OF GOVERNMENT ENVIRONMENTAL  
INFORMATION**

**CHAPTER # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE**

**ARTICLE 1: GENERAL PROVISIONS**

Conservation and management measures undertaken by any government institution in relation to the management of biodiversity, natural resources and the environment in the Kingdom of Cambodia shall be based on the best scientific evidence.

Pursuant to this, the appropriate government institution shall have the authority to establish a Cambodian Environmental Mapping Centre (CEMC). The purpose of this centre shall be to establish standards, compile, analyse, and distribute geospatial information. Information may

**Commented [KEAPL44]:** This chapter is missing and should be included. Details on how MEF and MoE are intended to interact and which areas are overlapping.

**RECOMMEND**

All overlapping areas between MoE and MEF need to be addressed to ensure consistency and workability. All expenses incurred by companies in respect of such areas need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, cost recoverability, tax deductibility, management of funds, etc.

**Commented [KEAPL45]:** While we have no issue with disclosure and granting access to information, we are under confidentiality obligation to the Government (under relevant licence/petroleum agreement) to only provide information if approved by the Government.

**RECOMMEND**

1. Affected Ministries with control over relevant companies/persons (eg: MME for the oil & gas sector) need to coordinate with MoE to avoid inconsistent/conflicting laws and obligations.

Limit the access to information directly related to environmental matters only.

include but is not limited to biodiversity, natural resources (e.g. lands, water and forests), the environment (e.g. water, soil and air qualities), and climate change, using modern, computerized Geographic Information Systems (GIS).

All geospatial data, mapping products, and metadata held by the CEMC shall be deemed property of the state, and available for public use.

## **ARTICLE 2: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE MANDATES**

Pursuant to this authority, the appropriate government institution shall:

1) Require all organisations and institutions that are undertaking natural resource and biodiversity mapping in the Kingdom of Cambodia to provide copies of their geospatial data, information, and the reports that are the products of such projects to the CEMC, so that they may be incorporated into a national base of environmental data and information. Such information and data held by the CEMC shall be shared and made available without restriction to all contributing organisations and institutions, through a clearly defined procedure for data transfer and associated data transfer agreement, to be developed by the government institution.

2) Ensure that all data provided to the CEMC are made available for public use, with the exception of those data that the appropriate government institution housing the CEMC deems necessarily withheld for the protection of endangered or rare species. If any data are withheld from the public for the above purposes, a specific written justification and explanation must be provided by the appropriate government institution housing the CEMC.

3) Ensure that any decision to withhold data from the public may be appealed for reconsideration directly to the office of the minister in charge of the government institution housing the CEMC.

4) Set data standards for the collection of new geospatial information. The standards to be specified by CEMC shall include, but are not limited to:

- a) A requirement that all geospatial data provided to the CEMC shall utilize the WGS 84 datum.
- b) Coordinate system.
- c) Assignment and standardized spelling of names for geographic features, such as administrative units, populated places, water bodies, landmarks, hills and mountains, etc.

d) Metadata content and format.

5) Require that data collected by other institutions be submitted to the CEMC in the technically standardized format specified by the CEMC.

5) Require that geospatial data provided to the CEMC be accompanied by all available and relevant metadata.

6) Ensure that collection of geospatial information and data related to specific subjects or sectors is not duplicated among government institutions, and that there is one specified official government institution source for data related to any given subject or sector.

### **ARTICLE 3: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate government institution may at its sole discretion:

1) Obtain the necessary GIS computer software to effectively analyse, manipulate, and output geospatial data.

2) Obtain computer hardware of sufficient technical sophistication and power to run and utilize GIS computer software.

3) Accept geospatial data in the following formats:

- a) point data
- b) line data
- c) shape files in raster format
- d) shapefiles in vector format.

4) Produce maps and other data visualization products and provide these to other relevant ministries to assist such ministries in effectively carrying out their natural resource management authorities and obligations.

5) Produce maps and other data visualization products for public education and outreach, in order to improve awareness of biodiversity conservation and natural resource management in the Kingdom of Cambodia.

- 6) Establish quality assurance and quality control (QA/QC) procedures for all maps and data visualization products produced by the CEMC.
- 7) Provide for ongoing maintenance, curation, updates, and access to spatial databases hosted by the CEMC.
- 8) Adopt new methods and technologies, as they become available, which enhance the utility of GIS products and activities.
- 9) Promote, wherever possible, collaborative production, use, and analysis of geospatial datasets across ministries.

### **TITLE 3 PUBLIC PARTICIPATION**

#### **CHAPTER # PUBLIC CONSULTATION A FUNDAMENTAL REQUIREMENT FOR ENVIRONMENTAL DECISIONS**

##### **ARTICLE #**

The main objective of public participation is to ensure that project-affected persons and relevant stakeholders:

- a) are well informed about the project,
- b) have the opportunity to be involved in the discussion and decision-making process related to the project, and
- c) have the opportunity to participate in the project monitoring.

Project Proponents that are required to conduct an EIA shall include public involvement and consultation from local administrations, civil society, community representatives, the project-affected persons and other relevant stakeholders in the EIA process during project planning in order to:

- a) identify areas of significance of environment, economy, society and culture
- b) collect opinions of stakeholders and integrate such opinions into the decision making process
- c) review the project proposal and explain impacts on environment, economy, society, and

**Commented [KEAPL46]:** This is not feasible or safe (eg: offshore oil and gas development). How would the community be involved in project monitoring? The community at large is not trained in environmental matters. This could lead to abuse by the public.

**RECOMMEND**

Project monitoring should be left to qualified experts given the safety and insurance issues involved. The results of such monitoring can be made public for the entire community/country to review.

culture.

- d) consider a wider range of alternatives and mitigation measures.

The public participation process in the stage of studying, consulting and reviewing the EIA report and project monitoring shall be determined by Prakas of MoE.

#### ARTICLE #

The EIA Report shall:

- a) record the public participation and the Project Proponent shall take this into account during the planning and conduct of EIA.
- b) focus on the issues raised by women and those most vulnerable potentially impacted by the proposed project.
- c) include the details of the project impacts on the public and the acceptance or rejection of the requests of the public.
- d) provide clear reasons why those concerns are rejected.

#### ARTICLE #

MoE shall ensure that IEE and EIA reports and related documents, including the EIA Approval Letter and Certificate and EMP, shall be made publically available, and that stakeholders and project-affected communities have access to clear and sufficient information.

At a minimum the Project Proponent shall make available on publically accessible website copies of the IEE or EIA, any EMP for the project, maps and plans of the project and all proposed mitigation measures for the project.

The procedures for public participation and access to information shall be determined by a Prakas of MoE.

#### CHAPTER # DUTY TO CONSULT WITH POTENTIAL AFFECTED PERSONS

#### CHAPTER # DUTY TO CONSIDER CONCERNS RAISED BY THE COMMUNITY

#### CHAPTER # IDENTIFICATION OF PROJECT AFFECTED PERSONS AND OTHER STAKEHOLDERS

**Commented [KEAPL47]:** . Draft Prakas needs to be provided.

#### RECOMMEND

Details of the Prakas should be made available before enactment of the Code. The reasonableness and practicality of the Code can only be assessed by reviewing the details of the Prakas.

**Commented [M48]:** Comments from NGO Forum on EIA will be addressed during the final EIA review.

CHAPTER # MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN  
NATURAL RESOURCES MATTERS

CHAPTER # MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN EIA  
MATTERS

CHAPTER # MINIMUM TIME ALLOWED FOR INDIGENOUS PEOPLE TO  
PROVIDE COMMENTS

CHAPTER # FREE, PRIOR AND INFORMED CONSENT FOR INDIGENOUS PEOPLE  
AND LOCAL COMMUNITIES IN NATURAL RESOURCES AND  
ENVIRONMENTAL IMPACT ASSESSMENT MATTERS

ARTICLE #

The public participation process shall ensure that the consent consultation of the project-affected communities to the proposed mitigation measures is based on the free, prior, and informed consent consultation principle (FPIC).

In the mitigation measures, the Project Proponent shall:

- identify measures to improve the livelihood and to assist project affected persons.
- ensure that project-affected persons are involved in any resettlement planning to minimise the adverse effects of resettlement, to ensure that compensation for lost assets is fair, suitable and acceptable as equivalent to the market price and that the mitigation measures are appropriate and sustainable.

In cases where the project-affected community disagrees with the mitigation measures proposed by the Project Proponent, the development project still continues; however, the Project Proponent shall seek other appropriate mitigation measures or provide resolution of the impacts to the affected community.

The procedure of resettlement and solution of compensation to the affected community shall be determined by Sub-Decree.

The formalities and procedures of payment of compensation to the impacted community shall be determined by an Inter-Ministerial Prakas between MoE and the Ministry of Economy and Finance.

CHAPTER # RESPONDING TO PUBLIC SUBMISSIONS

**Commented [KEAPL49]:** Details needs to be provided. Time allotted for public consultation will delay project execution and adversely affect the feasibility of any development.

**RECOMMEND**

Maximum time limits also need to be specified to prevent the consultation process to be prolonged and abused. All developments are constrained by time and a prolonged and unpredictable consultation process will discourage much needed investment/development in Cambodia.

**Commented [KEAPL50]:** The adoption of “free, prior and informed consent” principle should be tempered with the Government’s need to bring development to the entire country against the needs of small affected communities.

**RECOMMEND**

This concept of FPIC (free, prior, informed consultation) should be clarified as one of consultation and not consent. This could lead to abuse by the people.

**Commented [KEAPL51]:** This is subjective and open to abuse.

**RECOMMEND**

If the experts have approved the project, the project should proceed.

**Commented [M52]:** Per NGO Forum. Text to be reviewed for consistency with FPIC.

**Commented [KEAPL53]:** Details for compensation for impacted community is to be determined by the MoE Prakas. Draft Prakas needs to be provided.

**RECOMMEND**

Details of the Prakas should be made available before enactment of the Code. The reasonableness and practicality of the compensation mechanism reviewing the details of the Prakas.

Furthermore, all expenses incurred by companies in respect of such areas need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, the nature of cost recoverability and tax deductibility and whether such compensation is considered part of development operations needs to be ascertained and made clear.

**Commented [M54]:** Per NGO Forum. Procedure will be determined in Code.

## CHAPTER # TAKING INTO ACCOUNT PUBLIC SUBMISSIONS

### TITLE 4 ACCESS TO ENVIRONMENTAL INFORMATION

- This Title will clarify and detail the requirements for access to environmental information. The aim of this Title is to provide a consistent approach across all ministries and pertaining to the various decisions made under the Environmental Code.

#### CHAPTER 1 GENERAL PROVISIONS

(Right to access to information, refer to Principle of Access to Information in Book 1.)

A comprehensive regime of access to environmental information is one of the means to secure rights of people to live in clean environment and their obligations to assure it.

The Government of the Kingdom of Cambodia commits to transparency, accountability and public participation. The commitment is grounded in relevant Multilateral Environmental Agreements and national laws.

Management of natural resources, including ecosystems, environmental conservation, measures related to protection of health, shall be based on reliable information, including scientific information and knowledge of the local communities.

The people of the Kingdom of Cambodia have the right to obtain reliable environmental information from a public authority.

Public authorities/institutions shall give access to information and will proactively disseminate it. Environmental information, such as environmental impacts in EIA, to be made publicly available upon request in a timely manner.

In general:

- They are to inform public about rights and how to exercise these rights.
- They should make efforts to maintain environmental information and have it accessible and reproducible.

MoE has responsibility to make a list of authorities responsible for maintaining and disseminating environmental information.

**Commented [M55]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

**Commented [M56]:** Per NGO Forum.

## **CHAPTER 2 – ENVIRONMENTAL INFORMATION**

Environmental information includes information on:

- a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
- b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment.
- c) Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements.
- d) Instances of non-compliance with environmental laws, policies, regulations, agreements.
- e) Information about environmental risks that can affect the state of human health and safety, cultural sites and built structures.
- f) The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above.
- g) Reports on the implementation of the measures in the item (c) above and in implementation of MEAs.

## **CHAPTER 3 – RELIABILITY OF INFORMATION**

To assure that environmental information is reliable, the relevant authorities have to provide rational of the measures in the item (C) above including life cycle analysis, environmental assessments, cost-benefit and other analyses and assumptions; these documents also have to be publicly accessible.

## **CHAPTER 4 ENVIRONMENTAL COMPLIANCE RECORDS**

The government is required to establish a format for documenting environmental review compliance.

## **CHAPTER 5 ACCESS TO INFORMATION**

**Commented [M57]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

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**Commented [M58]:** Shall include all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting.

**Commented [M59]:** Per M. Desrousseaux.

**Commented [M60]:** Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.



The government shall establish informational systems, including registers to support environmental decision making. Includes, but is not limited to:

- Environmental Mapping Centre
- Pollutant Release and Transfer Register (PRTR)
- Biodiversity Clearinghouse
- Carbon Registry
- Database of EIA and SEA

Public shall be granted access to information specified by Chapter 2 unless stipulated by law.

#### **CHAPTER 6 – PROVISION OF ENVIRONMENTAL INFORMATION**

The competent authorities shall publish a regulation on provision of environmental information including procedure, timing, format, grounds for refusing information and arbitration.

The state authorities shall provide information to fulfil requirements to comply with multi-lateral environmental agreements (MEAs) and local issues/national legislation.

Public authorities shall provide information on the results of EIA, SEA and other information as required by national law, including the results of commissions of inquiry into EIA or natural resources decisions.

Private and public organisations shall provide information on aspects related to the environment as required by law, including on aspects specified in Chapter 2.

Mass-media organisations should dedicate xxx of their time to coverage of environment-related issues, including through informational and educational programmes.

#### **CHAPTER 7 – MONITORING OF INFORMATION PROVISION**

The government shall develop procedures that enable third party organisations to assess procedures of information provision mandated by law.

Public participation in environmental monitoring and gathering of information—development of

**Commented [M61]:** National and provincial level reporting.

**Commented [M62]:** NGO Forum comments on responsibilities for monitoring and reporting and types of reporting will be addressed during final EIA review.

Chapter will be further developed to include types and methods of monitoring programs.

shared or open-source systems.

## **CHAPTER 8 –VIOLATIONS AND REMEDIES AND ENFORCEMENT**

Where there are instances of non-compliance with provision of environmental information, remedies should be applied.

The government is to establish minimum penalties for non-compliance with requirements for information provision; these provisions do not preclude other remedies established by relevant regulations.

Relevant authorities shall publish instances of non-compliance with environmental laws and regulations.

## **CHAPTER 9 PROTECTION OF WHISTLEBLOWERS FOR PROVISION OF INFORMATION AND JOURNALISTS WHO PUBLISH INFORMATION**

### **BOOK 2 ENVIRONMENTAL PLANNING, ASSESSMENT AND MONITORING**

Commented [M63]: Per STWG 3/5. Revised Book name.

#### **TITLE 1 MAKING OF NATIONAL, SUB-NATIONAL AND LOCAL ENVIRONMENTAL AND NATURAL RESOURCES PLANS**

- This Title will set out the procedures for the adoption of National, Sub-national and Local Environmental and Natural Resources Plans. These Plans will be prepared for environmental and natural resources management, integrating food and water security issues and relevant materials exploitations certifications. This Title will provide for a planning framework to set sustainable use limits and protections for Cambodia's commercial and non-commercial natural resources.
- This Title will also relate to Book 2, Title 6~~Title 5~~ Strategic Impact Assessment that may be required prior to the adoption of plans and policies.
- This Title will detail the procedures for the creation of a national land and natural resources plan under which regional and local plans will be made and refer to Book 1~~Title 3~~Book 1~~Title 3~~ – Public Participation and Book 1~~Title 4~~Book 1~~Title 4~~ – Access to Environmental Information. The national plans will provide the clear policy and strategic direction. Sub-national plans will provide for the specific measures to implement these

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national objectives.

- One option is to try to adopt a single method for the making and approval of management plans for protection and management (including exploitation) of heritages areas, marine and terrestrial protected areas and management plans for threatened and endangered species.

**CHAPTER # PREPARATION OF MANAGEMENT PLANS IN ACCORDANCE WITH  
NATIONAL, REGIONAL OR LOCAL ENVIRONMENTAL AND NATURAL  
RESOURCE MANAGEMENT PLANS**

**CHAPTER # CONSERVATION AND RATIONAL UTILIZATION OF NATURAL  
RESOURCES**

**CHAPTER # CREATION OF A NATIONAL ENVIRONMENTAL AND NATURAL  
RESOURCE MANAGEMENT PLAN (NEP)**

**CHAPTER # APPOINTMENT OF A COMMISSION TO PREPARE THE NEP**

**CHAPTER # DRAFT NEP TO BE PREPARED WITH PUBLIC PARTICIPATION**

**CHAPTER # APPROVAL OF NEP**

**CHAPTER # PREPARATION AND APPROVAL OF SUBNATIONAL AND LOCAL  
NEP**

**CHAPTER # ESTABLISHMENT OF A NATIONAL LAND AND RESOURCES  
INFORMATION DATABASE**

**CHAPTER # DATABASE TO BE PUBLICALLY AVAILABLE**

**CHAPTER # DATABASE TO BE USED TO MAKE NATIONAL, SUB-NATIONAL AND  
LOCAL PLANS**

**CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO PLANNING  
INCLUDING RECOGNITION AND VALUATION OF ECOSYSTEM  
SERVICES**

**TITLE 2     LANDSCAPE PLANNING AND THE ESTABLISHMENT  
OF NATIONAL CONSERVATION LANDSCAPES /  
CORRIDORS**

Commented [M64]: Per STWG 3/5 Members.

- This Title will establish a system of national conservation landscapes or corridors. These will be areas with specific legal status and protections. This could include:
  - National parks
  - Urban parks and tree corridors
  - Private land with conservation agreements, including eco-resorts, organic agriculture

**CHAPTER # ESTABLISHMENT OF NATIONAL CONSERVATION CORRIDORS,  
INCLUDING NAMING, LOCATION AND BOUNDARY/MAP REFERENCE**

**CHAPTER # CLASSIFICATION OF ZONES WITHIN THE NATIONAL  
CONSERVATION CORRIDORS**

**CHAPTER # ACTIVITIES PROHIBITED IN THE NATIONAL CONSERVATION  
CORRIDORS**

**CHAPTER # PREPARATION AND APPROVAL OF MANAGEMENT PLANS FOR  
THE NATIONAL CONSERVATION CORRIDORS**

**CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS IN THE  
NATIONAL CONSERVATION CORRIDORS**

**CHAPTER # PROCEDURES FOR ADJUSTMENTS TO THE BOUNDARIES OF THE  
NATIONAL CONSERVATION CORRIDORS**

**TITLE 3      URBAN LAND USE PLANNING**

- This Title will examine land planning for urban areas. It will establish the creation of zoning plans and land classification for urban areas. It will also provide for the approvals process for developments in urban areas, in accordance with appropriate zonings. This may require the review of the Law on Land Management, Urban Planning and Constructions 1994.
- Urban areas and the development of towns and cities create significant burdens on the environment and the community. It is suggested that this be dealt with as a separate Title to focus on promoting sustainable urban development.
- The Title will establish the procedures for classifying land as urban land and the zone of urban land as housing construction zone, commercial zone and other relevant zones. It

will provide the guidance for the sustainable development of cities in accordance with best practice planning principles. This will use the One Map process outlined in Book 2 Title 1 Title 1.

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- This Title will also provide the minimum requirements for the management of urban land, including provisions for plans covering water, energy, storm water management, traffic, noise and construction.
- The roles of different authorities in land use planning and management will be addressed, referencing Book 1 Title 2 Book 1 Title 2.
- The Title will address the specific requirements for public participation, referencing Book 1 Title 3 Book 1 Title 3.
- This Title will address social housing.

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#### **CHAPTER # ESTABLISHMENT OF TRANSPARENT ZONING PROCESS AT CITY AND LOCAL LEVEL, INCLUDING PERIODIC TIMING, SCOPE AND STAKEHOLDERS TO BE INVOLVED AND HOW**

##### **ARTICLE #**

Mitigating and compensating for risks of displacing residents or existing businesses through new zoning

#### **CHAPTER # CLASSIFICATION OF URBAN LAND**

##### **ARTICLE #**

Population threshold at which a zoning plan is required

#### **CHAPTER # ZONING OF URBAN LAND**

#### **CHAPTER # MINIMUM STANDARDS OF URBAN ZONING PLANS**

Include specifications for delineation and co-existence of industrial, commercial and residential zones.

#### **CHAPTER # BUFFER ZONES AND PREVENTION OF ENCROACHMENT OF NON-COMPATIBLE USES**

#### **CHAPTER # URBAN INFRASTRUCTURE REQUIREMENTS**

**ARTICLE #**

Improving traffic flow (through the use of one way streets, no parking zones/times, bus lanes, stop signs, etc.)

**ARTICLE #**

Facilitating public-private infrastructure financing

**CHAPTER # PUBLIC TRANSPORTATION, BICYCLE ACCESS, RECYCLING,  
WASTE MANAGEMENT, MAINTENANCE OF URBAN GREEN SPACES,  
ETC., INCLUDING CLARITY ON ROLES AND RESPONSIBILITIES OF  
DIFFERENT LEVELS OF AUTHORITIES**

**ARTICLE #**

Incentivizing public transit ridership.

**ARTICLE #**

Promoting Walkability

**CHAPTER # BUILDING, PARKING, OPEN SPACE REQUIREMENTS**

Special building requirements (example: open space set asides, parking space requirements, energy efficiency standards), addressing minimum parking place allocations, open space set aside requirements for urban developments, traffic flow management issues, public transportation, etc.

**CHAPTER # OTHER PRIVATE SECTOR PROVISIONS**

**CHAPTER # MOTOR VEHICLE EXHAUST STANDARDS**

**CHAPTER # POTENTIAL NEW TENURE SYSTEMS FOR SOCIAL HOUSING  
PROJECTS**

**TITLE 4    EXTENDED PRODUCER RESPONSIBILITY**

**~~Title 4~~ TITLE 5    ENVIRONMENTAL QUALITY STANDARDS**

**Commented [M65]:** Per Z. Fadeeva. This concept will be more fully developed and will either be included as a Principle or a section in the Code (Title).

- This Title will establish the procedures for the setting of National and Local Environmental Quality Standards (EQS) and Guidelines. It will provide details on the type and quantity of the emissions. It will also adopt existing standards and levels until it is possible to revise or amend the Environmental Standards and Guidelines.
- This Title will require that all relevant Ministries will be required to follow the Environmental Quality Standards and Guidelines.
- The Environmental Quality Standards and Guidelines in this Title will also extend to food safety principles and objectives.

#### CHAPTER # SETTING OF ENVIRONMENTAL QUALITY STANDARDS (EQS)

##### CHAPTER # SETTING OF AMBIENT STANDARDS

###### ARTICLE #

Air Quality Standards

###### ARTICLE #

Water Quality Standards

#### CHAPTER # SETTING OF DISCHARGE STANDARDS FOR WATERBORNE POLLUTANTS

###### ARTICLE #

Individual pollutant discharge standards to be set in the code

###### ARTICLE #

Individual pollutant discharge standards to be set by the relevant ministry

###### ARTICLE #

Setting of polluting threshold for emission monitoring

###### ARTICLE #

Taking local ecological characteristics into account when setting emissions standards

**Commented [MB66]:** Per STWG 2 at 6 April Workshop. EQS will be developed in collaboration with international experts.

**Commented [KEAPL67]:** Details for such standards need to be provided for review. Standards for gas emissions and water discharge are particularly important for offshore oil and gas projects.  
**RECOMMEND** MoE needs to provide details for such standards for review.

**Commented [KEAPL68]:** Details for such standards need to be provided for review. Standards for gas emissions and water discharge are particularly important for offshore oil and gas projects.  
**RECOMMEND** MoE needs to provide details for such standards for review.

**ARTICLE #**

Relationship to EIA law

**ARTICLE #**

Incorporating international standards

**CHAPTER # SETTING OF DISCHARGE STANDARDS FOR AIRBORNE  
POLLUTANTS**

**ARTICLE #**

Individual stationary source pollutant discharge standards to be set in the code

**ARTICLE #**

Individual stationary source pollutant discharge standards to be set by the relevant ministry

**ARTICLE #**

Motor Vehicle emissions standards

**ARTICLE #**

Setting of polluting threshold for emission monitoring

**ARTICLE #**

Taking local ecological characteristics into account when setting emissions standards

**ARTICLE #**

Relationship to EIA law

**ARTICLE #**

Incorporating international standards

**CHAPTER # REVISION OF EQS**

**CHAPTER # APPLICATION OF EQS IN CAMBODIA**

**Commented [KEAPL69]:** What is the relevance of EIA Law? Will there be a separate EIA Law? The Environmental Code is intended to be a codification of all environmental laws/regulations in Cambodia. So there should not be a need for another EIA Law which could lead to inconsistencies and conflicts.

**RECOMMEND**

There should not be a separate EIA Law as the Environmental Code is intended to be a codification of all environmental laws/regulations in Cambodia.



CHAPTER # PROVISIONAL ADOPTION OF INTERNATIONAL STANDARDS

CHAPTER # DEFINITION OF BEST AVAILABLE TECHNIQUES

CHAPTER # DEFINITION OF GOOD PRACTICES

~~Title 5~~ **TITLE 6 STRATEGIC ENVIRONMENTAL ASSESSMENT**

- This Title will outline the use of Strategic Environmental Assessment (SEA) for the assessment and development of plans and policies in Cambodia. The use of SEA can be for all types of policies and plans, including decisions that may have impacts on natural resources management. **The relationship between SEA and EIA will be further considered.**
- The threshold for trigger for SEA will be clearly defined.
- This Title will also provide the link between National Environmental and Natural Resources Plans, SEA and also EIA for specific projects.

CHAPTER # OBJECTIVE OF SEA

To provide a high level of protection to the environment, including health, through the prior assessment of policies, programmes and plans.

CHAPTER # AIMS OF SEA

The key aims of SEA include:

- Ensuring that **environmental impacts, including health and social impacts**, are thoroughly taken into account in the development of plans and programmes;
- Contributing to the consideration of environmental impacts, including health and social impacts, in the preparation of policies and legislation;
- Establishing clear, transparent and effective procedures for strategic environmental assessment;
- Providing for genuine public participation in strategic environmental assessment; and
- Integrating by these means environmental concerns, including health and social concerns, into measures and instruments designed to further sustainable development.

**Commented [M70]:** SEA is for PLANS and POLICIES. Not to be confused with EIA, which is for ACTIVITIES, such as development projects.

**Commented [M71]:** Per NGO Forum and other comments, content in this Title will be clarified, further developed, and made consistent with text regarding EIA as appropriate.

**Commented [M72]:** Definitions for Environment and for Significant Environmental Impact will be developed that are clear and through, reflect Cambodian values, and include examples.

## CHAPTER # IMPLEMENTATION OF SEA

### ARTICLE #

The SEA procedure will include the following steps:

- 1) Screening
- 2) Scoping
- 3) Preparation of the Environmental Report
- 4) Consultation and Public Participation
- 5) Review and Decision
- 6) Information on Decision
- 7) Monitoring

### ARTICLE #

Relevant Government institution

The relevant government institution shall be the institution with jurisdiction on the sector the subject of the SEA.

The relevant government institution shall coordinate with the MOE to ensure that these procedures are complied with.

[Confirm institutional arrangements, including role of NCSD].

### ARTICLE #

Screening

Any plan or programme that in the opinion of the relevant government institution is likely to have a significant effect on the environment, health or society shall be required to undertake a SEA.

Any plan or programme that is in the following sectors shall be required to undertake a SEA unless the relevant government institution determines that an SEA is not required.

**Commented [MB73]:** Or this could be in accordance with the Appendix I. Based on the Vietnam Decree on SEA.

- a) agriculture,
- b) forestry,
- c) fisheries,
- d) energy,
- e) industry,
- f) mining,

g) transport,

h) infrastructure,

i) regional development,

j) water management,

k) waste management,

l) telecommunications,

m) tourism,

n) urban and regional planning or land use.

The relevant government institution shall determine if the plan or programme is likely to have a significant impact on the environment or health or society.

The relevant government institution shall ensure that all relevant ministries and government institutions are consulted in the preparation of the screening recommendation.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme should be the subject of SEA.

In reaching the decision whether to conduct a SEA the relevant government institution shall take into account the following factors:

1. The relevance of the plan or programme to the integration of environmental,

**Commented [M74]:** Per NGO Forum.

**Commented [M75]:** The Code will clarify who must determine what constitutes a Significant Environmental Impact and the definition for Environment and Significant Environmental Impact.

**Commented [MB76]:** This is modified from the SEA Protocol, Annex III

- including health and social considerations, and in promoting sustainable development.
2. If the plan or programme will provide an overall framework for projects and other activities, including location, nature, size, operations or the allocation of natural resources.
  3. Environmental, including health and social problems and impacts relevant to the plan or programme.
  4. The nature of the environmental impacts, including health and social impacts such as probability, duration, frequency, reversibility, magnitude and extent (such as geographical area or size of population likely to be affected).
  5. The risks to the environment, including to health and society.
  6. If the plan or programme will affect valuable or vulnerable areas, protected areas, including areas with a recognised national or international protection status.
  7. If the plan or programme will affect indigenous peoples or natural resources allocation to indigenous people.
  8. Comments received from the public participation and consultation process.

The relevant government institution will prepare, in collaboration with MOE, a screening analysis and recommendation.

Once the relevant government institution has determined if the plan or programme requires a SEA, the determination will be made public in accordance with the provision of this Code.

#### **ARTICLE #**

##### **Scoping**

The relevant government institution shall determine together with MOE and based on the screening process and comments received from other Ministries, the information and scope of the SEA.

The relevant government institution shall ensure that other relevant ministries and institutions are consulted in the preparation of the scoping report and the information to be included in the SEA.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme requires preparation of an Environmental Report

**ARTICLE #**

**Consultation and Public Participation**

The relevant government institution shall ensure early, timely and effective opportunities for public participation, when all options are available for consideration and amendment, in the SEA of plans and programmes.

The relevant government institution shall provide for consultation and public participation in accordance with the provisions of the Environmental Code.

The relevant government institution shall comply with the provisions of the Environmental Code for access to information.

The relevant government institution shall make the Scoping Report, the Environmental Report, details of submissions received, the SEA Report Assessment and determination of the SEA publicly available in both draft and final forms.

Special consideration shall be given to providing opportunity for participation by vulnerable persons, including women, children, disabled persons, and ethnic minority groups and indigenous peoples.

**ARTICLE #**

**Environmental Report**

The relevant government institution shall prepare an Environment Report for those plans and programmes that are subject to SEA.

The relevant government institution may prepare the Environmental Report itself or may use an appropriately qualified consultant.

The Environmental Report shall, in accordance with the Scoping Report, identify, describe and evaluate the likely significant environmental impacts, including health, social and ecosystem impacts, of implementing the plans or programmes and any reasonable alternatives or

modifications.

Special consideration shall be given to protecting the rights of and evaluating the impacts on vulnerable persons, including women, children, disabled persons, and ethnic minority groups and indigenous peoples.

#### **ARTICLE #**

##### **Review and Decision**

The assessment of the SEA shall be conducted by a SEA report assessment committee established by the relevant government institution and will include the representatives of the Office of the PM, the CDC, the institution of the Environment, and other concerned Ministries.

The SEA report assessment committee shall comprise a minimum of 9 members.

The SEA Report assessment committee shall consider the content of the Environmental Report and provide opinions and comments.

The relevant government institution shall provide support and guidance on the operations and management of the SEA report assessment committee.

The SEA report assessment committee may:

- (i) Conduct a survey on areas or adjacent areas where the project is carried out;
- (ii) Verify and evaluate information, data, analysis results, evaluation, or forecast in the Environmental Report;
- (iii) Collect opinions of relevant socio-political organisations, social organisations, socio-professional organisations, or experts;
- (iv) Hold thematic meetings between experts.

The SEA report assessment committee must conduct the assessment and send the results to the relevant government institution and MOE within 45 days of the completion of any further surveys or verification or evaluation.

#### **ARTICLE #**

##### **Results of assessment of SEA reports**

The SEA report assessment committee shall send the results of the assessment of Environmental Report to the relevant government institution and MOE.

The assessment must contain assessment procedures, outcomes and shortcomings, suggestions of the relevant government institution in order for the SEA report assessment authority to consider approving the plans or programmes.

The relevant government institution must comprehensively and objectively consider opinions or requests of the SEA report assessment authority.

The relevant government institution shall consider approving the plans or programmes according to Environmental Reports.

#### **CHAPTER # INFORMATION ON DECISION**

Once the relevant government institution has considered and made a decision on the plans or programme, this shall be notified to all the parties who have made submissions or been consulted during the SEA process.

The decision shall also be notified on a web-site of the relevant government institution.

#### **CHAPTER # MONITORING**

The relevant government institution in collaboration with MOE shall develop a monitoring programme.

The monitoring programme shall monitor the significant environmental impacts, including health and social impacts, of the implementation of the plans and programmes.

If the monitoring programme identifies any adverse impacts on environment, health or society, by the plans and programmes the relevant government institution should revise the plan or programme to undertake appropriate remedial action.

The results of the monitoring shall be made available to all relevant government institutions and to the public in accordance with the provisions of the Environmental Code.

#### **ARTICLE #**

Evaluating effects on ecosystem services.

## CHAPTER # APPRAISAL OF SEA REPORTS

### ~~Title 6~~ **TITLE 7 ENVIRONMENTAL IMPACT ASSESSMENT**

- This Title will establish the EIA process in Cambodia. It will replace the Sub-Decree on EIA 72 ANRK.BK 1999. It will incorporate the details and provisions of the Draft EIA Law.
- This Title will cover new projects as well as existing projects and will provide three levels of assessment:
  - Environmental Impact Assessment;
  - Initial Environmental Evaluation; and
  - Environmental Permit.
- The aim of this Title on EIA is to require all development projects and activities that will have an impact on the environment or society to undertake some form of environmental assessment. The level of assessment will be determined according to the potential impact on the environment or society.
- The threshold for trigger for EIA will be clearly defined.
- An EIA Approval Certificate will be issued and any other permit will be issued in accordance with the EIA Approval Certificate.
- EIA will be required for all projects or activities likely to have a significant impact on the environment or society.
- IEE will be required for those projects or activities likely to have a minor impact on the environment or society.
- An Environmental Permit will be required for those projects or activities that do not require an EIA or IEE. These will be required to have permission to ensure that the project is not likely to cause harm or damage to the environment or society.

**Commented [M77]:** The definition of environment in the definition section will be clear and thorough (and comprehensive and robust) and will provide examples in order for there to be an appropriate understanding that “environment” is very broadly defined and includes relationships and the characteristics important to Cambodia.

## CHAPTER # PURPOSE OF EIA

## CHAPTER # SCOPE OF EIA IN CAMBODIA

## CHAPTER # OBJECTIVES OF EIA IN CAMBODIA



**CHAPTER # APPLICATION TO PUBLIC AND PRIVATE DEVELOPMENT  
PROJECTS**

**CHAPTER # RESPONSIBILITY OF MINISTRY OF ENVIRONMENT IN EIA / ROLES  
AND RESPONSIBILITIES OF SUB-NATIONAL AUTHORITIES**

**ARTICLE #**

Officials of the EIA Unit of the Ministry of Environment have the following authorities:

1. - To inspect and monitor compliance with the laws and regulations in force, guidelines, Environmental Protection Agreement, standards, EMPs and other related environmental requirements. In necessary cases, EIA officials can order the project proponent to provisionally postpone activities or provisionally close the location of the project.
2. - To check documents and electronic data on environmental management and other records on development projects and project operations.
3. - To listen to and make minutes after listening to the answers of workers, employees, representatives of Project Proponents as well as other relevant persons.
4. - To order the workers, employees, managers, legal representatives, and agents of development projects to provide information, written documents, plans as well as minutes of all kinds that are related to the environmental management of a Project Proponent.
5. - To search the project site and seize evidence where a violation of laws or regulations on EIA or EMP is suspected to have been committed.
6. - To meet with Boards of Directors, legal representatives, workers, and employees of development projects at least once per year in order to assess the implementation of this law and other relevant regulations.
7. - To make minutes of searching and seizing of evidence in order to compile the case file of the commission of the offense against this or any other law in order to take measures in accordance with procedures in force.

**ARTICLE #**

Capital and Provincial Environmental Departments of the MoE shall take part in implementing this law in accordance with the laws and regulations in force as well as the assignment of the MoE.

**Commented [M78]:** Per NGO Forum. Must ensure EIA is conducted for every phase of a project or activity, such as exploration/feasibility studies, land clearance, construction, operation, expansion, closure).

**Commented [M79]:** Per NGO Forum. Also, funding for sub-national authority role? Scope of project approval under sub-national authority?

**Commented [KEAPL80]:** grants MoE broad powers of search and seizure. This is open to abuse  
RECOMMEND  
1.Limits and procedures need to be specified in respect of powers of search and seizure.  
These powers should be assessed against Cambodia's criminal procedure code or equivalent law which sets out procedures/thresholds for search and seizure in normal criminal matters.

**Commented [KEAPL81]:** grants MoE broad powers of require environmental compliance assessment meetings with directors/representatives/staff at least once a year. This seems excessive and open to abuse.  
RECOMMEND  
Frequency of meetings should only be mandated if breaches have occurred or monitored results are close to set limits.

## CHAPTER # REGISTRATION OF EIA EXPERTS

### ARTICLE #

EIA Consultants, which could either be natural persons or legal entities, shall be under the management supervision of the MoE.

EIA Consulting Firms shall have Khmer nationality with the project team leader Consultants on their team who ~~is the consultant~~ are accredited by the MoE.

All EIA consultants must be registered with MoE before professionally preparing EIA with an EIA consulting firm.

Registration of certificates of accreditation as an EIA Consultant shall be valid for a maximum period of 5 years and may be renewed.

## CHAPTER # LEVELS OF ASSESSMENT WILL INCLUDE EIA, IEE OR ENVIRONMENTAL PROTECTION AGREEMENT

### ARTICLE #

All development projects must properly assess the impacts on the environment, economy, society, health and culture with prior approval of the MoE before being sent to the government for decision.

Issuance of licenses or permission letters to development projects by Approval Ministry-Institution shall be done in accordance with the principle of FPIC and conditions determined in the EIA Approval Letter and Certificate. Licenses, permission letters, or decisions that are in contradiction to the spirit of this provision are considered null and void.

### ARTICLE #

This law does not apply to State's development projects or State activities that have been approved by the government or the National Assembly and that are considered to be necessary and emergency projects relating to national security, territorial integrity, national sovereignty, or disaster management.

### ARTICLE #

The MoE shall conduct screening to determine the type of development projects, to require the project proponent to prepare the following documents:

**Commented [KEAPL82]:** ) EIA consultants should be under the supervision of MoE and not "*management of MoE*". EIA consultants are independent of MoE, so not under MoE's management. (B) The requirement for project team leader to have Khmer nationality may not be feasible given the lack of proper EIA consultancies within Cambodia. Khmerisation of the EIA consultant should be deferred under the environmental sector in Cambodia is more established. (C) Requiring use of EIA consultants with only Khmer project leaders (without regard for relevant knowledge and experience) will at this stage increase cost of EIA compliance and decrease the efficacy of the Code. International investors will need to have appropriate insurance in place before commencing development. Such insurance will require EIA report/compliance performed and certified by international standards that such insurers require (and such standards do not mandate the use of Khmer project leaders). If the EIA consultants mandated by MoE are not on the approved panel of insurers, international investors will need to commission separate EIA consultants that meet the standards of insurers. This will result in the engagement of 2 consultants for the same job.

#### RECOMMEND

As there is insufficient local expertise to attain project leader status, the Khmerisation requirement should be applied towards having some Khmer staff in the EIA consultant and not the project team leader role. If the MoE wishes to enhance the level of EIA competence in Cambodia, the panel of EIA consultants should be open to international experts but require the use of some local staff.

**Commented [M83]:** A comprehensive and robust definition of "environment" would clarify and simplify the text and meaning.

**Commented [M84]:** Per NGO Forum.

**Commented [KEAPL85]:** is unreasonably wide and unclear (ie: "spirit").

#### RECOMMEND

1. Given the consequence of "null and void", the trigger for this provision should be "contradiction to the terms of this provision" and not "spirit". Provision should be clarified that it is subject to other provisions in the Code – for example: state sanctioned projects, projects approved or in place before the enactment of the Code.

**Commented [M86]:** Per NGO Forum.

**Commented [KEAPL87]:** MoE ability to impose "additional screening" in addition to standards already specified in the Code will create uncertainty and be prone to abuse. The Code is intended to be exhaustive and this provision allows MoE to expand its supervisory powers beyond the requirements of the Code. This discretionary power will extend the EIA process. This will further deter investment and development in Cambodia.

#### RECOMMEND

1. The Code is intended to be exhaustive and MoE should not be granted ad hoc powers to impose "additional screening" beyond what is already required in the C... [2]

1. An IEE with an attachment of Environmental Protection Agreement;
2. An EIA with an attachment of Environmental Protection Agreement.
3. An Environmental Protection Agreement (EPA)

The projects that are required to prepare an EPA shall attach with it technical principles such as Environmental Protection Plan (EPP) in accordance with the requirements of the MoE,

#### ARTICLE #

The MoE can determine additional screening of the type of project based on the scale of environmental and social impacts that shall be determined by the MoE.

#### ARTICLE #

In cases where there is any transfer or changes to the Project Proponent by any reasons, then the IEE and/or EIA Approval Letter and Certificate as well as contract and all conditions provided for in this paragraph shall be automatically transferred to the new Project Proponent. The Contract of Transfer or the changes of the Project Proponent shall not be valid for implementation unless the transfer or the changes are done after MoE has received notification about the changes.

**Commented [KEAPL88]:** Provision dealing with “transfer or changes to the Project Proponent”. This provision is unclear. Does “transfer or changes to the Project Proponent” deal with transfer of project management from one party to another or does it deal with changes in control of the Project Proponent (eg: change in shareholding, etc).  
RECOMMEND  
MoE to clarify provision (eg: definitions, purpose, consequence, etc).

#### ARTICLE #

IEE report shall be required for:

1. Projects listed in sub-decree.
2. Projects that have prepared Environmental Protection Agreement and decided by MoE that they do IEE.

When the proposed project is required to do an IEE, the Project Proponent shall cooperate with consulting firms in order to prepare the Terms of Reference (ToR) in accordance with the provisions and guidelines of MoE and submit to EIA Unit for final approval.

**Commented [KEAPL89]:**  
RECOMMEND  
1. MoE needs to clarify in the Code when IEEs are needed. It should be made clear when IEEs are not needed. For example, for the oil and gas upstream sector, IEEs should not be needed as exploration and development activities will require EIAs. Conducting IEE and then EIA will only unnecessarily increase costs and time.  
MoE needs to provide draft of sub-decree setting out IEE projects.

Project Proponent and consulting firms shall prepare IEE report based on the approved ToR.

#### ARTICLE #

An Environmental Impact Assessment report shall be required for:

**Commented [KEAPL90]:**  
RECOMMEND  
1. MoE needs to clarify in the Code when EIAs are needed. If EIA is needed, it should be made clear that IEE will not be needed. For example, for the oil and gas upstream sector, IEEs should not be needed as exploration and development activities will require EIAs. Conducting IEE and then EIA will only unnecessarily increase costs and time.  
MoE needs to provide draft of Annexure 1 setting out IEE projects.

- 1- Projects listed in Annexure 1 or;
- 2- Projects that have received an IEE and the result of the study demonstrate significant environmental impacts and the MoE requires the project to conduct an EIA.

When the proposed project is required to undertake an EIA report, the Project Proponent shall collaborate with consulting firms to draft the Terms of Reference in accordance with any provisions and guidelines of MoE and submit to EIA Unit for final approval.

Project Proponent and consulting firms shall prepare EIA report based on the approved ToR.

#### ARTICLE #

An Environmental Protection Agreement shall be entered into by all projects that are listed in sub-decree or projects with little negative impacts on environment and society.

When the proposed project is required to conduct an EPA, the project proponent shall enter into to the EPA by attaching with it the technical principles such as Environmental Protection Plan and relevant documents and submit to EIA Unit for final approval.

The form of EPA and EPP shall be determined by MoE.

### CHAPTER # ESTABLISHMENT OF EIA REVIEW COMMITTEE

#### ARTICLE #

All development projects that are required to perform an EIA are required to have technical comments from the Expert Review Committee.

The composition of the Expert Review Committee includes officials from MoE and relevant ministries and institutions, and independent experts with qualifications and appropriate experience in reviewing EIA reports. Members of an Expert Review Committee shall be selected on a project-by-project basis by MoE based on the technical aspects of the EIA report.

The organisation and functioning of the Expert Review Committee shall be determined by Prakas of MoE.

The members of the Expert Review Committee shall be reimbursed for their services based on an agreement between MoE, each member, and Project Proponent.

### CHAPTER # ROLE OF EIA REVIEW COMMITTEE

### CHAPTER # TIMEFRAMES FOR EIA AND IEE PROCEDURE

**Commented [KEAPL91]:** Provision describing the “terms of reference” for the EIA consultant is unclear  
**RECOMMEND**

1.A template terms of reference (with space for customisation for individual projects) should be adopted. This is to avoid redrafting much of the ToR for each project. This will provide clarity to investors.  
All guidelines of MoE for the ToR should be incorporated into the Code or done via Prakas. Current draft of “any provisions of guidelines of MoE” will make the EIA process arbitrary and unpredictable.

**Commented [M92]:** While representatives from the public, including potentially affected communities, are not included in the Expert Review Committee, the public participation process provides the opportunity for EIA review and input on the decisions.

**Commented [KEAPL93]:** ) The costs of such review should be borne by MoE as it is part of its role. (B) Whenever fees are made on an ad hoc basis with negotiations between the parties, it will be prone to abuse since this is in relation to an approval process.  
**RECOMMEND**

1.The costs of any review should be borne by MoE. The review is part of MoE’s role. Oil and gas companies are subject to higher tax rates (plus excess profits tax) in Cambodia. This higher taxation forms part of the Government’s revenue base to handle the cost of review.  
2.If fees are to be paid by the companies, the fees should be nominal and fixed. This is for certainty, cost control and transparency.  
MoE must work with MME and MEF on the classification of such fees. Fees to be paid by companies need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, the nature of cost recoverability and tax deductibility and whether such compensation is considered part of development operations needs to be ascertained and made clear.

**Commented [M94]:** Per NGO Forum. Reimbursement for participation in an EIA Expert Review Committee should be limited to those committee members acting outside their normal responsibilities. Government officials or staff whose job it is to participate in the EIA process should not be specially remunerated.

**ARTICLE #**

The MoE may only make a determination in accordance with this procedure after the IEE or EIA has been on public exhibition for at least the time period specified in the Code.

For the Environment Protection Agreement the minimum time period for public exhibition and comment is a 3 weeks.

For the IEE Report the minimum time period for public exhibition and comment is a 6 weeks.

For the EIA Report the minimum time period for public exhibition and comment is a 8 weeks.

**ARTICLE #**

The MoE has a period of 30 (thirty) working days to review, comment, approve, reject, or require adjustment or correction to Environmental Protection Agreement and Environmental Protection Plan. The period is counted from the date of the submission of Environmental Protection Agreement, Environmental Protection Plan, and relevant documents.

**ARTICLE #**

MoE shall review and comment on the IEE report within sixty (60) working days counting from the date of receiving the report. The period of sixty (60) days will expire when the Ministry of Environment has provided the comments regardless of whether the comment is in the form of rejection, approval, or an order to make modification or improvement on the reviewed report. The period of sixty (60) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the slowness or failing to make correction in accordance with the above order or instruction.

**ARTICLE #**

MoE shall review and comment on the EIA report within ninety (90) working days counting from the date of receiving the report. The period of the ninety (90) days will expire when the Ministry of Environment has provided the comments regardless of whether the comments are in the form of rejection, approval, or an order to make modification or improvement on the reviewed report.

The period of ninety (90) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the slowness or fail to make correction in accordance with the above order or instruction

## CHAPTER # PREPARATION OF EIA REPORT

### CHAPTER # PREPARATION OF ENVIRONMENTAL MANAGEMENT PLAN

#### ARTICLE #

An Environmental Management Plan (EMP) shall be prepared by the Project Proponent. The EMP shall include the protection, mitigation, monitoring and management requirements that were identified in the IEE and EIA reports.

The EMP shall be regularly updated to take into account any amendments in Environmental Standards, or changes in sector performance practices or other changing circumstances of the Project.

#### ARTICLE #

All development projects and project operators shall establish and maintain an Environmental Management System (EMS) that shall ensure the self-monitoring procedures and methods as stipulated in their EMP.

In cases where the environmental impacts are greater than those estimated in the EIA report or EMP, then the MoE shall require immediate action to remedy the impact or an adjustment of the EMP.

The adjusted EMP and monitoring programme shall be approved by MoE. A time limit to make adjustments or improvements shall be agreed upon in writing by all parties.

The Project Proponent shall prepare the environmental monitoring report every three (3) months and submit to EIA Unit for review and evaluation. The EIA Unit has the right to make site inspections and verify the monitoring data of the Project Proponent.

#### ARTICLE #

#### Commented [KEAPL95]:

##### RECOMMEND

Maximum time limits also need to be specified to avoid process being unnecessarily prolonged and abused. All developments are constrained by time and a prolonged and unpredictable process will discourage much needed investment/development in Cambodia.

1. At the end of the 90-day review process, the determination of MoE should be definitive and limited to either (a) rejection (b) approval or (c) order to make modifications/improvements. MoE should not be permitted to make comments (which do not amount to a clear determination) at the end of the 90-day review period. The 90-day review period should not be restarted by MoE. MoE should be required to provide all instructions at one time to avoid restarting the 90-day review period.

Project-affected persons and all stakeholders shall have the right to report issues and grievances of environmental and social concerns to the Project Proponent and to petition competent authorities. Such issues will be addressed by a sub-national commission and it can continue to an inter-ministerial commission established as part of the EMP.

Relevant competent authorities shall respond to the grievance or petition and deal with concerned environmental and social issues within an appropriate time limit and inform the concerned persons accordingly.

The formalities and procedures of the grievance or petition shall be determined by Prakas of MoE.

#### CHAPTER # SUBMISSION OF EIA REPORT

#### CHAPTER # CONSIDERATION AND ASSESSMENT OF EIA REPORT

##### ARTICLE #

During the period for review and comment the MoE shall review and comment on the IEE or EIA report after:

- Listening to and considering the official presentation and defending of the report which is conducted by the Project Proponent and consulting firm;
- Considering the comments of direct or indirect project-affected people, opinion of the public and civil society;
- Considering the comments from relevant ministries or institutions, and
- Considering the proposed comments of the Expert Review Committee;

MoE is responsible for ensuring a fair public participation process by inviting representatives of relevant ministries or institutions, territorial authority, civil society, and project-affected persons to provide comments on the proposed project.

#### CHAPTER # REVISION OF EIA REPORT

##### ARTICLE #

The provision of comments in the form of approval or rejection, or the ordering to make adjustments or corrections on IEE or EIA shall be done by taking into consideration the advantages and disadvantages of environment, economy, society, and culture by examining the scope of the project, geographical location, potential impact, other special features of each

**Commented [M96]:** Per NGO Forum. Define in more detail, link to relevant sections of the Code.

**Commented [KEAPL97]:** There is insufficient detail on how the reporting and grievance mechanism is to be addressed.  
RECOMMEND  
Details and certainty need to provided by MoE to prevent abuse and harassment.

project, and effectiveness of the implementation of management measures, and/or the protection of environmental quality and social impact mitigation in accordance with the level of the development of technology and science.

In case where MoE approves any IEE or EIA report, MoE shall issue an EIA Approval Letter and Certificate for the project by attaching with it the Environmental Protection Agreement.

In case where the MoE rejects an IEE or EIA report, the MoE shall provide the reasons for the decision.

In case where the MoE provide comments of ordering to make adjustments or corrections of the IEE or EIA report, the MoE shall provide reasons and clearly demonstrate the points that need to be adjusted or corrected.

#### ARTICLE #

Before the decision to grant an EIA Approval Letter and Certificate to development projects that are located in the areas where indigenous people live, MoE, members of the Expert Review Committee and relevant stakeholders involved in the decision-making process must take strong heed and special consideration about the project in order to avoid negative impact on the culture, custom, tradition, livelihood, and the property of indigenous people.

### CHAPTER # APPROVAL OR REJECTION OF EIA REPORT

#### ARTICLE #

MoE shall send the decision on the rejection or the order to make adjustment and correction in writing as well as the reasons or condition and/or the points that need to be adjusted or corrected to the Project Proponent and consulting firm in order to prepare the EIA report.

MoE shall send the EIA Approval Letter and Certificate as well as the Environmental Protection Agreement to the Project Proponent and relevant competent ministries and institutions such as Approval Ministries or Institutions, Council for Development of Cambodia, Capital and Provincial Departments of Environment and relevant Commune and Sangkat Councils.

### CHAPTER # GRANTING OF EIA APPROVAL LETTER

#### CHAPTER # PROHIBITION OF ACTIVITIES WITHOUT EIA APPROVAL LETTER

#### ARTICLE #

Project Proponents shall not commence any construction activities or Project operations until

**Commented [KEAPL98]:** Where is the appeal mechanism?

**RECOMMEND**

MoE to include details on appeal process. This is especially important if the Review Committee have made an error or relied on erroneous materials.

**Commented [M99]:** Per NGO Forum. Follow guidelines of FPIC, UNDRIP, and international human rights standards and respect existing laws on conservation and safeguard principles, including following Cambodia's signatory standards under international agreements.



after the EIA Approval Letter and Certificate has been issued for the Project. The Ministry of the Environment shall have the power to postpone all construction activities or Project operations that do not have an EIA Approval Letter and Certificate.

All Concession Agreements that are granted by the Royal Government of Cambodia at both national level and Capital and Provincial level shall have an official EIA Approval Letter and Certificate with an attachment of Environmental Protection Agreement (EPA).

#### ARTICLE #

The EIA Approval Letter and Certificate shall be valid for the life cycle of the project. In case where the MoE finds that there are changes to Master Plan or that the IEE or EIA reports are not adequate or effective for the implementation of impact mitigation measures, the MoE has the rights to require the project proponent to re-prepare an EIA report and/or to update the existing EIA report in order to receive a new EIA Approval Letter and Certificate in accordance with conditions determined by MoE.

### CHAPTER # EXISTING PROJECTS

#### ARTICLE 31

MoE in consultation with relevant Ministries or institutions shall prepare Guidelines based on project screening for the types of projects that have not conducted the EIA to require the Project Proponent to prepare an IEE or EIA report for existing projects or projects in operation.

The Guidelines shall be published within three (3) months after the MoE has made decision on these guidelines.

Project Proponents shall cooperate with consulting firms to complete their IEE or EIA reports and submit these documents to MoE for review and comments in a period determined by MoE.

MoE shall review, comment, and make a decision on these IEE or EIA reports in accordance with the provisions of the Code.

### CHAPTER # MATTERS FOR CONSIDERATION

#### ARTICLE #

Protecting the rights of vulnerable persons, including women, children, disabled persons, and

**Commented [KEAPL100]:** MoE has the power to postpone all construction activities or project operations that do not have an EIA Approval Letter and Certificate. This cessation power is rather wide and the current draft not distinguish between preparatory work (eg: setting up supply base, office, etc) and work that has a material impact on the environment.

#### RECOMMEND

MoE's powers of suspension/cessation should be limited to work/operations that materially impact the environment and not apply to preparatory work or work that is ordinarily conducted by regular business (eg: setting up supply base, office, etc).

#### Commented [KEAPL101]:

Inclusion of Environmental Protection Agreement (EPA) seems unnecessary and unclear. If EIA standards are met with approved mitigation and the Code exhaustively states the environmental obligations of all parties, why should there be a need for EPA? EPA is redundant and is prone to abuse (eg: arbitrary fees imposed on prior EPAs with no legislative/regulatory basis) as additional obligations not required in the Code may be included in the EPA in order for EIA permit to be attained.

**Commented [KEAPL102]:** Given the importance of the EIA approval, the validity period should be clarified in more detail.

#### RECOMMEND

The EIA approval should be valid for the duration of the life cycle of the project or the duration of the production period (including any extension) for the relevant petroleum licence/permit

**Commented [KEAPL103]:** (A) What is meant by "Master Plan"? Does it refer to plan of development as approved by the relevant regulating Ministry? (B) What is the threshold of change in order for the EIA report/approval to be amended? What threshold of change is required for the entire EIA process to be re-started? (C) If the change in the Master Plan results in less environmental impact, there must be a mechanism to expedite the EIA re-approval process ... [3]

**Commented [MB104]:** Projects that are planned or existing that have completed the EIA process and Government approval processes shall not require further assessment. All existing projects will be required to comply with the Code and be subject to the appropriate penalties if the project causes harm to the environment or society.

**Commented [M105]:** Per NGO Forum. Clarification for expansion of existing projects.

**Commented [KEAPL106]:** (pre-enactment of Code) need to be provided for review. This is a crucial grandfather provision and details need to be provided since all developments in Cambodia will be affected. (B) The provision appears to be require existing projects or projects in operation to conduct EIA reports and abide by the Code. This amounts to retrospective application the Code to projects that were in place before the Code. This must ... [4]

minority groups and indigenous peoples, **in keeping with the principle of FPIC and** through the EIA process, including public participation in the EIA process and the implementation measures that are an outcome of EIA approval.

**Commented [M107]:** Per NGO Forum.

## CHAPTER # SOCIAL IMPACT ASSESSMENT

[To be developed in detail]

## CHAPTER # HEALTH IMPACT ASSESSMENT

### ARTICLE #

All IEEs and EIAs must include a Health Impact Assessment (HIA) that includes:

- baseline data on health **(including nutrition)** in the project areas and of the affected populations;
- description of potential project impacts **(e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease)** due to construction, population influx and changes to the environment;
- **the mitigation measures to offset, reduce or even eliminate negative impacts of the project and measures that will be introduced by the Project Proponent to preserve and maintain good health** of the local communities **and take measures for improvement where necessary;** and
- the issues related to monitoring health conditions and managing remaining impacts in the short and long-term for the project.

**Commented [M108]:** Per NGO Forum.

**Commented [M109]:** Per NGO Forum.

**Commented [M110]:** Per NGO Forum.

### ARTICLE #

In assessing the health impacts, Project Proponents must:

- propose a safety and health management plan as part of the HIA for the working environment, analysing relevant risks and specific classes of hazards in the proposed project areas, including physical, chemical, biological, and radiological hazards.
- identify and assess the risks to, and potential impacts **(e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease)** due on, the safety and health of affected communities during the design, construction, operation, and decommissioning of the project, and establish preventive measures and management plans for the impacts during these stages.

**Commented [M111]:** Per NGO Forum.

## CHAPTER # TRANSBOUNDARY ENVIRONMENTAL

**Commented [M112]:** A comprehensive and robust definition of Environment will be defined.

A Project that has potentially significant trans-boundary environmental impacts is required to

conduct a Trans-boundary Environmental Impact Assessment (TbEIA).

#### ARTICLE #

Procedures for conducting TbEIA including government institution jurisdictions.

### CHAPTER # CUMULATIVE IMPACT ASSESSMENT

#### ARTICLE #

- All EIAs must analyze and evaluate the cumulative impact caused by existing and future projects in the surroundings of the Project, which may trigger significant environmental or social impacts.
- In the cumulative impacts assessment report, the Project Proponent must evaluate the capacity of physical, biological and social economic resources to accommodate additional effects based on their own time and space parameters and project activities surrounding the project sites.
- Project Proponents must consider alternative mitigation measures to offset or avoid potential significant cumulative impacts

### CHAPTER # ENVIRONMENTAL MANAGEMENT AND MONITORING

#### ARTICLE #

The EIA Unit and Provincial/Capital Department of Environment are the monitoring authorities on Environmental Management Plans and following up on Environmental Management Plan implementation of Project Proponents by cooperation with the Ministry of Environment, relevant institutions, local authorities and stakeholders.

### CHAPTER # PROVISION OF INFORMATION

### CHAPTER # REPORTING REQUIREMENTS

#### ARTICLE #

Each development project shall prepare an Environmental Monitoring Report of the project as follows:

- A Quarterly Report (every three months) covering all environmental management and monitoring results shall be submitted to the EIA Unit;
- Within three (3) months after the financial year the Project Proponent shall prepare and submit an annual environmental report, including the environmental auditor's opinions;

**Commented [M113]:** Per NGO Forum. Recommend referencing work on cumulative impact assessment by University of Queensland, CSRM.

**Commented [KEAPL114]:** Is this CIA part of the EIA or in addition to the EIA? (B) When is this CIA to be done? (C) What is the threshold that triggers the requirement for a CIA? (D) What is the extent/scope/limit of "surrounding of the Project" which triggers the requirement for a CIA? (E) If the CIA indicates an adverse finding, how does MoE determine which affected projects are suspended or terminated given the cumulative nature of impact?

#### RECOMMEND

1. This CIA should be covered as part of the EIA Report and not require another report. A separate report/finding will add to costs and delays – further discourage much needed investment in Cambodia.

MoE needs to clarify the details, triggers and consequences of a CIA (even if the CIA is incorporated into the EIA).

**Commented [KEAPL115]:** What is an "environmental auditor"? (B) Who qualifies to be an "environmental auditor"? (C) Under the relevant licence/concession agreement issued by the regulating Ministry, companies are under confidentiality obligation to the Government to only provide information if approved by the Government.

#### RECOMMEND

1. Reporting requirements are excessive.

2. MoE needs to provide clarifications on the requirement, qualification, details and report required of an "environmental auditor". Without any clarification from MoE, the reporting requirements are excessive. Reports are being churned (and audited) with little to no appreciable benefit.

Affected Ministries with control over relevant companies/persons (eg: MME for the oil & gas sector) need to coordinate with MoE to avoid inconsistent/conflicting laws and obligations on disclosure of information/materials.

- Provide copies of the Project's annual environmental report to the public on request without charge;
- Provide an electronic copy of the quarterly reports and annual environmental report that will be placed on the publicly accessible web-site of MoE and by the Proponent on a publicly accessible web-site.

#### ARTICLE #

Each development project with an EIA Approval Letter and Certificate shall submit a quarterly and semi-annual report to the EIA Unit concerning its environmental management and monitoring;

Project Proponents have the obligation to promptly report a critical environmental problem to relevant and competent authorities and to the public to avoid negative impacts to the environment or society; Project Proponents shall provide information related to environmental management of the project to MoE in accordance with the request of MoE.

### CHAPTER # FEES AND CHARGES

#### ARTICLE #

The Project Proponent is liable for all expenses incurred in preparation of the Initial Environmental Examination (IEE) report or the Environmental Impact Assessment (EIA) report and for the expenses for project screening, for project scoping, for the public participation process, for the review and comment on the IEE or EIA report by MoE, for reviewing Environmental Monitoring Report, and for the work of the Expert Review Committee.

#### ARTICLE #

The Project Proponent is liable for the expenses of the preparation and implementation of the Environmental Management and Monitoring Plan (EMP) and costs to cover implementation and monitoring of measures on reduction of the impacts on environment and society as delineated in the EMP and SDP.

The Project Proponent shall have a deposit [reserved] budget or insurance budget for the management of environmental and social risks which shall be determined by the MoE.

#### ARTICLE #

A detailed budget of estimated costs for environmental impact mitigation measures that must be included in the EMP shall be borne by the Project Proponent.

#### Commented [KEAPL116]:

The range/scope of fees are excessive. (B) What are the fee/expense rates? (C) How are the fee/expense rates determined? (E) Given the quest for transparency, are the fee/expense rates published? (D) This is prone to abuse. Reviewers/participants are incentivised to drag out the review process in order to maximise fee earning. (E) How are such fees/expenses paid treated and accounted for by MEF (taxation) and relevant Ministry (eg: MME for oil & gas)?

#### RECOMMEND

1.MoE needs to publish details of all fees/expenses and applicable rates in a Prakas or sub-decree that is public. No hidden/arbitrary fees should be permitted. All expenses/fees must not be designed to incentivise delays. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.

2.All fees/expenses actually paid and received should be published in detail.

3.MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such fees/expenses

... [5]

**Commented [KEAPL117]:** Which party is responsible for conduct of EMP? (B) What are the fee/expense rates for EMP? (C) How are the fee/expense rates determined? (D) Given the quest for transparency, are the fee/expense rates published? (E) This is prone to abuse. Monitors are incentivised to drag out the monitoring process in order to maximise fee earning. (F) How are such fees/expenses paid treated and accounted for by MEF (taxation) and relevant Ministry (eg: MME for oil & gas)?

#### RECOMMEND

1.MoE needs to clarify who is responsible for the conduct of EMP.

2.MoE to publish details of all fees/expenses and applicable rates in a Prakas or sub-decree that is public. No hidden/arbitrary fees should be permitted. All expenses/fees must not be designed to incentivise delays. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.

... [6]

**Commented [KEAPL118]:** This is excessive! What exactly is expected by MoE? Such payments are unreasonable and without basis. Are such deposits refundable? What is the deposit used for? If the company has met the requirements for EIA approval and put in place an EMP, what is the basis for the levy of a reserve/insurance deposit? Who manages the deposit? What security does MoE provide in ensuring that the deposit is available for use or refund at the end of the project? This is a form of indirect taxation and will only serve to discourage/deter much needed investment and development in Cambodia.

#### RECOMMEND

1.urpose/details of this provision.

2.All requirements for deposits should be removed.

3.MoE to publish details of all deposits (and managers of such deposits) in a Prakas or sub-decree that is public.

Deposits should not be at the discretion of the MoE. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.

... [7]

The cost of making documents publically available, including web-site access, as stipulated in Article 40 of this law shall be borne by the Project Proponent.

All costs to adjust or improve the mitigation measures and project monitoring programme as stipulated in Article 43 of this law shall be borne by the Project Proponents.

All expenses for dispute resolution in both inside and outside of the court system as stipulated in Article 65 of this law are the responsibility of the Project Proponent.

Service fees and other charges shall be determined by an Inter-ministerial Prakas between the MoE and the Ministry of Economy and Finance.

#### ARTICLE #

When the Project Proponents submit application for review and comment on IEE or EIA report, MoE has the duty to collect fees and service charges as provided in an Inter-Ministerial Prakas between MoE and Ministry of Economy and Finance on Service Charges for reviewing EIA report.

#### ARTICLE #

The Project Proponent shall make payment of fees and service charges for reviewing Environmental Monitoring Report to MoE to enable MoE to carry out its duties to review monitoring reports, respond to requests for investigation of environmental complaints, and to carry out routine compliance monitoring during both construction and operation phases of the project.

#### ARTICLE #

~~An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.~~

#### ARTICLE #

~~The Project Proponent shall make payment of Environmental Endowment Fund based on the agreement between MoE and Project Proponent, on an annual basis until the end of business, based on the type and scale of development project.~~

**Commented [KEAPL119]:** This is only reasonable is the adjustments and improvements are agreed by MoE and the company. It would be excessive for any party to unilaterally require adjustments and improvements to be made and the company to bear the costs, without the agreement of the company, especially if such adjustments and improvements have no appreciable or proven benefit.

#### RECOMMEND

1.Any adjustment or improvement to an approved project mitigation/ monitoring programme must be agreed by both MoE and the company.

**Commented [KEAPL120]:** This is excessive! This only serves to incentivise frivolous and vexatious claims as the company has to fund its defence and the costs of spurious claimants.

#### RECOMMEND

1.Company should only be obliged to fund its own defence. Claimants needs to fund their own case.

**Commented [KEAPL121]:** This is insufficient. Regulating ministries (MME for oil and gas) needs to be involved in the classification process as well.

#### RECOMMEND

MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such fees/charges/payments are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/charges/payments must be agreed by all relevant Ministries in terms of:

- classification as part of “petroleum operations” in the case of oil and gas sector
- cost recoverability
- tax deductibility
- etc

**Commented [KEAPL122]:** This is excessive! This only serves to incentivise fee earning by incremental changes to documents.

#### RECOMMEND

1.Fees/charges should be only be collected once for each EIA and EMP, and not for each reiteration or change.

## ~~Title 7~~ **TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING**

- This Title will outline the principles and requirements for environmental audits and for reporting requirements under the relevant provisions of the Environmental Code. An environmental audit will be a key mechanism to ensure that permit holders and those undertaking development projects are complying with the conditions of approval. This will include EIA, IEE and environmental protection agreements as well as any conditions attached to permits or licenses or ELC.
- The Title will also establish a PROPER system for self-report of pollution by companies and a color-coded registration for environmental compliance. Companies will be designated from Green and Blue (Beyond Compliance) to Black (Compliance) to Yellow and Red (Below Compliance)
- The aim of this Title is not to increase the regulatory burden on the holder of a license or approval but to ensure that environmental and social obligations are carried out in accordance with the approval conditions.

### **CHAPTER # ESTABLISHMENT OF SELF-REPORTING FOR ENVIRONMENTAL COMPLIANCE**

Commented [M123]: e.g., PRTR

### **CHAPTER # OBLIGATION TO REPORT BREACHES OF ENVIRONMENTAL CODE**

### **CHAPTER # ESTABLISHMENT OF SYSTEM OF ENVIRONMENTAL COMPLIANCE**

### **CHAPTER # REGISTER OF APPROVALS, PERMITS, LICENSES AND MONITORING REPORTS**

### **CHAPTER # UNIFIED REGISTER TO BE PUBLICALLY AVAILABLE AND EASILY ACCESSIBLE**

### **CHAPTER # ENVIRONMENTAL AUDITS**

Commented [M124]: Per NGO Forum. Ensure mandatory audits.

### **CHAPTER # APPOINTMENT AND QUALIFICATIONS OF ENVIRONMENTAL AUDITORS**

### **CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL AUDITS**

### **CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL**

**CERTIFICATION TO INTERNATIONAL STANDARDS**

**CHAPTER # MONITORING REPORTS TO BE REQUIRED FOR SPECIFIC PROJECT  
AND ACTIVITIES**

**Commented [M125]:** Per NGO Forum. Link to risk identification and mitigation plans.

**CHAPTER # MONITORING REPORTS REQUIRED UNDER EIA APPROVALS**

**CHAPTER # MONITORING REPORTS TO BE PUBLICALLY AVAILABLE**

**CHAPTER # RIGHTS AND RESPONSIBILITIES TRAINING**

**Commented [M126]:** Per NGO Forum. Propose “Responsible Business Conduct”. Will promote better policy coherence with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises

Move Chapter to Book 7 Environmental Education and Awareness?

**BOOK 3 ENVIRONMENTAL MANAGEMENT AND  
SUSTAINABILITY MECHANISMS**

**TITLE 1 DISASTER RISK REDUCTION AND MANAGEMENT**

- The Title will provide the requirements for reducing disaster risk by proper planning and incorporating risk reduction strategies into natural resource management decisions.

**CHAPTER # DISASTER MANAGEMENT PLANNING**

**CHAPTER # INCORPORATION OF RISK-REDUCTION PLANNING**

**CHAPTER # DEVELOPMENTS TO TAKE INTO ACCOUNT DISASTER  
MANAGEMENT PLANNING**

**CHAPTER # PLANNING FOR MAJOR POLLUTION INCIDENTS**

**CHAPTER # RESPONDING TO ENVIRONMENTAL DAMAGE**

**CHAPTER # DISASTER MANAGEMENT FOR PROTECTED AREAS AND  
HERITAGE LOCATIONS**

**CHAPTER # MANAGEMENT OF DISASTERS AT WASTE FACILITIES**

**CHAPTER # MANAGEMENT OF DISASTERS AT ENERGY PRODUCTION AND  
STORAGE FACILITIES**

**CHAPTER # MANAGEMENT OF DISASTERS AT CHEMICAL FACILITIES**

**CHAPTER # OBLIGATION TO REPORT POTENTIAL DISASTERS**

## TITLE 2 CLIMATE CHANGE ADAPTATION AND MITIGATION

- This Title will outline how to mainstream Climate Change assessment into the management of natural resources in Cambodia. Adopting existing strategies to adapt to and mitigate the impacts of climate change in Cambodia, this Title will provide the details on how those matters should be taken into consideration during the EIA process and the natural resource management process.
- The Title will incorporate international climate change mechanisms such as REDD+ CDM and other climate change mechanisms into Cambodia law.
- This Title will outline how to reduce greenhouse gas emissions by Cambodia and the promotion of Green Growth.
- This Title will also link to Title 6 – Sustainable Energy and ~~Book 8 Title 1~~ ~~Book 8 Title 1~~ – Environmental Incentives.
- It will also address some key issues in relation to other relevant Titles, including building resilience to climate change through planning and construction standards (referencing Book 2 ~~Book 2 Title 3~~ ~~Book 2 Title 3~~ – Urban Land Use Planning and ~~Title 4~~ ~~Title 3~~ – Sustainable Cities)

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### CHAPTER # OBLIGATION TO ADDRESS CLIMATE CHANGE

#### CHAPTER # INCORPORATING CLIMATE CHANGE MITIGATION IN ALL NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS

#### CHAPTER # INCORPORATION OF CLIMATE CHANGE ADAPTATION IN ALL NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS

## TITLE 3 SUSTAINABLE CONSUMPTION AND PRODUCTION

Commented [M127]: Per Z. Fadeeva.

- This Title will address the issues of resource use, inclusive manufacturing, consumption, product requirements, public procurement, etc.

## TITLE 4 SUSTAINABLE CITIES

- This Title will require that land use planning and management for urban areas be conducted to promote sustainable and resilient cities.
- It will ensure that planning takes into account long-term impacts on urban areas,



including climate change, energy, water, population and economic development.

- It will also examine the management of trees along public roads and the development of people and nature friendly cities, including the promotion of renewable energy in urban areas.
- Establishment of special institution to promote capacity building and technical education on sustainable cities

#### **CHAPTER # DEVELOPMENT OF SUSTAINABLE URBAN CENTRES**

#### **CHAPTER # MAKING A SUSTAINABLE CITY PLAN**

#### **ARTICLE #**

Measuring progress towards sustainability

#### **CHAPTER # ESTABLISHMENT OF RECYCLING PLANS FOR URBAN AREAS**

#### **CHAPTER # PROMOTING ENERGY EFFICIENCY**

#### **CHAPTER # SETTING OF ENERGY EFFICIENCY STANDARDS**

#### **CHAPTER # SETTING OF STANDARDS FOR GREEN BUILDINGS**

#### **CHAPTER # INTERIM ADOPTION OF INTERNATIONAL STANDARDS**

#### **CHAPTER # CREATION OF SUSTAINABLE AND BETTER HOUSING**

#### **ARTICLE #**

Identifying and remedying threats to human and environmental health in existing housing stock

#### **ARTICLE #**

Implementing an environmentally sound, sustainable and affordable social housing programme

#### **CHAPTER # OPEN SPACE, PUBLIC PARKS AND GREEN SPACES**

#### **CHAPTER # ENSURING CLIMATE RESILIENCE IN URBAN AREAS**

### **TITLE 5      SUSTAINABLE TOURISM AND ECO-TOURISM**

- This Title will create a framework for encouraging appropriate eco-tourism activities in Cambodia.
- Eco-tourism activities include small scale, community based tourism opportunities.
- This Title will also create a framework to promote sustainable tourism in general, including larger scale tourism with reduced environmental impact.

## **CHAPTER # PROMOTION OF ECOTOURISM AND SUSTAINABLE TOURISM AS DEVELOPMENT PRIORITIES**

### **CHAPTER # DESIGNATION OF SPECIAL ECOTOURISM AREAS**

#### **ARTICLE #**

Ecotourism in protected areas or wildlife reserves

#### **ARTICLE #**

Zoning for ecotourism

### **CHAPTER # FINANCIAL INCENTIVES FOR ECOTOURISM OPERATIONS**

### **CHAPTER # ECOTOURISM OPERATIONAL STANDARDS (COMMUNITY GUIDELINES, COMMUNITY MANAGEMENT, COMMUNITY FUND, ETC.)**

#### **ARTICLE #**

Standards for ecotourism benefits to the local economy

#### **ARTICLE #**

Protecting cultural heritage

#### **ARTICLE #**

Independent Certification of Ecotourism

### **CHAPTER # MARKETING AND PROMOTION OF ECOTOURISM**

#### **ARTICLE #**

Regulating false claims in ecotourism

## CHAPTER # SUSTAINABLE TOURISM: DEVELOPING STANDARDS, GUIDELINES, AND APPLICATION FOR THE GENERAL TOURISM SECTOR

### ARTICLE #

Independent certification for sustainable tourism

## CHAPTER # CODE OF CONDUCT FOR ECO-TOURISM DEVELOPMENT

### TITLE 6 SUSTAINABLE ENERGY

- This Title will set goals and standards for the development of sustainable energy for Cambodia.
- This Title will address sustainable energy for all aspects of energy issues, including access, efficiency, and renewables.
- It will detail the mechanism to achieve the rapid development of energy sources in Cambodia, with a focus on alternative, carbon-free or low carbon energy sources, such as hydropower, wind energy, solar energy, biogas, geothermal, tidal energy and nuclear energy.
- It will also examine the development of oil and gas as energy sources in a manner that promotes sustainable development and transparency.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

### CHAPTER # SUSTAINABLE ENERGY PLAN

### ARTICLE #

Procedures for developing a Sustainable Energy Plan

### ARTICLE #

Setting targets for percentage of renewable and non-renewable energy production sources

Commented [M128]: Per STWG 3/5 Members.

Commented [M129]: Per Z. Fadeeva.

Commented [M130]: Per NGO Forum.

Commented [KEAPL131]: How is the national policy on sustainable energy (which is intimately linked to energy security) relevant to the Environmental Code?  
**RECOMMEND**  
This should be deleted as it is outside the scope of the Environmental Code.

## CHAPTER # STANDARDS AND TECHNOLOGY FOR SUSTAINABLE ENERGY

### ARTICLE #

Standards for approval of proposed hydropower projects

**Commented [M132]:** Per NGO Forum. Limit large- and medium-scale hydropower with preference for small-scale projects.

### ARTICLE #

Issuing of permits for hydropower projects

### ARTICLE #

Standards for management of hydropower projects

**Commented [M133]:** Per NGO Forum. Reference HSAF and HSAP.

### ARTICLE #

Standards for approval of proposed wind and solar projects

### ARTICLE #

Issuing of permits for wind and solar projects

### ARTICLE #

Standards for management of wind and solar projects

### ARTICLE #

Promoting the diffusion of sustainable energy technology

## CHAPTER # STANDARDS AND TECHNOLOGY FOR COAL-FIRED POWER PLANTS

### ARTICLE #

Standards for approval of proposed coal-fired power plants

### ARTICLE #

Issuing of permits for coal-fired power plants

### ARTICLE #

**Commented [M134]:** Per NGO Forum. Recommend Cambodia follow international trend of practices and standards that limit the use of coal.

Standards for management of coal-fired power plants

## CHAPTER # STANDARDS AND TECHNOLOGY FOR NATURAL GAS-FIRED POWER PLANTS

### ARTICLE #

Standards for approval of proposed natural gas-fired power plants

### ARTICLE #

Issuing of permits for natural gas-fired power plants

### ARTICLE #

Standards for management of natural gas-fired power plants

## CHAPTER # PROVISION OF CLEAN ENERGY FOR RURAL COMMUNITIES

### ARTICLE #

Extending the energy grid and promoting smaller-scale energy production.

**Commented [M135]:** Per NGO Forum.

## CHAPTER # DEVELOPMENT OF MICRO AND MINI-GRID SYSTEMS

### TITLE 7 SUSTAINABLE EXTRACTIVE INDUSTRIES

- This Title will examine the Laws relating to Mining in the provision of sustainable economic benefits to Cambodia.
- This will link to the Title on EIA, to promote efficient and effective extractive industry development in Cambodia.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

**Commented [M136]:** Per STWG 3/5 Members.

**Commented [M137]:** Per NGO Forum. Review of translation needed per 6 April Workshop comments.

Frame Title within “Do No Harm” and rights-based, due diligence framework.

Link to newly established Extractive Industry Governance Framework Platform.

### CHAPTER # ADOPTION OF BEST PRACTICE IN EXTRACTIVE INDUSTRY

**Commented [M138]:** NGO Forum. References for best practices in extractives provided in comment.

This chapter will include, but is not limited to, best practices related to assessment of gender impacts, resettlement, FPIC, human rights impacts and due diligence (including access to remedy), meaningful stakeholder engagement (including access to information and participatory decision making, use of security personnel, waste management (tailings management, riverine

waste disposal, water usage and treatment, corruption, bribery, facilitation payments, and extractives infrastructure (road, rail, ports, energy grids).

#### ARTICLE #

Extractive Industries Transparency Initiative (EITI) requirements and standards

#### CHAPTER # ADDRESSING CUMULATIVE IMPACTS

#### CHAPTER # FINANCIAL AND ECONOMIC ARRANGEMENTS TO ENSURE PROPER SITE MANAGEMENT

#### CHAPTER # PROVISIONS AND FINANCING FOR CLOSURE (INCLUDING PLANS) AND REHABILITATION, REMEDIATION AND RESTORATION OF EXTRACTIVE INDUSTRY SITES

#### CHAPTER # LICENSING AND PERMITTING SYSTEM FOLLOWING EIA APPROVAL

#### CHAPTER # SAND MINING

#### CHAPTER # ROCK AND AGGREGATE MINING

#### CHAPTER # MINERALS

#### CHAPTER # METAL MINING

#### CHAPTER # OIL AND GAS

### BOOK 4 SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES AND ECOSYSTEMS

#### TITLE 1 COLLABORATIVE MANAGEMENT OF NATURAL RESOURCES

- The Title would examine options for community use of natural resources, hunting, community fishing and use of land for sustainable community needs.
- To include a revision of current CF and CPA procedures. Address CFi and CBET (provisions for ecotourism under development) under a unified management framework.

**Commented [M139]:** Per NGO Forum.

**Commented [KEAPL140]:** The EITI deals with disclosure of revenues (and use thereof) associated with the extractive industries and not materially related to environmental protection. It is outside the scope of the Code.

#### RECOMMEND

1. This should be deleted as EITI is outside the scope of the Code.

If EITI is an issue to be addressed, it would require the involvement of both MEF and MME. In fact, much of the Government take from the extractive industries is received via taxation and thus managed by MEF.

**Commented [M141]:** Per NGO Forum. Cambodia is not an "EITI Candidate Country".

**Commented [M142]:** Per NGO Forum. Link to EIA section.

**Commented [M143]:** Per NGO Forum. Including required insurance, bond or fund for decommissioning costs.

**Commented [KEAPL144]:** : Details are needed. What is this provision intended to address? What is meant by "financing remediation and restoration"? Does this deal with project financing or end-of-life site restoration? If the latter, that is already addressed in oil and gas Decommissioning Plans.

#### RECOMMEND

MoE to provide details.

**Commented [KEAPL145]:** Many of the Chapter headings indicate an overlap with existing MME Legislation. For example:

- Financial and economic arrangements to ensure proper site management;
- Restoration of sites
- Licensing and permitting following EIA approval
- Rehabilitation and closure plans
- Financing remediation and restoration

Is this section limited to environmental matters or does it extend further into the extractive industries? If so, the Code would be stepping outside its scope and engaging in matters best left to the industry regulator, MME.

#### RECOMMEND

1. MoE to provide details.

... [8]

**Commented [M146]:** Pper STWG 3/5. New Book.

**Commented [M147]:** Per Mang M. Recommend applying decentralization and deconcentration reform to speed up lengthy 11-step process for establishing Community Forestry as outlined in the 2006 Prakas on CF. Need translation.

**Commented [M148]:** Per Mang. M.

**Commented [M149]:** Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

... [9]

- This title will contain or reference the outcome of an ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.

- This Title will include provisions as relates to the Title on Collaborative Management of Conservation Landscapes in the Book on Conservation and Protection of Biodiversity and Cultural Heritage (as relates to the ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources).

## ~~Title 1~~ **TITLE 2 SUSTAINABLE WATER RESOURCES MANAGEMENT**

- This Title will provide details of water management and water planning. Plans for water management should be prepared under the provisions of ~~Book 2 Title 1~~ **Book 2 Title 1** dealing with National, Regional and Local Management Plans.
- This will need to consider the benefit-sharing arrangements for the use of transboundary watercourses in accordance with international legal obligations.
- Waste water and water pollution will be dealt with in **Book 6 Waste and Pollution Management and Sustainable Production**.

### **CHAPTER # WHOLE-OF-CATCHMENT CONCERNS (INCLUDING RELATIONSHIPS BETWEEN UPPER AND LOWER RIVER REACHES AND BETWEEN DIFFERENT USERS)**

### **CHAPTER # IDENTIFYING AND QUANTIFYING (THROUGH MONITORING AND MAPPING) ALL SURFACE AND GROUND WATER SOURCES**

### **CHAPTER # IRRIGATION SYSTEM AND WATER SUPPLY FOR AGRICULTURAL PURPOSES**

### **CHAPTER # EROSION CONTROL (RIPARIAN ~~AND WETLAND~~ VEGETATION MANAGEMENT)**

### **CHAPTER # MAN-MADE WATERWAY**

### **CHAPTER # WATER RESERVOIRS FOR PUBLIC USE (REFERENCING URBAN PLANNING IN ~~BOOK 2 TITLE 3~~ **BOOK 2 TITLE 3**)**

**Commented [M150]:** Proposed revision to “co-management” by STWG 3/5 is “collaborative management.”

**Commented [M151]:** Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

**Commented [M152]:** STWG 3/5 proposes the term “collaborative management” (easier to understand in Khmer and English; “co-management” is apparently already misunderstood).

**Commented [M153]:** Per STWG 3/5 Members.

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**Commented [M154]:** Per NGO Forum. Ensure irrigation systems do not capture rice field water.

**Commented [M155]:** Per NGO Forum. Including wetland rehabilitation and policies to preserve remaining wetlands.

Link to Protection of Plants, Important Habitats and Significant Ecosystems Title.

## **CHAPTER # GROUNDWATER MANAGEMENT**

### **ARTICLE #**

Establishing requirements for monitoring wells, with triggers for conservation measures if such wells fall below a **critical level**

**Commented [M156]:** NGO Forum. Include community participation and regional planning for wells.

## **CHAPTER # ALLOCATION AND TRADE OF ENTITLEMENTS TO USE WATER**

### **ARTICLE #**

Groundwater

### **ARTICLE #**

Rivers, streams and lakes

**Commented [M157]:** Per NGO Forum. Clear and precise definition required.

## **CHAPTER # INTRODUCING MONITORING AND REPORTING SYSTEMS (IN REFERENCE TO BOOK 2 TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING)**

### **ARTICLE #**

Mandatory reporting of normal emissions and effluents.

### **ARTICLE #**

Mandatory reporting of sudden discharges during maintenance or accidents

## **~~Title 2~~ TITLE 3 COASTAL ZONE MANAGEMENT**

- This Title will provide a planning framework for the use and management of the coastal zone.
- It will provide details for the management of tourism and economic development in the coastal zone. It will adopt strong interim controls and safeguards to protect the coastal zone from poor development.
- This will include existing areas receiving special treatment and a system for designating new areas for development, including existing and proposed new institutional management.



## CHAPTER 1. GENERAL PROVISIONS

1) The Kingdom of Cambodia finds that there is a national interest in the effective management, beneficial use, protection, and development of the Coastal Zone.

2) The appropriate ministry shall have the authority to manage natural resources of all waters and lands, both emergent and submerged, in the Coastal Zone of the Kingdom of Cambodia, and to oversee and regulate all development or other activities affecting the waters, lands and associated natural resources of the Coastal Zone.

2) Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, the appropriate ministry shall:

(a) Take full account of and minimize the potential impacts to Coastal Waters by managing natural resources and human activity in the coastal watershed, consisting of the river basins that flow directly to the Gulf of Thailand.

(b) Manage natural resources and human activity in the Coastal Zone in a fully integrated way, in order to avoid or minimize unintended impacts to Coastal Waters.

(c) Actively and comprehensively manage all land-based and shoreline sources of solid, liquid and airborne environmental contaminants that may enter Coastal Waters.

3) All activity, development, construction, or other type of projects which have an impact on natural resources in the Coastal Zone shall be subject to an EIA.

## CHAPTER 2: COASTAL SUBZONES

1) The Coastal Zone shall be considered to consist of three subzones:

(a) Coastal Waters – Those waters extending seaward 5 km. from the shoreline, including the associated submerged lands.

(b) Coastal Lands – Those emergent lands extending inland from the shoreline for a distance of 5 km, including the intertidal zone.

(c) Coastal Watershed – The entirety of the combined watersheds draining to the marine waters of Cambodia.

**Commented [KEAPL158]:** What is the definition of “Coastal Zone”? Is the definition similar to the term as used in the Fishery section of the Code (ie: being 5 km from shoreline)?  
RECOMMEND  
MoE to provide clarification on definition and use of the term “Coastal Zone”.

2) The appropriate ministry shall develop regulations appropriate to each subzone in order to manage proposed future development and associated natural resources impacts.

### CHAPTER 3. COASTAL ZONE MANAGEMENT MANDATES

Pursuant to this authority, the appropriate ministry shall:

1) Consistent with the responsibilities listed in Article 5 of the Royal Decree on The Establishment of a National Committee on Coastal Zone Management and Development of Cambodia *[The status of this committee needs to be considered]*, undertake the following roles and responsibilities:

(a) Prepare policies, strategic plans, master plans, action plans, programmes, and various projects pertaining to coastal management and development.

(b) Produce necessary regulation and guidance to ensure the transparent, equitable, and sustainable management of the Coastal Zone.

(c) Review and take any necessary action in regard to any passive activities affecting the environment and natural resources of the Coastal Zone.

(d) Review and evaluate every project proposed for development and implementation in the Coastal Zone to ensure compliance with guidelines for Coastal Zone development issued by the Royal Government.

(e) Participate in checking and providing comments to competent institutions on investment proposals that may impact the Coastal Zone.

(f) Review, monitor, and mediate all activities undertaken, or planned to be undertaken, by ministries, institutions, sub-national administrations, national and international organisations, non-government organisations, civil societies, and private sectors that may have impacts in the Coastal Zone so as to ensure that their activities are coordinated in a smooth, effective, and sustainable fashion.

(g) Provide guidance on laws and regulations governing Coastal Zone development to the sub-national administration, the private sector, and all other relevant stakeholders.

(h) Submit a yearly report on Coastal Zone management activities for submission to the Royal Government.

2) Produce and openly distribute maps of the Coastal Zone and its subzones, so that all parties, both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.

**Commented [M159]:** Link to process and system for access to and distribution of other environmental information, e.g., environmental information data repository.

3) Ensure that all proposed developments in the Coastal Waters, Coastal Lands, and Coastal Watershed are consistent with the applicable zoning restrictions applying to these lands and waters. Development projects that are found to be inconsistent with such zoning shall not be allowed.

4) Consistent with the current Law on Fisheries, NS/RKM/506/11, ensure that coral reefs, sea grass and mangroves are designated Coastal Zone aquatic resources of special value, and are accorded protected status, and updated maps of the location and extent of these resources shall be prepared based on the existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014.

5) Ensure that any activity, construction, or other type of project that results in loss of coral reef, sea grass or mangroves shall be prohibited except under special permit from the appropriate ministry. In issuing such a permit, the following criteria must be applied:

(a) It must be demonstrated that there is no practical alternative site for the proposed activity, construction, or type of project that would avoid the loss of coral reef, sea grass or mangroves.

(b) If a certain degree of loss is unavoidable due to the requirements of the activity, construction, or other type of project, then best management practices must be specified in the permit issued by the appropriate ministry that will serve to minimize the total loss of coral reef, sea grass or mangroves. Failure to follow these best management practices shall be considered a permit violation, and the permittee subject to a fine set by the appropriate ministry.

(c) If an unavoidable loss of coral reef, sea grass, or mangroves is permitted, then the permittee must enter into an agreement with the appropriate ministry to ensure that an area of the same ecosystem type, and of same or greater quality, be set aside in permanent protected status as a mitigation offset. Because the benefit stream from protection of the mitigation area is probabilistic, a function of the year by year likelihood the habitat would be lost if not protected and not certain to be lost otherwise, a ratio of three times shall be applied on an areal basis. Such mitigation offsets may be added to existing protected areas in order to satisfy this requirement.

**Commented [M160]:** Per M. Barash.

**Commented [M161]:** Per M. Barash. New text and mitigation ratio.

6) Produce updated maps of Future Inundation Hazard Areas for the coastal lands of Cambodia, based on existing maps presented by the National Committee for the Management and

Development of the Coastal Area in their Report of Shoreline Assessment in 2014. Such Future Inundation Hazard Areas shall consist of all areas of the Cambodian coastal lands that are projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

7) Ensure that development of roads, resorts, industrial facilities and other major construction or infrastructure shall not be allowed in Future Inundation Hazard Areas unless it can be demonstrated to the appropriate ministry that such developments are specifically designed to withstand such future inundation. Construction of homes, landfills, and power plants shall not be allowed in such zones.

8) Regulate the discharge of dredged and fill material into the waters of the coastal watershed through a permitting system. Applicants for such permits must demonstrate that they have taken all reasonable steps to avoid and minimize impacts to streams, wetlands, and marine waters within the Coastal Zone.

9) Evaluate the effects of current and proposed hydropower development projects on the natural resources of the Coastal Zone, and provide recommendations for minimizing or mitigating such impacts.

#### **CHAPTER 4. COASTAL ZONE MANAGEMENT DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Develop watershed management plans for each major river basin in the Coastal Watershed, including at a minimum the Kampot, Pongrol, Areng, Tatai, and Koh Pao river basins. Such plans shall contain:

- (a) A description and characterization of the watershed.
  - (b) A strategy to control sedimentation and pollution within the watershed.
  - (c) Proposed management measures.
  - (d) Monitoring and evaluation protocols to measure the success of the sedimentation and pollution controls.
- 2) Assist in education and development of human resources to properly address Coastal Zone management and development.

**CHAPTER # PLANNING FOR CLIMATE CHANGE IN COASTAL ZONE  
MANAGEMENT**

**CHAPTER # ROLES AND RESPONSIBILITIES OF MINISTRIES**

**CHAPTER # ROLES OF CITIZEN AND COMMUNITIES**

**CHAPTER # REQUIREMENTS FOR PUBLIC CONSULTATION**

**CHAPTER # PROMOTION OF SUSTAINABLE DEVELOPMENT IN THE COASTAL  
ZONE**

**~~Title 3~~ TITLE 4 SUSTAINABLE LAND MANAGEMENT**

Commented [M162]: Per STWG 3/5 Members.

- This Title will review the role and functions of Economic Land Concessions and the implementation of projects on ELCs.
- This title will also include selected revisions of the current Cambodian Land Management Framework.
- This title will establish a framework for soil protection and management

**CHAPTER # PROCEDURES FOR GRANTING, MONITORING AND TERMINATING  
ELCS**

**CHAPTER # MANAGEMENT OF ELCS, INCLUDING MANAGEMENT PLANS,  
TRANSPARENCY, AND RELATION TO SUSTAINABLE TIMBER  
PRODUCTION AND BIODIVERSITY RESTORATION**

**CHAPTER # – REVISIONS OF THE CURRENT CAMBODIAN LAND MANAGEMENT  
FRAMEWORK.**

**ARTICLE #**

Reviewing land cadastral system and making changes as needed (considering problems of transference of title, mistaken title, etc.).

**ARTICLE #**

Procedures for expedited land titling.

**ARTICLE #**

Increasing land security among the poor, including streamlining and clarification of indigenous peoples' communal land rights and possession rights.

**ARTICLE #**

Consistent land tenure approaches for Community Protected Areas, Community Forests and Co-management areas.

**ARTICLE #**

Formalizing and regulating informal settlements.

**CHAPTER # – SOIL PROTECTION AND MANAGEMENT**

- This Chapter will set out the procedures for developing a national policy of soil protection and management.
- Soil is generally a forgotten element of environmental law. Where water resource, air or biodiversity benefit from a status of protection, soil issues are split into different branches of the law, regarding different activities. Therefore, land degradation and land restoration mechanisms are not built according to a standard of environmental quality, but according to the uses planned by different stakeholders. This chapter will provide a proper soil status in environmental law.
- It will include provisions on the use of fertilizers, pesticides, herbicides and other agricultural chemicals.
- It will also include provisions to create a programme to monitor soil health.

**Commented [M163]:** Per STWG 3/5 Members. Revise Title to Chapter for Soil Protection and Management within Title for Land Management.

**Commented [M164]:** Per M. Descrousseaux.

**ARTICLE 1 SUBJECT-MATTER AND SCOPE**

This Chapter establishes a framework for the protection of soil and the preservation of the capacity of soil to perform any of the following environmental, economic, social and cultural functions:

- (a) Biomass production, including in agriculture and forestry;
- (b) Storing, filtering and transforming nutrients, substances and water;
- (c) Biodiversity pool, such as habitats, species and genes;
- (d) Physical and cultural environment for humans and human activities;

(e) Source of raw materials;

(f) Acting as carbon pool;

(g) Archive of geological and archeological heritage.

To that end, it lays down measures for the prevention of soil degradation processes, both occurring naturally and caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. Such measures include the mitigation of the effects of those processes, and the restoration and remediation of degraded soils to a level of functionality consistent with the current and approved future use.

## **ARTICLE 2**

Soil is a common heritage, and its protection is in the public interest.

## **ARTICLE 3**

Land planning policies must take into account the scarcity of the soil and integrate soil functions and services in order to ensure the appropriate and economic use of the land and its properly ordered settlement.

## **ARTICLE 4**

Obligations to Prevent Hazards:

(1) Any person who is by his action affecting the soil shall act in such a manner that harmful soil changes do not occur.

(2) The property owner and the occupant of a real property shall be obligated to take measures to prevent harmful soil changes originating from their property.

(3) The party who caused a harmful soil change or a contaminated site, and his universal successor, as well as the relevant property owner and the occupant of the relevant real property, shall be obligated to remediate the soil and contaminated sites, and any water pollution caused by harmful soil changes or contaminated sites, in such a manner that no hazards, considerable disadvantages or considerable nuisances for individuals or the general public occur in the long term. In cases of burdens from pollutants, in addition to decontamination measures also securing measures are to be taken into consideration, that permanently prevent spread of pollutants. Where such measures are not possible or cannot be reasonably required, other protection and restriction measures shall be carried out. Persons who, for reasons of commercial law or company law, are required to answer for a legal entity that owns a real property that is encumbered with harmful soil changes to the soil or site contamination, and persons who give up

ownership of such properties, is also obliged to carry out remediation.

(4) As part of fulfilment of obligations relative to the soil and to contaminated sites, pursuant to paragraphs (1) through (3), the permissible use of the piece of land under planning law, and the resulting protection requirements, shall be taken into account, as far as this is compatible with the protection of the soil functions. If relevant determinations under planning law are lacking, the nature of the relevant area, taking into account its expected development, shall determine the requirements for protection. The requirements to be fulfilled in connection with rehabilitation of bodies of water shall be determined by law pertaining to water.

(5) If harmful soil changes or contaminated sites have occurred after (to be determined), pollutants shall be eliminated, where this is a reasonable requirement with respect to the previous soil pollution. This shall not apply to a party who, at the time the pollution was caused, expected that such impacts to the soil would not occur because he had fulfilled the applicable legal requirements, and whose good faith is worthy of protection, taking the circumstances of the relevant individual case into account.

(6) The former owner of a real property is obligated to carry out remediation if he has transferred his property after (to be determined), and if he was aware of, or should have been aware of the relevant harmful soil change or site contamination. This shall not apply to a party who, when purchasing the real property, confided that such harmful soil changes or contaminated sites would not be present, and whose confidence is worthy of protection, taking the circumstances of the relevant individual case into account.

## ~~Title 4~~ **TITLE 5** SUSTAINABLE FORESTRY

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable timber management.

### **CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FORESTRY SECTOR; OBJECTIVES AND LIMITATIONS OF SUSTAINABLE TIMBER MANAGEMENT**

### **CHAPTER # DEVELOPMENT OF SUSTAINABLE FORESTRY MANAGEMENT PLANS**

### **CHAPTER # PROHIBITION OF THE CUTTING, REMOVAL, TRANSPORT, EXPORT AND USE OF TIMBER WITHOUT A PERMIT GRANTED IN ACCORDANCE WITH THE CODE**



**CHAPTER # ASSESSMENT OF APPLICATIONS FOR PERMITS TO HARVEST  
TIMBER OR EXPORT OF TIMBER**

**CHAPTER # PROHIBITION OF REMOVAL OF TIMBER ON ECONOMIC LAND  
CONCESSIONS WITHOUT THE PROPER PERMIT**

**CHAPTER # PERMIT TO CUT OR REMOVE TIMBER ONLY TO BE GRANTED  
FOLLOWING ENVIRONMENTAL ASSESSMENT OF THE ACTIVITY**

**CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-  
TIMBER FOREST PRODUCTS IN FOREST PRODUCTION ZONES;  
INCLUDING INTERNATIONAL CERTIFICATION MECHANISMS**

**CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-  
TIMBER FOREST PRODUCTS FROM COMMUNITY FORESTS,  
COMMUNITY CO-MANAGEMENT AREAS  
AND INDIGENOUS COMMUNAL TITLED LANDS**

**CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND  
OVERSIGHT OF SUSTAINABLE TIMBER MANAGEMENT OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS**

**~~Title 5~~ TITLE 6 SUSTAINABLE MARINE FISHERIES**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable marine fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on marine fishery landings, regulate fishing gear and other aspects of marine fishing.

**Commented [M165]:** Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

**CHAPTER 1 GENERAL PROVISIONS**

The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive fishery management authority over all fish and other marine fishery resources within its Exclusive Economic Zone.

The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to all types of fishing, both commercial and non-commercial, for marine fishery resources in the Exclusive Economic Zone of the Kingdom of Cambodia, including intertidal zones, also referred

to collectively as the Marine Fishery Domain.

The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence, and shall prevent overfishing while achieving on a continuing basis the optimum yield for any given fishery stock or stock complex. To the extent possible, individual fishery stocks shall be managed as a single unit throughout their entire range in the Marine Fishery Domain of Cambodia, rather than as individual stocks within individual provinces.

## CHAPTER 2 MARINE FISHERIES MANDATES

Pursuant to this authority, the appropriate ministry shall:

1) Require a license for all fishing activities in the Marine Fishery Domain, consistent with Article 32 of the Law on Fisheries, NS/RKM/506/11. This license shall include an annual fee in order to help support the fishery research and management activities of the appropriate ministry. The amount of the annual fee shall be determined by the appropriate ministry. Fishing without obtaining such a license shall result in a notice of violation and fine.

**Commented [M166]:** Per NGO Forum. Subsistence vs. commercial?

2) Require that all motorized fishing vessels with motors greater than 5 horsepower, if used in whole or in part for fishing purposes in the Marine Fishery Domain, be registered with the appropriate ministry. This registration shall include an annual fee. The amount of the annual fee shall be determined by the appropriate ministry. Failure to register such a vessel shall result in a notice of violation and fine. For vessels operating in the Marine Fishery Domain, this provision shall replace the registration requirement in Article 33 of the Law on Fisheries, NS/RKM/506/11.

3) Require that data on marine fishery landings be collected from all entities or individuals who purchase marine fishery resources harvested in the Marine Fishery Domain. This data collection shall take the form of a monthly report to the appropriate ministry detailing the individual types of marine fishery resources purchased (preferably identified to the level of species), the number of pieces of each type purchased, the total pounds of each type purchased, the sources from which the fishery resources were purchased, including those sources' license numbers, and the port or ports of landing for each type of purchase. This report shall be filed on a form provided by the appropriate ministry. Failure to file this report within 30 days of the end of each month shall result in a notice of violation and fine of not less than US\$100. Failure to file such a report for three consecutive months shall result in a notice of violation and fine of not less than US\$500. Failure to file such a report for more than three months shall result in a notice of violation and revocation of the company's or individual's business license. For the Marine

Fishery Domain, this provision shall replace the daily logbook requirement in Articles 34 and 45 of the Law on Fisheries, NS/RKM/506/11, with Article 45 being hereby repealed.

4) Issue an updated and revised list of all fishing gear types prohibited for sale, possession, or use in the Marine Fishery Domain, consistent with gears already banned as per Articles 20 and 21 of the Law on Fisheries, NS/RKM/506/11. In addition to the banned gears already listed in Articles 20 and 21, use of trawl gears and take of fish by spear while using SCUBA shall both also be prohibited in the Marine Fishery Domain. Any types of fishing gear not included on the prohibited list produced by the appropriate ministry shall be presumed to be allowed unless specifically designated otherwise.

5) In cooperation with the Ministry of Foreign Affairs, establish a system by which foreign fishing vessels may purchase fishing rights to harvest marine resources in the Exclusive Economic Zone of the Kingdom of Cambodia. The amount of the annual fee for obtaining such fishing rights shall be determined by the appropriate ministry. Continued retention of such fishing rights by any foreign fishing vessel shall be contingent upon the maintenance of a daily logbook detailing the number of daily gear sets, and the weight and type of daily catch, with the logbook open to examination by the appropriate ministry upon request; and the filing of a monthly catch report with the appropriate ministry detailing the individual types of marine fishery resources harvested (preferably identified to the level of species), the number of the total pounds of each type harvested, and the port or ports of landing for the catch. Foreign fishing vessels purchasing fishing rights in the EEZ of the Kingdom of Cambodia must also comply with the following terms and conditions:

(a) The owner and operator of any foreign fishing vessel will abide by all laws of the Kingdom of Cambodia;

(b) Any officer authorized to enforce the laws of the Kingdom of Cambodia shall be permitted to board, search and inspect any foreign fishing vessel at any time, and to make arrests, and seizures whenever such officer has reasonable cause to believe, as a result of such search or inspection, that the vessel or any person upon it has violated the laws of the Kingdom of Cambodia;

(c) The owner or operator of the foreign fishing vessel shall not, in any year, harvest an amount of fish or other marine life which exceeds any limits on harvest that may be set by the appropriate ministry of the Kingdom of Cambodia.

6) Designate and delineate marine zones in which various types of fishing activities are allowed, specially managed, or banned. Such zoning shall include a coastal waters zone extending from

the shoreline to 5 km offshore, which shall supersede the definition of a nearshore zone extending from the shoreline to 20 m depth. Community Fishing Areas may be established within this nearshore zone, consistent with the Sub-Decree on Community Fisheries Management. Such zoning shall also include an exclusion zone in the inshore waters of the Marine Fishery Domain for vessels using large-scale fishing gears as defined in Article 31 of the Law on Fisheries, NS/RKM/506/11, such that gears of this type may not be used in areas lying within 25 km of the shoreline. Such an exclusion zone shall also apply uniformly to foreign fishing vessels of any size which have purchased annual fishing rights in the Exclusive Economic Zone of the Kingdom of Cambodia.

7) In relation to highly migratory fishery stocks, cooperate directly or through appropriate international organisations, such as the South East Asian Fisheries Development Centre, with those nations involved in fisheries harvesting such species with a view to ensuring conservation and to promote the achievement of optimum sustainable yield of such species throughout their ranges, both with and beyond the EEZ of the Kingdom of Cambodia.

8) Issue an updated and revised list of all activities prohibited in the Marine Fishery Domain, consistent with activities already prohibited as per Article 52 of the Law on Fisheries, NS/RKM/506/11. In addition to the prohibited activities already listed in Article 52, the harvest and landing of sharks or shark products (such as shark fins), as well as the harvest and landing of sea turtles or sea turtle products (such as shells or portions thereof) shall be specifically prohibited.

9) Issue an updated and revised list of all activities that may be undertaken in the Marine Fishery Domain under a permit from the appropriate ministry, consistent with those listed in Article 23 of the Law on Fisheries, NS/RKM/506/11.

10) Ensure that fishery management in the Marine Fishery Domain is based upon the best available scientific information, and undertake fishery research that adds to this base of scientific knowledge.

11) Undertake a programme to produce updated maps of the distributions of species harvested and the location and extent of key marine fishery resources in the Marine Fishery Domain, with special reference to coral reefs, seagrass beds, and mangroves.

12) Monitor and issue an annual summary of changes to marine fishery resources, with special reference to coral reefs, seagrass beds, and mangroves, and analysing links to climate change and other driving factors.

- 13) Regulate aquaculture in the Marine Fishery Domain consistent with the provisions in Articles 53-58 of the Law on Fisheries, NS/RKM/506/11.
- 14) Regulate the landing, transport, and international trans-shipment of marine fishery resources harvested in the Exclusive Economic Zone of the Kingdom of Cambodia, consistent with the provisions in Articles 64-69 of the Law on Fisheries, NS/RKM/506/11.
- 15) Regulate the import into Cambodia of marine fishery resources harvested in the waters of a foreign nation, and require importers to certify that such resources have been harvested in accordance with the fishery laws prevailing in their countries of origin.
- 16) Undertake measures to combat illegal, unreported, and unregulated fishing, including market-based measures to prevent the trade or importation of fish or other marine life caught by vessels identified as having engaged in such unauthorized fishing;
- 17) Develop a National Fishery Management Plan as per Article 15 of the Law on Fisheries, NS/RKM/506/11. This plan shall be reviewed and amended as necessary every 5 years.
- 18) Undertake enforcement actions against those entities or individuals who violate fishery laws in the Marine Fishery Domain, as per Articles 72-85 of the Law on Fisheries, NS/RKM/506/11.
- 19) Assess penalties against those entities or individuals found guilty of violating fishery laws in the Marine Fishery Domain, as per Articles 86-107 of the Law on Fisheries, NS/RKM/506/11.

### CHAPTER 3- MARINE FISHERIES DISCRETIONARY AUTHORITIES

Pursuant to this authority, the appropriate ministry may at its sole discretion:

- 1) Utilize the following conservation and management measures in order to ensure sustainability of marine fishery resources in the Marine Fishery Domain, depending on which method is most appropriate to the species and circumstances involved:
  - (a) Set daily individual fisher bag limits for any species of marine life, or for the combined catch from any stock complex consisting of multiple species;
  - (b) Set minimum or maximum size limits for any species of marine life, below or above which harvest is not permitted;
  - (c) Set a total allowable catch for any given species of fish or marine life, or for any defined

fishery stock or stock complex, during the course of a year, or any other period of time;

(d) Create limited entry systems in relation to a harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(e) Allocate non-transferable individual fishing quotas over a given period of time for any particular marine fishery resource, stock or stock complex;

(f) Implement seasonal closures for any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(g) Implement permanent or temporary area closures for the harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(h) Implement restrictions on the type, size and amount of gear used to harvest any particular marine fishery resource, or their use in any particular geographic area.

2) Implement spatially-based management by designating various types of Marine Managed Areas in the Marine Fishery Domain, including:

(a) Marine National Park (MNP) – Such areas shall fall under strict protected status, with all entry and activities controlled by a permit from the appropriate ministry. Such areas may be established consistent with the Protected Areas Law, NS/RKM/0208/007, and with Article 19 of the Law on Fisheries, NS/RKM/506/11, such that no fishing of any type shall be allowed, no entry for navigation shall be allowed without a permit except by the appropriate ministry's enforcement agents or within strictly defined transit corridors, and no new settlements shall be allowed within 2 km of the boundaries of such areas. Such MNP areas may have subzones, including those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

(b) Marine Life Conservation Area (MLCA) – Such areas may be established consistent with Articles 18, 19 and 26-29 of the Law on Fisheries, NS/RKM/506/11, and shall be used to protect marine resources of particular importance to fishery recruitment, including but not limited to mangrove, seagrass and coral reef. Fishing may be prohibited in such areas, whereas freedom of navigation is allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

(c) Fishery Management Area (FMA) – Such areas shall be used to implement management

measures for designated fishery stocks or stock complexes. Fishing shall be allowed, although there may be harvest restrictions or prohibition of take imposed for certain species in need of special management to ensure long-term sustainability. Freedom of navigation shall be allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

3) Implement community-based sub-zoning, for non-commercial subsistence fishery purposes only, within Marine Reserves or Marine Life Conservation Areas as described above. Such community-based subzones shall have restrictions on the types of fishing gears allowed for use. Such gear restrictions shall be determined by the appropriate ministry, which may restrict allowable gear types to pole-and-line, handline, cast net, and fish traps.

4) Set limits on the number, size and type of vessels that may participate in any given fishery, or that may enter designated marine zones or marine managed areas, so as to adequately control fishing effort and ensure sustainability of harvest for any given stock or stock complex.

5) Based on the best available scientific information, create Fishery Management Plans for individual fisheries. Such plans shall be deemed sufficient to justify any management measures applied within any given fishery, and should contain at a minimum:

(a) A description of the fishery in question, including the number of vessels involved, the type of quantity of fishing gear used, the species of marine life harvested, and the geographic extent of the fishery;

(b) An estimate of optimum sustainable yield from the fishery and its probable future condition, including a summary of the information used in making this determination;

(c) A description of the conservation and management measures that can be best applied to the fishery to prevent overfishing while achieving, on a continuing basis, the estimated optimum yield.

6) Enact measures to limit fishery bycatch of non-target species such as seabirds, marine mammals and sea turtles.

7) Create special licensing, vessel registration and catch reporting provisions for sport charter fishing vessels, with daily limits on catch of individual species, and daily special license fees for fishers. Such fees may be set higher at higher levels for citizens of foreign countries in

comparison to those changed to citizens of the Kingdom of Cambodia.

8) Issue permits for marine fisheries research, and for the collection and export of specimens related to such research.

**CHAPTER # AQUACULTURE**

**CHAPTER # TENURE OF FISHERIES**

**CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS**

**CHAPTER # COMMUNITY FISHERIES**

**CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS  
WITHOUT A PERMIT**

**CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE  
GRANTED IF SUSTAINABLE**

**CHAPTER # CITIZEN ROLES IN MONITORING AND OVERSIGHT OF  
SUSTAINABLE FISHERIES MANAGEMENT OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITAT OR AQUATIC  
ECOSYSTEMS**

**~~Title 6~~ TITLE 7 SUSTAINABLE FRESHWATER FISHERIES AND  
AQUACULTURE**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable freshwater fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on freshwater fishery landings, and regulate all aspects of freshwater fisheries and aquaculture.

**CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FISHERIES INDUSTRY**

**CHAPTER # PROVISION FOR CAPTURE FISHERIES AND AQUACULTURE AND  
FISHERIES PROTECTION AREAS**

**CHAPTER # PROTECTION OF FISHERIES AND AQUATIC ECOSYSTEMS**

**Commented [M167]:** Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.



**CHAPTER # TENURE OF FISHERIES AND AQUACULTURE OPERATIONS**

**CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS**

**CHAPTER # PROHIBITION ON COMMERCIAL FISHING THAT IS NOT  
SUSTAINABLE**

**CHAPTER # ASSESSMENT OF APPLICATIONS FOR COMMERCIAL FISHING**

**CHAPTER # COMMUNITY FISHERIES**

**CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS  
WITHOUT A PERMIT**

**CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE  
GRANTED IF SUSTAINABLE**

**CHAPTER # SUSTAINABLE MANAGEMENT OF FISHERIES AND FISH BREEDING  
AREAS**

**CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND  
OVERSIGHT OF SUSTAINABLE FISHERIES MANAGEMENT  
OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITATS OR AQUATIC  
ECOSYSTEMS**

**CHAPTER # MANAGEMENT OF ACTIVITIES THAT IMPACT FISHERIES AND  
AQUATIC ECOSYSTEMS**

**CHAPTER # ESTABLISHMENT OF FRESHWATER FISHERIES RESERVES**

**CHAPTER # ESTABLISHING REGULATIONS FOR AQUACULTURE OPERATIONS  
INCLUDING PERMITTING, MONITORING AND ENFORCEMENT**

**BOOK 5 CONSERVATION AND PROTECTION OF  
BIODIVERSITY AND CULTURAL HERITAGE**

- This Book will examine the conservation, protection, and management of biodiversity, and include different Titles on conservation landscapes/corridors; protected areas; wildlife; plants, habitat, and ecosystems; and cultural heritage.

Commented [M168]: Per STWG 3/5. New Book.

- Specific Titles or Chapters could address key priority areas including Tonle Sap Lake, the Mekong River, and the Sesan River.

## **TITLE 1** **COLLABORATIVE MANAGEMENT OF CONSERVATION LANDSCAPES**

- This title will contain the outcome of an ongoing, concurrent process to develop provisions for collaborative management [co-management] of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.

- This Title will link to Title on Collaborative Management of Natural Resources in Book on Sustainable Management of Natural Resources and Ecosystems.

## **TITLE 2** **PROTECTED AREAS MANAGEMENT**

### **CHAPTER 1: GENERAL PROVISIONS**

### **CHAPTER 2: MINISTRY OF ENVIRONMENT/RESPONSIBLE INSTITUTIONS**

### **CHAPTER 3: ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS**

### **CHAPTER 4: ZONING OF PROTECTED AREAS**

### **CHAPTER 5: PROTECTED AREAS MANAGEMENT PLANS**

### **CHAPTER 6: ACCESS AND USER RIGHTS OF LOCAL COMMUNITIES AND INDIGENOUS ETHNIC MINORITY COMMUNITIES**

### **CHAPTER 7: PROHIBITED ACTIVITIES IN PROTECTED AREAS**

### **CHAPTER 8: PERMITS AND AUTHORITIES**

### **CHAPTER 9: ENFORCEMENT AND PROTECTION**

### **CHAPTER 10: MONITORING AND EVALUATION OF EFFECTIVENESS**

### **CHAPTER 11: STAFFING OF PROTECTED AREAS**

**Commented [M169]:** Per NGO Forum.

**Commented [M170]:** Per STWG 3/5 Members. New Title.

**Commented [M171]:** Per STWG 3/5 Members. Revised Title heading ("community management" implies management of communities).

**Commented [M172]:** Proposed revision to "co-management" by STWG 3/5 is "collaborative management."

**Commented [M173]:** Some sections under Community-Based NRM Title in the Sustainable Management of NR and Ecosystems may more appropriately be included in this Title.

**Commented [M174]:** Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

**Commented [M175]:** Per STWG 3/5 Protected Areas group. New Title and Chapters on protected areas management. This proposed structure follows and adds to the structure of the existing PA Law.

**Commented [M176]:** To refer to co-management (collaborative management) legal instrument here/ responsibilities of other stakeholders in PA management.

**Commented [M177]:** STWG 3/5 recommends that the number and name of zones for Co-Management (Collaborative Management) Protection Zones remains the same as the current zones for Protected Areas. Co-management Zones are likely to cover many Protected Areas and two separate zoning systems with similar names could be confusing to understand and apply for all stakeholders.

**Commented [M178]:** Per NGO Forum. Projects must not be implemented inside already designated conservation areas. "Zero Tolerance"

**Commented [M179]:** This will include reference to the title on wildlife/species protection.

**Commented [M180]:** Permitting process for all controlled activities/access inside Pas.

**CHAPTER 12: PROTECTED AREAS BUDGETS AND FINANCING**

**CHAPTER 13: PROCEDURES TO RESOLVE OFFENCES**

**CHAPTER 14: OFFENCES AND LEGAL PENALTIES**

**CHAPTER 15: IMPLEMENTATION OF COURT VERDICT**

**CHAPTER 16: FINAL PROVISIONS**

**DEFINITIONS**

**CHAPTER # ESTABLISHMENT OF FRESHWATER PRODUCTION ZONES**

**CHAPTER # ESTABLISHMENT OF MARINE RESERVES**

**TITLE 3 WILDLIFE PROTECTION, CONSERVATION AND  
MANAGEMENT**

**CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO BIODIVERSITY  
MANAGEMENT AND ENDANGERED SPECIES PROTECTION**

**CHAPTER # BIOREGIONAL PLANNING FOR BIODIVERSITY CONSERVATION**

**CHAPTER 1: GENERAL PROVISIONS**

**CHAPTER 2: RESPONSIBLE INSTITUTIONS**

**CHAPTER 3: CLASSIFICATION OF WILDLIFE SPECIES**

**CHAPTER 4: PROHIBITIONS ON HUNTING**

**CHAPTER 5: SPECIAL EXCEPTIONS ON HUNTING OF WILD ANIMALS**

**CHAPTER 6: GRANTING OF PERMITS FOR SPECIAL PURPOSES (INCLUDING  
FOR SCIENTIFIC AND EDUCATIONAL PURPOSES)**

**CHAPTER 7: SUSPENSION OR CANCELLATION OF PERMITS**

**CHAPTER 8. PROHIBITION OF TRADE (DOMESTIC AND INTERNATIONAL),  
TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES,  
ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS**

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Commented [M181]: Per STWG 3/5 Members. New Title heading.

**CHAPTER 9: ADHERENCE TO OTHER INTERNATIONAL CONVENTIONS AND AGREEMENTS**

**CHAPTER 10: MANAGEMENT OF CONFISCATED WILDLIFE**

**CHAPTER 11: MANAGEMENT OF CAPTIVE BREEDING, WILDLIFE RESCUE CENTRES AND ZOOLOGICAL INSTITUTIONS**

**CHAPTER 12: MANAGEMENT OF WILDLIFE FARMS\*\*\***

**CHAPTER 13: SPECIES MANAGEMENT AND RECOVERY PLANS (INCLUDES IDENTIFYING KEY THREATENING PROCESSES AND DEVELOPING THREAT ABATEMENT PLANS AND RECOVERY PLANS)**

**CHAPTER XX: MANAGEMENT OF INVASIVE SPECIES**

**CHAPTER 14: PROCEDURES TO RESOLVE OFFENCES**

**CHAPTER 15: OFFENCES AND LEGAL PENALTIES**

**CHAPTER 16: IMPLEMENTATION OF COURT VERDICT**

**CHAPTER 17: FINAL PROVISIONS**

\*\*\*A submission has been received from some combined NGOs on the policy of Wildlife (or Wild Animal Farming) in Cambodia. The discussion paper raises a number of significant issues and concerns about the possibility of introducing the farming of wild animals in Cambodia. Consideration is being given to the matters raised by the submission.

**CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS**

(Definition of Genetically Modified Organisms to be included in Code Definition Section)

**TITLE 4 PROTECTION OF PLANTS, IMPORTANT HABITATS AND SIGNIFICANT ECOSYSTEMS**

- This title will address the protection of plant species, important habitats for both plants and wildlife, and significant ecosystems in Cambodia. The structure will likely be similar to the structure for the Title for Wildlife Protection, Conservation and Management, but will need to include additional chapters.

**Commented [M182]:** To include CITES, international and regional resolutions, mechanisms for inter-agency and international collaboration on wildlife trafficking.

**Commented [M183]:** Per STWG 3/5 Protected Areas Group. Proposed headings/structure.

**Commented [M184]:** Per STWG 3/5 Members. New Title.

CHAPTER # PROTECTION OF PLANTS AND PLANT COMMUNITIES

CHAPTER # PROTECTION OF NATIVE PLANT AND WILDLIFE HABITAT AND  
IMPORTANT ECOLOGICAL COMMUNITIES (INCLUDING “CRITICAL  
HABITAT” FOR ENDANGERED PLANT AND ANIMAL SPECIES)

CHAPTER # WETLANDS CLASSIFICATION, MANAGEMENT AND  
CONSERVATION

CHAPTER # PROHIBITION ON DAMAGING OR DESTROYING NATIVE  
VEGETATION AND FOREST PROTECTED AREAS

CHAPTER # RESTORATION OF DAMAGED ECOSYSTEMS

CHAPTER # MANAGEMENT OF INVASIVE SPECIES

CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE  
OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS  
(DEFINITION OF GENETICALLY MODIFIED ORGANISMS TO BE  
INCLUDED IN DEFINITION SECTION)

TITLE 5 CULTURAL AND NATURAL HERITAGE  
CONSERVATION

- This Title will examine the identification, protection and management of cultural and natural heritage. It will consider the need to protect both tangible and intangible items of cultural heritage.
- This Title establishes the Heritage Council of Cambodia with representatives from relevant Ministries, NGO and private sector. The Heritage Council will develop policies to protect Colonial and modern Cambodian heritage as well as Angkor and Pre-Angkor heritage. The Heritage Council will have the task to set up and maintain the Heritage Register for Cambodia. This Heritage Register will be a list of places, objects, buildings and other items that are to be protected or preserved. An interim list for the Heritage Register will be prepared to protect these items until a detailed assessment can be undertaken to assess the heritage value.
- This Title will regulate the activities of heritage site establishment to ensure the protection of the rights of citizens living in those areas.
- This Title will look at the operation of the APSARA Authority and related legislation to

Commented [M185]: Per STWG 3/5 Members.

Commented [M186]: Per NGO Forum.

ensure a consistent approach to the protection and management of natural, cultural and built heritage, including both tangible and intangible heritage.

- Ministry of Culture and Fine Arts and other authorities related to heritage protection and management should retain a strong role in heritage protection but this should include consultation and liaison with other Ministries, including Ministry of the Environment and the Minister for Land Use Planning.
- This would examine both World Heritage and Ramsar listed areas, as well as local and national heritage areas, with special attention to ethnic minorities and indigenous people.
- It will regulate key activities in heritage areas, including tourism, research, archaeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archaeological surveys
- Other protection mechanisms will include anti-trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.

Commented [M187]: Per STWG 4.

Commented [M188]: Per NGO Forum.

## **CHAPTER 1 – GENERAL PROVISIONS**

### **ARTICLE 1 – OBJECTIVE**

This provision has the following objectives:

- a) To preserve, protect, and manage natural resource and to conserve historic and cultural heritage.
- b) To preserve, protect cultural identity of the nation which is the workmanship of our forefathers (intellectual property of national identity).
- c) To preserve the beauty and protect the historical identity of the capital, province, urban area, ancient site and shrine (worship place).
- d) To preserve and conserve biodiversity and ecosystem.
- e) To create the balance of nature and society.
- f) To promote the development of tourism.
- g) To create the collaboration between the Ministry of Environment and relevant institutions as well as National and International Organizations and development partners.

h) To improve the livelihood, tradition, culture and custom of indigenous community.

i) To create funds to preserve and protect cultural and natural heritage.

## **ARTICLE 2 – SCOPE**

This provision has the scope of application throughout the Kingdom of Cambodia over both state land and private land.

## **ARTICLE 3**

Definition of cultural heritage.

## **ARTICLE 4**

Definition of built heritage.

## **ARTICLE**

Definition of natural heritage.

## **ARTICLE 6**

Definition of intangible heritage.

## **ARTICLE 7**

Adoption of UNESCO Guidelines.

## **ARTICLE 8**

Obligation to protect the national heritage of Cambodia.

## **CHAPTER 2 – CREATION OF THE HERITAGE COUNCIL OF CAMBODIA**

## **ARTICLE 1**

The Royal Government shall create the Heritage Council of Cambodia.

## **ARTICLE 2**

Purpose of the Heritage Council of Cambodia.

**ARTICLE 3**

Membership of the Heritage Council of Cambodia.

**ARTICLE 4**

Duties of the Heritage Council of Cambodia.

**CHAPTER 3 – INVENTORY AND CLASSIFICATION**

**ARTICLE 1**

Establishment of a Heritage Register for Cambodia.

**ARTICLE 2**

Listing on the Heritage Register for Cambodia.

**ARTICLE 3**

Categories to be listed on the Heritage Register for Cambodia.

**ARTICLE 4**

Interim listing on the Heritage Register for Cambodia.

**ARTICLE 5**

Emergency listing on the Heritage Register for Cambodia.

**ARTICLE 6**

Legal protection granted to items listed on Heritage Register for Cambodia.

**ARTICLE 7**

Procedure for updating the Heritage Register for Cambodia.

**CHAPTER 4 – APPOINTMENT OF HERITAGE PROTECTION OFFICERS**

**ARTICLE 1**

Each Province and regional government shall appoint a Heritage Protection officer.



## **ARTICLE 2**

Duties of HPO.

## **ARTICLE 3**

Qualifications of HPO.

## **ARTICLE 4**

HPO may work with other HPO in other Provinces.

## **ARTICLE 5**

The HPO must be consulted prior to any action that may damage or harm an item or place or area on the Heritage Register for Cambodia.

## **CHAPTER 5 – ZONING OF HERITAGE PROTECTION AREAS**

### **ARTICLE 1**

Plans and zoning maps may include the following provisions for the following heritage protection areas:

- a) Historical parks
- b) Cultural landscape
- c) Cultural village
- d) Site museum
- e) Ancient sites
- f) Urban Heritage Zones

### **ARTICLE 2**

The zones for heritage protection areas will require the preparation of a report prior to any approval for altering or demolition within those areas.

## **CHAPTER 6 – CRITERIA**

## **ARTICLE 1**

The following shall be considered as "cultural heritage":

- a) Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
- b) Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- c) Sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

## **ARTICLE 2**

The following shall be considered as "natural heritage":

- a) Natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
- b) Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- c) Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

## **ARTICLE 3**

Determination of cultural property heritage can be made by:

- a) Determining the number of years, the age of the property, or based on its era for example French Colonization Era and Sangkim Reas Niyum Era.
- b) A number of workmanship is not so old but it is of a special value which cannot be found elsewhere.

- c) A new innovation which is valuable to the society.
- d) Cultural property which is of a special value for the nation.
- e) A movement of architecture which reflect national identity.
- a)f) An architectural workmanship which influence the next generations.

## **CHAPTER 7 – INVENTORY AND CLASSIFICATION**

### **ARTICLE 1**

Competent Institutions shall prepare cultural property inventory.

### **ARTICLE 2**

Cultural Property Inventory shall be updated every five years.

1. Obligation of competent institutions
2. Obligation of owners of cultural property
  - a) Sell to the State;
  - b) Prohibition to any damage to the outside beauty;
  - a)c) Do not have the right to build any new or additional construction)
3. Preservation and usage of cultural property inventory
- 1.4. Budget used for the work on cultural property inventory

### **ARTICLE 3**

The state may pay a portion of the cost for repairing private building (built in Sangkum Reas Niyum Era).

### **ARTICLE 4**

The owners of the building must submit request for support to repair the building from the state.

### **ARTICLE 5**

The state shall provide technical experts to help repair the building.

## **CHAPTER 8 PREVENTIVE AND SALVAGE EXCAVATION**

### **ARTICLE 1**

Discovery of heritage items during demolition, construction or other activities

### **ARTICLE 2**

Work must halt to protect the heritage item

### **ARTICLE 3**

Obligation to notify Heritage Council and HPO

### **ARTICLE 4**

Determination of heritage significance

### **ARTICLE 5**

Permission required before destruction of heritage item

### **ARTICLE 6**

Activities to salvage the heritage item

### **ARTICLE 7**

Obligation to record and photograph heritage item

## **CHAPTER 9 IDENTIFICATION AND DESIGNATION OF CULTURAL AND NATURAL HERITAGE SITES**

### **ARTICLE 1**

The Heritage Council may recommend that a site for designation as a heritage site

### **ARTICLE 2**

The Heritage Council may require preparation of a management plan

### **ARTICLE 3**

Preparation of a management plan

**ARTICLE 4**

Implementation of a management plan

**ARTICLE 5**

Failure to comply with the management plan

**CHAPTER 10 DAMAGE AND CONSERVATION STATUS CLASSIFICATIONS**

**CHAPTER 11 SPECIAL CONSIDERATIONS IN EIA | HERITAGE SITES**

Commented [M189]: Per STWG 4.

**ARTICLE 1**

All projects requiring EIA in a heritage protection zone must make an assessment of the impact of the project on the heritage values

**ARTICLE 2**

All projects having an impact or potential impact on an item of heritage or a item listed on the Heritage Register must have a permit before any work can be done that may harm the item.

**ARTICLE 3**

Procedures to grant a permit to be determined by the Heritage Council.

**ARTICLE 4**

It is prohibited to damage or destroy or harm an item on the Heritage Register without a permit.

**CHAPTER 12 PROTECTION FOR HERITAGE SITES FROM ACTIVITIES NOT COVERED BY EIA**

**ARTICLE 1**

Any construction permit or approval cannot be granted until a permit has been granted by the Heritage Council or the HPO

**ARTICLE 2**

No permit can be granted until the Heritage Council or HPO has assessed the heritage value of the item.

## CHAPTER 13 MANAGEMENT PLANS FOR SITES

### ARTICLE 1

The Minister may require for a Heritage Management Plan to be prepared for a cultural and natural heritage site listed on the National Inventory

### ARTICLE 2

The Heritage Management Plan shall be developed in consultation with the local community and interested stakeholders.

### ARTICLE 3

The Heritage Management Plan shall also establish protected zones and core zones for heritage management of the site.

### ARTICLE 4

Ensuring sustainable use of cultural and natural heritage sites

## CHAPTER 14 ORDER TO HALT CONSTRUCTION OR CLEARING IF A **HERITAGE** SITE IS THREATENED OR ENDANGERED

### ARTICLE 1

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if a heritage site is threatened or endangered.

### ARTICLE 2

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if an item on the Heritage Register is threatened or endangered.

### ARTICLE 3

The order to halt will last for 14 days and may be extended for a further 14 days.

### ARTICLE 4

Any person or legal entity who does not follow the order to halt work commits an offence.

**CHAPTER 15 - IMPACT OF PROTECTED SITE ON COMMUNITIES**

**CHAPTER 16 ILLEGAL TRAFFICKING OF ARTEFACTS**

**ARTICLE 1**

Illegal trafficking defined

**ARTICLE 2**

Mechanisms to prevent illegal trafficking

**CHAPTER 17 EDUCATION AND PUBLIC AWARENESS OF CULTURAL AND  
NATURAL HERITAGE**

**CHAPTER 18 INCENTIVES FOR CONSERVATION OF CULTURAL AND NATURAL  
HERITAGE**

**CHAPTER 19 FUNDING MECHANISMS FOR NATURAL AND CULTURAL  
HERITAGE SITES**

**ARTICLE 1**

Entrance fees

**ARTICLE 2**

Public-private partnerships

**BOOK 6 WASTE AND POLLUTION MANAGEMENT  
AND SUSTAINABLE PRODUCTION**

- This book will include provisions relating to the General Obligations for Pollution Control, including the prohibition of polluting activities. There would then be a lawful exception to the prohibition of these polluting activities. This would enable a permit to be granted to a legal entity or person for certain emissions or activities. However the legal entity or person would have to prove that they had a lawfully granted permit and that the emissions or activities were undertaken in accordance with the permit. If the legal entity or person could not show these two things then they would have committed an offence under the

**Commented [M190]:** Per STWG 2: New section heading and content structure.

This draft has included recommendations from Submissions 42, 43, 44, 63, the inputs from STWG dated 7 July 2016, comments from the National Consultation Workshop.

Environmental Code.

- The Book will cover all aspects of pollution control and sustainable production.
- This Book will address contaminated land.
- The Book will re-examine the provisions of the Sub-Decree on Solid Waste Management 36 ANRK.BK 1999. It will update the relevant provisions about solid waste and hazardous waste management. It will also update and incorporate the provisions dealing with the Sub-Decree on Water Pollution 27 ANRK.BK 1999.
- This Book will address hazardous waste and chemicals, including agricultural, industrial, and extractive industries use or manufacture of hazardous waste or chemicals.
- This Book will include environmental controls on agricultural practices, including fertilizer, pesticide and herbicide use.
- Fees and charges will be provided in accordance with Book 8.
- Reporting and monitoring requirements, including public disclosure, will be dealt with in Book 9.
- Procedures for investigation on breaches and offences will be dealt with in Book 9. The aim is that investigations and proceedings for all waste management and pollution offences will be the same as for other offences and breaches of the Environmental Code.

Commented [M191]: Per NGO Forum.

**TITLE 1      GENERAL OBLIGATIONS FOR POLLUTION CONTROL  
AND SUSTAINABLE PRODUCTION**

1. Prohibition on pollution of air
2. Prohibition on the pollution of water
3. Prohibition on the pollution the soil
4. Prohibition on the transport, treatment and disposal of waste
5. Prohibition on chemical substances
6. Lawful exception to the prohibition with lawful permit
7. Commitment of the Royal Government to Sustainable Production
8. All activities must consider the best practice for sustainable production



4-9. All activities must consider the best practices for pollution and waste minimization

## **TITLE 2      STANDARDS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION**

1. The limit of public air quality standards
2. The maximum standard limited for the authorized of hazardous substance in the air
3. The maximum standard for the noxious substances discharge from the fixed source in the atmosphere
4. The standard level of emission from mobile sources
5. The maximum standard of the sound level permitted to vehicle on the road
6. The maximum standard of sound level permitted in the public and residence area
7. The standard level for the sound control in the area of the workshop and industrial factory
8. The standard of the toxic level permitted to contain for the fuel and burning substance
9. The standard level for air quality in the building
- 4-10.      The vibration standard level

## **TITLE 3      HAZARDOUS SUBSTANCES MANAGEMENT**

1. Hazardous waste determination, classification and labelling
2. Hazardous waste collection, packaging, storage, recycling and treatment
3. Disposal of hazardous waste (incineration, destruction, and landfill)
4. Monitoring and inspection of hazardous waste
5. Operational requirements for all hazardous waste facilities
6. Import and export of hazardous waste
7. Transitional provision
8. Administrative requirements (Registration, license, shipments, analytical methods, etc.)
9. Management of specific hazardous wastes (waste asbestos, oil, paint, etc.) application of international conventions on hazardous waste

10. Standard for classification of hazardous waste

11. Standard for disposal of hazardous waste

12. Penalty

#### **TITLE 4      MANAGEMENT OF HAZARDOUS CHEMICAL SUBSTANCE TO ENVIRONMENT**

1. Definition

2. Institutional Responsibility

3. Prohibition on Hazardous Substances

4. Research, Registration and Information Disclosure of Hazardous Substances

5. Inventory, Classification and Labelling of Hazardous Substances

6. Production, Distribution, Storage, Transportation, Usage and Disposal

7. Import and Export

8. Monitoring and Inspection of Hazardous Substances Safety Assessment

9. Accident Prevention, Preparedness and Responses

10. Application of International Convention on Hazardous substances

11. POPs Convention

12. Minamata Convention

13. International Agreements

14. Penalty

#### **CHAPTER # MANAGEMENT OF CHEMICAL SUBSTANCES**

##### **GENERAL PROVISIONS**

Editorial note: The use of the terms “chemical substance,” “chemical product,” and “chemical” in the following articles needs to be analysed and rationalised.

**Commented [KEAPL192]:** Details need to be provided. This may be relevant to the offshore oil and gas sector for the management of drill cuttings and water discharge.  
**RECOMMEND**  
MoE to provide details.

**Commented [M193]:** Per NGO Forum. Link to sections on planning for and management of extractive industries.

**Commented [MB194]:** From Draft legislation on the management of chemical substances.

## ARTICLE 1

This Law has the following objectives:

1. To promote effective management and safe use of hazardous chemical substances and hazardous chemical products in Cambodia;
2. To ensure proper registration, classification and labelling of chemical substances and chemical products in order to prevent misuse and to promote safe handling in the work place;
3. To enhance public awareness and access to information on safety and mitigation of risks throughout chemical life cycle, including production, storage, transportation, use and disposal;
4. To set up appropriate institutional coordination mechanism and information system for effective management and control of hazardous substances and hazardous chemical products in all stages of chemical life cycle;
5. To ensure an operational national system to incorporate cleaner production solutions in all manufacturing and service sectors, as well as in households.

(2)

## ARTICLE 2

This law has the goal of protecting the social infrastructure, human life, animals and environment from risks and hazards caused by misuse and mishandling of hazardous chemical substances and hazardous chemical products throughout chemical life cycle;

## ARTICLE 3

This law covers all hazardous chemical substances or hazardous chemical products and applies to all organisations or individuals that produce, transport, purchase, sell, use, store, release or discard these chemical substances and their chemical derivatives at different stages of their life cycles.

This law does not apply to radioactive substances, pharmaceuticals, cosmetics, food additives, food products and household appliances or toys that are governed by separate law and regulations.

## ARTICLE 4

The definitions of the main technical terms related to hazardous chemicals are provided in annex 1.

## CHAPTER 2 INSTITUTIONAL RESPONSIBILITY

### ARTICLE 5

The Ministry of Environment is responsible for administration and implementation of this law in cooperation with relevant ministries and institutions, and in harmonization with existing laws and regulations related to the management of chemicals and chemical wastes in Cambodia.

### ARTICLE 6

The Royal Government of Cambodia shall set up appropriate mechanisms for effective management and control of hazardous chemicals through its life cycle, especially for information sharing, inspection, classification, and hazard communication and risk assessment of registered and new hazardous chemicals circulating in Cambodia.

### ARTICLE 7

The Ministry of Environment shall coordinate implementation of international treaties or conventions relevant to hazardous chemical substances.

### ARTICLE 8

No person shall undertake the following activities:

- (a) The introduction or delivery of any misbranded hazardous substance or banned hazardous substance.
- (b) The alteration, destruction, or removal of the whole or any part of the label of any hazardous substance during shipment or sale (whether or not the first sale).
- (c) The receipt of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

### ARTICLE 9

No person can manufacture, use and distribute persistent organic pollutants (POP) totally banned by Stockholm Convention as listed in the annex 2 of this Law. This list shall be updated according to the revised decision of COP under the Stockholm Convention to which the Royal Government of Cambodia is a party.

#### **ARTICLE 10**

Any misbranded hazardous chemical substance or hazardous chemical product or banned hazardous substance or hazardous chemical product shall be subject to confiscation and seizure.

#### **ARTICLE 11**

No person shall manufacture, possess, handle, store, transport, import, export, distribute or use a hazardous chemical substance or hazardous chemical product that is not registered under Sub-decree dated October 2009 on “Management of Classification and Labeling of Chemicals”.

#### **ARTICLE 12**

No person shall store, import, export or distribute a hazardous chemical that is not packaged in accordance with the regulations and the conditions of registration.

#### **ARTICLE 13**

No person shall package or advertise a hazardous chemical in a way that is false, misleading or likely to create an erroneous impression regarding its character, value, quantity, composition, safety or registration.

#### **ARTICLE 14**

No person is allowed to use chemical substances such as acid, gasoline, or toxic chemicals that can cause corrosion, burn, oxidation, injury and destruction of human organs implicating health and human life, except in accordance with international safety standards. In the case of chemical reactions, burns or oxidation causing damage to human or environmental health, responsible legal entities or natural persons shall pay a fine and compensation for the damages.

### **CHAPTER 4 REGISTRATION AND INFORMATION DISCLOSURE**

#### **ARTICLE 15**

Organisations and individuals shall have the duty to hold valid official registration of any hazardous chemical substances and hazardous chemical products intended for manufacture, distribution, sale and use in Cambodia.

#### **ARTICLE 16**

An application for registration shall be submitted to the respective agencies with at least a

minimum information on the manufacturing company, name of chemicals, hazard classification, amount, purpose of import or use, safety data sheets, hazard statement, potential risks to human health and address of delivery.

#### **ARTICLE 17**

Information on hazardous chemicals shall be reviewed and endorsed by the Ministry of Environment before submission to the respective ministry for approval. The Ministry of Environment in cooperation with respective agencies may conduct additional tests and consultation to verify the correctness of information provided.

#### **ARTICLE 18**

The relevant ministries having the mandate to approve registration shall provide information on all hazardous chemical substances and products to the Ministry of Environment for inventory, monitoring, risk assessment and inspection purposes.

#### **ARTICLE 19**

Following official registration, organisation or individual shall prepare appropriate action plan for prevention, emergency response, mitigation, monitoring and risk management for hazardous chemical substances. He or she shall act in good faith to provide accurate information on hazardous chemical substances to the responsible agencies when requested.

### **CHAPTER 5 CLASSIFICATION AND LABELLING**

#### **ARTICLE 20**

Classification and labelling of hazardous chemical substances shall follow regulations specified by the Sub-decree No 180 dated 20 October 2009 on Management of Classification and Labeling of Chemicals.

#### **ARTICLE 21**

Hazard criteria for physical hazards, health hazards and environmental hazards shall be specified by an inter-ministerial task force with members designated from line agencies and universities following the Globally Harmonized System for Classification and Labeling (GHS). Role and functions of this inter-ministerial task force shall be specified by a sub-decree.

#### **ARTICLE 22**

Organisations or individuals involved in packaging, distribution, transportation, and sale of hazardous chemical substances or products shall put correct labelling on hazard substances and chemical products following regulations specified in the Sub-decree No 180 dated 20 October 2009 before distribution, transportation or sale.

#### **ARTICLE 23**

Organisations or individuals shall publish brochures or newsletters on safety data sheet, hazards prevention and mitigation, and health risks for all hazardous substances intended for distribution and sale in Cambodia.

### **CHAPTER 6 TRANSPORTATION**

#### **ARTICLE 24**

An organisation or individual that transports hazardous chemicals shall abide by the provisions on transportation of hazardous chemical substances or products as prescribed in this Law and other relevant laws.

Transport operators and transport owners shall prepare staff health and safety plans and response plans for substance specific hazardous materials incident response plans in order to:

- (a) Identify and take necessary measures to minimize potential incidents and remedy consequences if they take place, including training all staff involved in transportation in safety measures and response plans, and
- (b) Identify and notify the nearest local authorities and concerned ministries about the incident if an incident occurs en route – either on road, inland waterway, railway, air or sea transport.

Transport operators and transport owners shall ensure that any vehicle used in the transport of hazardous chemical substances or products is suitable for the transport of that substance or product and that the vehicle is visibly marked with the appropriate hazard warning marks and symbols.

#### **ARTICLE 25**

The Ministry of Environment shall coordinate with the Ministry of Public Works and Transport, concerned ministries and competent agencies to formulate additional technical regulations on transportation of hazardous chemical substances or hazardous chemical products.

## CHAPTER 7 USE AND DISPOSAL

### ARTICLE 26

All Cambodian people have the rights to use hazardous chemicals according to regulations stipulated by this law and shall follow technical specifications, labeled description and safety instructions of any hazardous substance.

### ARTICLE 27

Organisation or individual that uses hazardous substances for manufacturing or production of goods and products shall be responsible for compensation or rehabilitation of the social infrastructure, human health, animal health and the environment damage caused by chemical hazards and accidents for which they have been deemed responsible.

### ARTICLE 28

No person can burn and dispose of any part or whole of chemical substances or chemical waste into the environment, including water, soil and air without the approval of the Ministry of Environment.

Disposal of any part of hazardous chemical and its package shall follow regulations and guidelines specified by the sub-decree No 36 ANRK.BK dated 27 April 1999 on Solid Waste Management and the Sub-decree No 27 ANRK.BK dated 06 April 1999.

Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a Prakas of the Ministry of Environment.

### ARTICLE 29

Organisation or individual using hazardous chemicals for scientific research shall have the following duty:

- Use of hazardous chemical substances following regulations stipulated by this Law;
- Laboratory shall have sufficient equipment for safe storage and handling of hazardous chemical substances and personal protective equipment for workers;
- Hazardous substances shall have correct labelling according to the regulations specified by the Sub-decree dated October 2009;
- The Laboratory shall have an appropriate filing systems and records of hazardous



chemical substances being used;

- Disposal of hazardous substance or chemical wastes shall follow regulations specified under Article 25 of this Law.
- Identifying and minimizing any potential hazards which may be caused by the use and disposal of hazardous substance or chemical wastes through setting up effective mechanisms to minimize risk and mitigate effects of any hazard which may occur.

#### ARTICLE 30

No person shall use hazardous chemical substances in food products, cosmetics, and toys that can cause direct health hazards to human beings.

### CHAPTER 8 CHEMICAL INDUSTRY

#### ARTICLE 31

Organisation or individual engaged in production of chemical substances shall have technical capacity for environmental and social safeguarding as shown below:

- Workshops, storehouse and technological equipment;
- Safety equipment and devices, equipment and devices for prevention and fighting of fire, explosions, lightning, chemical leakages or dispersal and other chemical incidents;
- Labour protection equipment and devices;
- Environmental protection equipment and devices,
- Waste disposal and treatment systems;
- Prevention and response plan, including posting visible hazard pictogram and hazard communication;

#### ARTICLE 32

Organisations and individuals engaged in production of chemical substances shall have professional staff with qualifications relevant to the scope, type, and scale of the chemical-related activity along with thorough knowledge about technologies and chemical safety plans and measures.

#### ARTICLE 33

Organisations or individuals are encouraged to review manufacturing processes that can produce chemical substances or products involving less greenhouse gases emission, less energy consumption, and minimal hazard and toxicity to the environment and human.

#### ARTICLE 34

Organisations or individuals engaged in production of chemical substances or products shall have proper registration of the substances and manufacturing permits issued by relevant responsible ministry or authority.

#### ARTICLE 35

In case of production of hazardous chemicals or hazardous chemical products, organisation or individual shall provide annual report on manufacturing processes, the amount of hazardous ingredients, intended use, point of delivery, waste disposal and treatment systems, and safety plan and measures to the respective ministries and the Ministry of Environment. The format of reports shall be developed by responsible Ministry in cooperation with the Ministry of Environment.

### CHAPTER 9 PREVENTION AND RESPONSE

#### ARTICLE 36

Organisations or individuals shall have the duty to:

- Strictly follow technical specification, labelling and safety instruction defined by each hazardous substance;
- Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;
- Organize training on safe use and safe handling of hazardous substances, including a safe-drill toward the occurrence of hazard to human health and/or the environment;
- Set up a chemical emergency response.

#### ARTICLE #

In case of accidents caused by hazardous chemical substances, organisation or individual shall

cease immediately the activities in question and immediately inform the relevant authorities and the Ministry of Environment. Adequate action shall be taken according to the prevention and emergency response plan aiming for reducing hazards and damage to human health, environment and the property.

Any organisation or individual directly involved in the accident shall immediately inform any local members of the public who may be affected by the accident of the exact risks posed to the public's health and property by the accident and advise the public on measures to mitigate those risks.

#### ARTICLE #

A Hazard Chemical Insurance Mechanism shall be set up by a financing mechanism for prevention, response and compensation of hazards or accidents associated with hazard substances. The regulations and operation of this insurance shall be specified by a Sub-decree.

### CHAPTER 10 PUBLIC AWARENESS

#### ARTICLE #

Organisation or individual involved in distribution, sale and use of hazardous chemical substances shall provide all information related to safety data sheets, hazard communication, prevention and mitigation measures to the responsible ministries, the users and the public.

#### **CHAPTER # -- DIRECTIVE FOR PRTR**

*(To be included in titles on Hazardous Waste Management and Hazardous Substances Management)*

1. Interpretation (definition: pollutant, transfer, release, register, etc.)
2. Design and structure (materials list, form and environmental media release)
3. Reporting by generator/facilities (schedule for submission information/report...)
4. Estimation standard for emission release (to air, water, land, etc.)
5. Quality assurance and assessment
6. Access to information (public participation, awareness, raising)
7. Confidentiality

8. Penalty

~~4~~9. Prosecution of offense

**TITLE 5 WATER POLLUTION CONTROL**

1. Responsible institutions

2. Measures to prevent water pollution

3. Permission of liquid waste discharge

4. Water pollution source control

5. Monitoring and evaluation of public water pollution

~~4~~6. Sewage System and Sewage Treatment System management

Improving rural sewage treatment

Improving urban sewage treatment

Improving coastal sewage treatment

Seasonal adaptations in sewage treatment

Separation of storm water drainage and sewage infrastructure

Understanding and supporting the role of wetlands in waste filtration and preserving wetlands

Promoting and regulating private septic tanks

Mandatory reporting of normal discharge, effluents and sudden discharge.

7. Responsible institutions

8. Responsibilities of site owner

9. General measure to sewage management

10. Provision of sewage system management and sewage treatment system management services

11. Natural storing basin and Sewage Treatment System management

12. Penalty

~~2~~13. Water pollution offenses

## **TITLE 6 MARINE POLLUTION CONTROL**

Commented [KEAPL196]: More details required.

*(This title should be included in water pollution/coastal zone management/separate section?)*

1. Application of MARPOL and Conventions
2. Prevention of pollution by oil & oily water
3. Discharging oil into State waters from a ship
4. Causing discharge of oil into State waters from a ship
5. Control of pollution by noxious liquid substances in bulk
6. Offences relating to carrying uncategorized noxious liquid substances
7. Offences relating to discharge of noxious liquid substances
8. Cleaning of tanks of ships
9. Prevention of pollution by harmful substances carried by sea in packaged form
10. Offences relating to carriage
11. Offences relating to jettisoning
12. Pollution by sewage from ships
13. Offences relating to discharge of sewage
14. Pollution by garbage from ships
15. Offences relating to discharge of garbage
16. Prevention of air pollution from ships
17. Offences relating to release of smoke
18. Prevention of disposal of hazardous waste from ships
19. Application of the Base Convention to ships

## **TITLE 7 AIR POLLUTION, NOISE AND VIBRATION CONTROL**

- This Title will revise and incorporate the Control of Air Pollution and Noise Disturbance 42 ANRK 2000.

### **Section 1      Air Pollution Source Control**

1. Indoor air pollution
2. The flow of toxic air from mobile sources
3. The flow of toxic air from fixed sources (Air pollution from immobile source)
4. The air pollution in buildings
5. The technology to reduce and prevent air pollution
6. The control of air pollution
7. The request for approval of a permit
8. The monitoring of atmosphere quality
9. The procedure of inspections
10. The transboundary air pollution

### **Section 2      Noise and Vibration Control**

1. Noise emission from mobile source
2. Noise emission from immobile source
3. Noise emission in workplaces/inside buildings
4. The sound emitted from mobile source
5. The sound emitted from fixed source
6. The voice in the workplace
7. The technology of sound deduction
8. The monitoring of sound diffusion
9. The request for approval

10. The vibrant causing

11. The monitoring of vibration levels

12. The technology for vibrant reduction

13. The request for approval of a permit

### **Section 3 Controlling and Monitoring of Atmospheric Quality**

### **Section 4 Measures to Prevent and Reduce Air Pollution, Noise and Vibration**

## **TITLE 8 OZONE LAYER PROTECTION**

1. Importing and exporting of ozone depleting substances control

2. Exportation and usage of ozone depleting substances control

3. Cleaning up, recycling and destructing of ozone depleting substances control

4. Cooling substances and tools control

5. Program to eliminate ozone depleting substances control

6. Monitoring, controlling and managing of ozone depleting substances control

7. Formality of registration and license application

## **TITLE 9 HOUSEHOLD SOLID WASTE MANAGEMENT**

Radiological and biological waste

Electronic waste

Identifying and promoting alternatives to landfills

Landfills including monitoring and reporting requirements

Waste incinerators including monitoring and reporting requirements

Industrial waste reduction through regulations, financial incentives and other mechanisms.

Reducing the use of plastic bags

Identification, management and rehabilitation and remediation of contaminated land

1. Management plan and responsible jurisdiction

**Commented [N197]:** To be harmonised with prakas under development.

- a. Urban/household waste is waste from houses, public administrative buildings, service and business locations, clinics, hospital, markets, super markets, commercial centers, gardens, public areas, tourism sites, a septic tank, all of which excludes hazardous waste.
  - b. Labeling of waste (Shall be included in the below chapter that states about hazardous waste in details)
  - c. Regulation of waste management facilities, including rubbish dumps (shall states in details from the establishment, collection, transport, 3R, resources exploitation, treatment, compost production, biogas incinerators until the final disposal, export, and import of non-toxic rubbish or solid waste for the future)
  - d. Standards for classification of waste
  - e. Management of waste incinerators (details about incinerator standard and technique, incinerator operation and limit standard of ash discharge from burning)
2. Provisions for management:
- a. Effectiveness of management:
    - i. Separation, packaging, and disposal at the source:
    - ii. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
    - iii. The setting of rules and conditions of proper packaging
    - iv. The setting of rules and conditions of disposal at the source in order not to affect aesthetic value, order, traffic, transport, ...
    - v. The setting of time of solid waste discharge awaiting to be collected
    - vi. What are obligations of waste producers?
  - b. Provisional disposal location (joint): The setting of rules and conditions on selecting location for managing, time for receiving , and transporting of waste and rules for controlling that location
  - c. Collection and transport



- i. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
  - ii. The setting of rules and conditions of transport, loading
  - iii. Collection and transport divided based on waste types
  - iv. Obligations of companies providing services of collection and transport
  - v. Obligations of competent institutions on collection and transport task (monitor, check, instruct, and recommend service companies)
- d. Reduce, reuse, and recycle (3R) Compost production
  - i. The setting of rules to courage the practice of 3R: provide support and encourage investors and 3R activities
  - ii. Obligations of competent institutions in 3R activities
  - iii. Obligations of citizens in 3R activities
- e. Resources exploitation from rubbish, solid waste (Biogas incinerator): The setting of methodology of exploiting biogases from organic waste
- f. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
- g. The final disposal:
  - i. Measures to reduce at maximum waste poured into the dump site
  - ii. Measures to control the final disposal with safety
  - iii. Construction, operation, and maintenance when shutting the dump site
  - iv. Waste incinerator sets technical standard for construction and operation of waste burning
- h. Obligations and participation of relevant institutions and private sectors on solid waste management

- i. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
- j. Education and knowledge enhancement for the public relating to solid waste management
- k. Penalty provisions on committing offenses

## **TITLE 10 INDUSTRIAL SOLID WASTE MANAGEMENT**

1. Sources: Industrial solid waste is waste from factories, enterprises, handicrafts (from production), sewage system treatment, agricultural sector, all of which excludes hazardous waste.
2. Effectiveness of management:
  - a. Separation, packaging, and disposal at the source:
    - i. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
    - ii. The setting of rules and conditions of proper packaging
    - iii. The preparation of location or place to dispose waste based on types and with safety.
    - iv. The setting of rules and conditions of disposal in order not to affect people's health and the environment
    - v. What are the obligations of waste producers? cleaning premise outside and around factories
3. Collection and transport
  - vi. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
  - vii. The setting of rules and conditions of transport, loading
  - viii. Collection and transport divided based on waste types
4. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
5. The final disposal:
  - ix. Measures to reduce at maximum waste poured into the dump site

- x. Measures to control the final disposal with safety
  - xi. Construction, operation, and maintenance when shutting the dump site
  - xii. Waste incinerator sets technical standard for construction and operation of waste burning
- 6. Obligations and participation of relevant institutions and private sectors on solid waste management
- 7. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
- 8. Education and knowledge enhancement for the public relating to solid waste management
- 9. Penalty provisions on committing offenses
- 3. Solid waste management department, MoE requested that there shall be a separation of provisions on non-toxic solid waste and toxic waste, so that it is easy to check and practice when the law comes into force.
- 4. 4Rs principle – Reject, Reduce, Reuse and Recycle
  - a. Promoting waste avoidance and reduction
  - b. Encouraging and facilitating recycling (including regulating recycling businesses)
  - c. Roles and responsibilities of government, private sector and citizens in recycling, waste reduction, and waste management
- 5. Management of plastic bags and plastic packaging materials use reduction
- 6. Measures on disposal

## **TITLE 11 ENVIRONMENTAL POLLUTION CHECK AND INSPECTION**

- Role of Environmental Pollution Inspectors: Articles 1, 2, 3 and 4
- Notification of Complaints and Inspections: Article 5 and 6
- Recommendations for Future Actions: Articles 7, 8, 9, 10 and 11

### **ARTICLE 1**

- 1. Environmental pollution inspection officers appointed by the proclamation of

the minister of environment ministry shall have following duties:

2. Daily check source of pollution and polluting activities
3. Inspect environmental pollution
4. Suppress environmental pollution offenses
5. Fulfil other duties assigned by the minister of environment ministry.

**Commented [KEAPL198]:** This is impractical for offshore installations

## **ARTICLE 2**

An environmental pollution inspection officer is rehabilitated as a police of justice for checking environmental pollution offenses stated in this code, in accordance with criminal procedure code of kingdom of Cambodia.

**Commented [KEAPL199]:** Implies training in law of Cambodia

The formality and procedure of rehabilitation for pollution inspection officers are determined by joint proclamation of the minister of justice ministry and the minister of environment ministry.

## **ARTICLE 3**

Environmental pollution inspection officers shall have uniforms, labelling, and ranking signs determined by sub-degree.

During the operation of implementing this law, an environmental pollution inspection officer shall have mission command letter and wear a uniform, labelling, and ranking sign as stated in the first paragraph above.

## **ARTICLE 4**

On duties to daily check pollution source and pollution activities, environmental pollution inspection officers shall have the following rights:

1. Check controlling means and facilities and treatment of waste and pollutants from pollution source in consistence with provisions and procedure of this law.
2. Monitor and control activities relating to discharge of waste and pollutants from pollution source.
3. Guide, at the controlled scene, owners or pollution controllers to change or correct their waste and pollution discharge.

4. Take photo of and bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
5. Require people who are owners or pollution controllers provide information and disclose documents, records, permission letters, and documents relevant to waste or pollutants.
6. Take measure to temporarily stop serious pollution activities found while checking and implementing inspection procedure or procedure to suppress environmental pollution offences continuously.

#### ARTICLE 5

In case there is a notification or a complaint on environmental pollution case or a serious pollution offence which harms public health or destroy property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on inspection work immediately.

On duties to inspect environmental pollution cases, environmental pollution inspection officers shall have the following rights:

1. Search for reasons and a person who causes environmental pollution.
2. Bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
3. Collect and seize any object relating to environmental pollution cases.
4. Take provisional measure on any activity or means relating environmental pollution cases found during the inspection and implementation of procedure to suppress environmental pollution offenses continuously.

The procedure of inspection on an environmental case is set by a proclamation of the minister of environment minister.

#### ARTICLE 6

In case of a flagrant environmental pollution offense which is harmful to the environment, public health, or damage property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on environmental pollution offense suppression work immediately.

On duties to suppress an environmental pollution offense, environmental pollution inspection officers shall have the following rights:

1. Take provisional action on any activity contributing to an environmental pollution offence.
2. Check, observe causes of an environmental pollution offence.
3. Bring and analyse a pollutant sample, an environmental sample, or a relevant sample which is polluted for verification, assessment, and assertion.
4. Limit and evaluate scope of impact.
5. Collect evidences for making a complaint in consistence with law procedure.
6. Take immediate action to eliminate environmental pollution.

#### **ARTICLE 7**

Case filing of an environmental pollution offense shall follow the criminal procedure code of Kingdom of Cambodia.

Application form for taking minutes of an environmental pollution offense shall be determined by join proclamation of the minister of justice ministry and the minister of environment ministry.

#### **ARTICLE 8**

Cost on an environmental pollution elimination operation is an offender responsibility. In case that identity of the offender is not known, all cost is the state responsibility.

#### **ARTICLE 9**

In case of an environmental pollution offense which affects or harms the environment or damage public property, environment ministry shall make a complaint to demand damages for destruction or damages for environmental quality restoration from the offender.

An impact scope assessment shall be made by environment ministry and have assessment participation from line competent ministries, institutions based on a proposal of the minister of environment ministry.

#### **ARTICLE 10**

Competent ministries, institutions, sub-national administration, and the public shall have good and active cooperation in participating in inspecting or suppressing an environmental offence based on a proposal of environment ministry or municipal, provincial environment department.

#### ARTICLE 11

Any person who is not satisfied with any measure taken by environmental pollution inspection officers as stated in this law, except for a decision on transitional punishment, may file a complaint to the minister of environment ministry within thirty (30) days after receiving decision.

The minister of environment ministry shall decide on the complaint and make a written response to complaint owner within forty (40) days after receiving the complaint.

In case that a person who is the complaint owner is still not happy with the decision of minister of environment ministry, that person has right to file a lawsuit to court based upon the court procedure.

### ~~Book 6~~ **BOOK 7** ENVIRONMENTAL EDUCATION AND AWARENESS

- Environmental Education (EE) has been defined as the process of helping people, through formal and non-formal/informal education, to acquire understanding, skills and values that will enable them to participate as active and informed citizens in the development of an ecologically sustainable and socially-just society. (ASEAN 2014-2018).
- Education for Sustainable Development (ESD), training and awareness are seen as processes for developing values, understanding and skills consistent with environmentally sustainable and socially just society and assisting citizen participation in effective public participation and decision making. ESD balances human and economic and environmental development.
- “Education, including formal education, public awareness and training should be recognized as a process by which human beings and societies can reach their fullest potential. Education is critical for promoting sustainable development and improving the capacity of the people to address environment and development issues. While basic education provides the underpinning for any environmental and development education, the latter needs to be incorporated as an essential part of learning. Both formal and non-

**Commented [M200]:** Per STWG 7. New Book.

**Commented [KEAPL201]:** Should this be included under the Ministry of Education?

formal education are indispensable to changing people's attitudes so that they have the capacity to assess and address their sustainable development concerns. It is also critical for achieving environmental and ethical awareness, values and attitudes, skills and behaviour consistent with sustainable development and for effective public participation in decision-making. To be effective, environment and development education should deal with the dynamics of both the physical/biological and socio-economic environment and human (which may include spiritual) development, should be integrated in all disciplines, and should employ formal and non-formal methods and effective means of communication. “ (Agenda 21 1992 United Nations Conference on Environment and Development)

## **TITLE 1      GENERAL PROVISIONS**

The Kingdom of Cambodia considers that it is in the national interest to align the development objectives of the Kingdom with Environmental Education (EE) and knowledge development [reference National Green Growth Strategy and other relevant documents indicating commitment for national sustainable development].

Further, the Kingdom of Cambodia considers that education, public awareness and access to information are critical for achieving all objectives of the Environmental Code.

The Kingdom of Cambodia considers EE as a mechanism for implementing the Principle of Intergenerational Equity.

The appropriate Ministries and authorities shall have the authority to design, implementation and enforcement of curricula.

Consistent with [insert legal documents here], the appropriate Ministries shall:

- a) Strengthen capacity of educational system and relevant processes to address environmental and development challenges of the Kingdom of Cambodia;
- b) Encourage sustainable development;
- c) Increase scientific and intellectual innovation;
- d) Assure provisions for continuous development of professional skills and knowledge of environment and sustainable development for all sectors including in education, industry, private sector, agriculture, transport and public administration, media, civil society organizations;



- e) Assure inclusion of knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into education;
- f) Assure inclusion of latest achievement of science and technology into education and development;
- g) Assure that relevant EE content, methods and materials are provided for the trainings and learning;
- h) Assure variety of opportunities to engage in learning processes at the levels of communities, professional associations, interest groups;
- i) Ensure regulatory, policy and operational frameworks for the integration of EE an ESD into education at all levels.

The overall objective of the actions is to empower Cambodia citizens, through environmental education and public participation, to contribute to cleaner and more socially just society, and, ultimately, to environmentally sustainable development, through support in developing values, attitudes and skills and capable to ensure sustainable development of the country and the region.

## **TITLE 2 POLICY MAKING**

Development provisions that affect environment and health of Cambodian citizens shall be accompanied by supporting provisions of the Ministry of Education Youth and Sport as well as other relevant ministries and authorities (inter-ministerial collaboration that aligns, at the policy level, development and education/training);

Relevant ministries shall include principles and provisions of EE and ESD into any sectoral and cross-sectoral policy and decision making processes affecting national and sub-national development; such provisions shall be accompanied by plans to develop and deliver necessary competencies into such development.

## **TITLE 3 TRAINING**

Relevant Ministries should include knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into professional qualifications and certificates.

Relevant Ministries create provisions to include relevant EE content, appropriate methods and materials are provided for the trainings and other learning processes.

Training should be provided to include environmental topics.

Relevant Ministries are responsible for creating training materials supporting educational processes aiming at addressing environmental challenges.

Relevant ministries and authorities should create variety of learning opportunities addressing environmental issues at the levels of communities, professional associations, and interest groups.

#### **TITLE 4 AWARENESS**

Relevant ministries and authorities shall assure that key groups of stakeholders of development processes are informed about environmental implications of these processes and potential remediation

Relevant ministries and authorities facilitate engagement of key stakeholders through main information channels including through media, festivals, and events, as appropriate and specified by Title 3 Public Participation and Title 4 Access to Information.

#### **TITLE 5 FORMAL EDUCATION SYSTEM**

Relevant ministries and authorities shall:

- a) Assure Inclusion of requirements for environmental and sustainability knowledge into qualification criteria (certification and re-certification) for professions
- b) For the EE/ESD to be effective for supporting human and national development, its themes shall be integrated into all levels of education (general education, tertiary education, professional and vocational trainings), across relevant subject (mainstreaming) as well as to form specific programmes and courses (specialized educational processes).
- c) Assurance that areas of EE/ESD knowledge reflect development priorities and latest achievements of science and technology.
- d) Assure development of guidelines for integration of the EE/ESD into curricular of students and educators (in-service and pre- service).
- e) Educational materials – pedagogic, didactic, methodological publications as well as textbooks and other relevant resources shall be developed to support teaching and learning processes related to environment and other associated aspects of sustainable development:

- Ensure development and production of printed and electronic (including Internet-based) materials, video, audio and other materials for primary, secondary and vocational schools.
  - Ensure development and production of printed, electronic and other materials for higher education institutions.
  - Stimulate production of pedagogic, didactic and methodological materials supporting EE and ESD at higher education institutions.
  - Ensure development of information and learning materials for media on environmental protection, sustainable resource use and other associated issues.
  - Support informational portal that will provide access to resources related to environment and sustainable development relevant for the Kingdom of Cambodia.
  - Create an internet portal to give easy access to information and resources on sustainability, including on teaching and learning.
- f) Ensure support for the development of environmental management systems at schools, institutions of higher education and other learning organizations.
- g) Stimulate and support integration of EE and ESD principles and approaches into education and training environment (whole-institution approach).
- h) Facilitate and support different approaches in education including an interdisciplinary and transdisciplinary approach, ways of including EE into different subjects, programmes and learning processes, draws on local context.

## **Article 2 TITLE 6 COMPETENCES AND CAPABILITY OF EDUCATORS, TRAINERS, AND CHANGE AGENTS**

To improving competences of educators, change facilitators, leaders and decision makers in formal and non-formal education to support knowledge development towards greener and more sustainable society, the relevant ministries and authorities shall:

- a) Assure that competences of educators that support education towards more sustainable development are defined as well as qualification criteria for educators in formal educational system;
- b) Assure development of programmes for training pre-service and training and retraining

in-service educators as well as development of required educational materials.

Relevant ministries and authorities shall promote environmental and sustainability ideas at all levels of education and in all educational processes by:

- a) Assuring development and support of national network on EE and ESD competencies, methodologies and approaches.
- b) Supporting and promoting results of research into EE and ESD including its content, teaching and learning methods, ways of integrating it into programmes and other educational activities, including methods of assessment.

## **TITLE 7 RESEARCH AND INNOVATION**

Relevant ministries and authorities:

- a) Should develop a process that implementation of in-service teacher training programmes based on latest scientific knowledge related to environment and sustainable development.
- b) Should support development and implementation of programmes that bring together education and research and aim at solutions for environmental challenges.
- c) Should regularly update educational and training materials ensuring based on the latest scientific knowledge.
- d) Should facilitate support for relevant research and education by providing resources for research as well as opportunities for studies and exchange.

Relevant ministries and authorities should align knowledge on environmental protection and sustainable resource use with development of knowledge and expertise in other areas of sustainable development (link to SDGs) by:

- a) Assuring collaboration between traditional knowledge holders and scientific knowledge
- b) Supporting cross-sectoral collaboration, stimulate interaction between science (natural and social), technology development and business, development of appropriate technologies with a smaller negative impact on the environment.
- c) Support transdisciplinary research and innovation.
- d) Developing action research programmes that aim at addressing solutions/innovations for

environmental and sustainability challenges; should prioritize research that brings together the different dimensions of SD, as well as focuses on issues of local sustainable development.

## **Title 3 TITLE 8 REGULATION AND OPERATIONAL FRAMEWORK**

The Government should have provisions for regulatory, financial and organizational support of EE and research by:

- a) Assure provisions on sharing responsibilities – stakeholders are invited in defining priorities for various sectors; government carries ultimate responsibility.
- b) Should create mechanism for education coordination and training on the environment and development including provisions for creation of the (Inter-agencies Committee on EE).
- c) Should use economic and organizational instruments to increase in international scientific and educational exchanges, international programmes for research and technology development.
- d) Should create informational resource for support of environmental education.
- e) Assure provisions on research that demonstrates effective ways of working with EE and ESD
- f) Assure provisions on monitoring.
- g) Assure provisions for funding – to assess costs for implementation of provisions (EE Strategy?) and secure necessary funding.
- h) Assure funds for supporting environmental research.

The Government of the Kingdom of Cambodia is to have in place EE national action plan with provisions for its implementation.

## **Book 7 BOOK 8 ENVIRONMENTAL INCENTIVES, FEES, TAXES AND FUNDING**

- This **Book** will set out the mechanism by which the responsible Ministries will be able to charge fees.
- This **Book** will include clear provisions to ensure that all fees and **taxes** that are levied

**Commented [KEAPL202]:** Details are needed. Are these fees/charges/incentives applicable to offshore oil and gas projects? Do these fees/charges overlap with earlier sections of the Code?  
**RECOMMEND**  
MoE to provide details.

and received and all economic instruments that are established such as environmental funds will be managed in accordance with international standards on accountability and transparency.

## **TITLE 1 ENVIRONMENTAL INCENTIVES**

### **CHAPTER # ECONOMIC INCENTIVES FOR GREEN INVESTMENT AND SUSTAINABLE FINANCING IN THE BANKING SECTOR**

#### **CHAPTER # SPECIAL INCENTIVES FOR PUBLIC/PRIVATE PARTNERSHIPS**

#### **CHAPTER# FINANCIAL INCENTIVES AND TAXATION MEASURES TO REDUCE DEFORESTATION AND PROMOTE BIODIVERSITY AND NATURAL RESOURCE CONSERVATION, GREEN URBAN INFRASTRUCTURE, ECO-TOURISM AND SUSTAINABLE TOURISM, COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT, SUSTAINABLE LOW CARBON ENERGY PRODUCTION, SUSTAINABLE FORESTRY, AND SUSTAINABLE FISHERIES**

#### **CHAPTER # ECO-LABELLING**

##### **ARTICLE #**

Financing for eco-labelling

##### **ARTICLE #**

Independent Certification for eco-labelling of products and services

##### **ARTICLE #**

Incentives to switch to more efficient consumer appliances and the phasing out of inefficient devices

## **TITLE 2 VALUATION OF RESOURCES AND ECOSYSTEMS SERVICES**

### **CHAPTER # SCOPE AND PROCEDURES FOR VALUATION OF RESOURCES AND ECOSYSTEM SERVICES, INCLUDING NATURAL CAPITAL ASSESSMENT**

#### **CHAPTER # PAYMENT FOR ECOSYSTEM SERVICES**

### **TITLE 3 ENVIRONMENTAL TAXES, FEES AND OTHER FUNDING OPTIONS AND FUND MANAGEMENT**

- A submission has been received that highlights that Cambodia does not have a Trust Fund Law that would assist in developing funding arrangements to finance the protection of protected areas and protected forests. Consideration should be given to enabling Trusts to be created.

#### **CHAPTER # ENVIRONMENTAL TAXATION**

#### **CHAPTER # FEES PAYABLE FOR SERVICES PROVIDED BY MINISTRY**

#### **CHAPTER # OTHER FEES**

#### **CHAPTER # OTHER FUNDING OPTIONS (E.G., FUNDING OPTIONS FOR FOREST CONSERVATION)**

#### **CHAPTER # BENEFIT SHARING AGREEMENTS**

#### **CHAPTER # ESTABLISHMENT OF THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND; GOALS OF THE FUND**

#### **CHAPTER # ESTABLISHMENT OF OTHER FUNDS**

(e.g., community initiative funds)

#### **CHAPTER # SOURCES OF REVENUE ~~TO FOR~~ THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND AND OTHER FUNDS**

#### **ARTICLE #**

The Project Proponent shall make payment of a minimum of 1 percent of the project costs to the Environmental and Social Fund of MoE. An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.

#### **ARTICLE #**

The Project Proponent shall make payment of Environmental Endowment Fund based on the agreement between MoE and Project Proponent, on an annual basis until the end of business, based on the type and scale of development project.

**Commented [M203]:** Funding Options for Forest Conservation under development.

**Commented [M204]:** Per NGO Forum.

**Commented [KEAPL205]:** This is excessive and a case of double-dipping in the case of oil and gas companies. For oil and gas companies, the objective of restoration is already achieved through a Decommissioning Plan (which is plan for decommissioning of facilities and site environmental restoration). For a Decommissioning Plan, it is an exhaustive and technical exercise that is reviewed and approved by the MME and the funds are progressively in advance and jointly administered by MME and MEF.

#### **RECOMMEND**

- 1.This Environmental and Social Fund should be removed from the Code.
- 2.If not removed, oil and gas companies should be exempt from this Environmental and Social Fund as the objective is already addressed in a Decommissioning Plan.

**Commented [KEAPL206]:** This is excessive and a case of double-dipping in the case of oil and gas companies. For oil and gas companies, the objective of environmental protection and restoration is already achieved through a Decommissioning Plan (see Item 59). Furthermore, what is the relationship between Environmental Endowment Fund and the Environmental and Social Fund? This is a form of indirect taxation and will only serve to discourage/deter much needed investment and development in Cambodia.

#### **RECOMMEND**

- 1.This Environmental and Social Fund should be removed from the Code.
- 2.If not removed, oil and gas companies should be exempt from this Environmental and Social Fund as the objective is already addressed in a Decommissioning Plan.

**Commented [BR207]:** These two articles are moved from the EIA title, and presented here in the form in which they existed in the final version of the draft EIA Law.

#### **NOTE:**

Discussion is currently underway regarding the different types of funds that are required in order to 1) ensure proper project performance 2) guarantee any needed environmental restoration at project conclusion, and 3) to provide sufficient contribution to overall environment and conservation activities.

Discussion is also underway regarding the amounts of fees that Project Proponents will be required to provide to these respective funds.

**CHAPTER # TRANSPARENCY AND GOVERNANCE PROCEDURES FOR FUNDS**

**CHAPTER # AUDITING OF FUNDS**

**CHAPTER # CRITERIA FOR GRANT-MAKING AND DISBURSEMENT FROM THE  
ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND**

**CHAPTER # ENVIRONMENTAL LIABILITY INSURANCE MECHANISMS FOR  
PAYMENTS BY POLLUTERS OR FOR ENVIRONMENTAL DAMAGE (E.G.  
BOND, ENVIRONMENT AND SOCIAL FUND)**

**BOOK 9 ENVIRONMENTAL OFFENSES,  
ENFORCEMENT AND REMEDIES**

**~~Title 3~~ TITLE 1 INVESTIGATION, ENFORCEMENT AND ACCESS TO  
REMEDIES**

- This Title will deal with the powers of the relevant Ministries to investigate the environmental offences outlined in Book 9 ~~Title 2~~.
- It will make provision to allow for citizens and organisations to follow dispute resolution procedures and bring proceedings to the relevant review body. These provisions will also identify mechanisms for citizens and organisations to bring general complaints and other proceedings.
- This Title will also examine the use of relevant dispute resolution procedures and grievance mechanisms, including Environmental Courts and Tribunals (ECTs), to deal with environmental and natural resources development decisions. This Title will examine options for the Ministry of Environment to establish an Environmental Tribunal to re-examine environment and natural resource management decisions made under the Environmental Code.
- This Title will also look at other options such as Administrative Tribunals and an Ombudsman or Environmental Commissioner, to review problems and concerns relating to environmental and natural resources decisions. These would be established to be accessible to the community and open and transparent. For example, one matter would be the use of municipal planning tribunals to resolve conflict between planning and land use decisions in the urban context.

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- Legal entity and local-level dispute resolution and grievance mechanisms.
- The mechanisms in this Title will be consistent with international recognized criteria, including legitimate, accessible, predictable, equitable, rights-based, and transparent.

Commented [M208]: Per NGO Forum.

## CHAPTER # ENVIRONMENTAL COMPLAINTS

### CHAPTER # PROCEDURES FOR RESOLUTION OF ENVIRONMENTAL COMPLAINTS

#### SECTION 1 GENERAL PROVISIONS

##### ARTICLE #

Objective

##### ARTICLE #

Scope of Code Application

##### ARTICLE #

General Principle

##### ARTICLE #

Type of Environmental Dispute Resolution

a) Ombudsman or Environmental Commissioner

b) Administrative Tribunal

c) Court

d) Out of Court / Mediation

##### ARTICLE #

Establishing Enforcement Priorities

### CHAPTER # ESTABLISHMENT OF OMBUDSMAN OR ENVIRONMENT COMMISSIONER

**ARTICLE #**

Role of the Ombudsman or Environment Commissioner.

**CHAPTER # ESTABLISHMENT OF ENVIRONMENTAL ADMINISTRATIVE  
TRIBUNAL**

**ARTICLE #**

All citizens may bring complaints before the Administrative Tribunal for breaches of the Environmental Code.

**ARTICLE #**

Rights of review of environmental and natural resources decisions.

**ARTICLE #**

NGOs may assist citizens and communities to bring matters to the Administrative Tribunal.

**ARTICLE #**

Obligation of Administrative Tribunal to hear and determine matters quickly and fairly.

**SECTION 3 RESOLUTION OF ENVIRONMENTAL DISPUTE THROUGH THE  
COURT**

**SECTION 2 TYPE OF ENVIRONMENTAL COMPLAINT**

**ARTICLE #**

Civil Complaints

**ARTICLE #**

Criminal Complaint

**ARTICLE #**

Complaint against Administrative Decision of the Government or Governmental Authorities

**ARTICLE #**

Relation of Civil and Criminal Complaint

#### **SECTION 1 PARTIES OF ENVIRONMENTAL COMPLAINT**

##### **ARTICLE #**

Directly Affected Parties

##### **ARTICLE #**

Participation of Relevant NGOs in Environmental Complaint

##### **ARTICLE #**

The Governmental authorities in the Environmental Complaint

##### **ARTICLE #**

Rights of Affected Parties

##### **ARTICLE #**

Decision of Court

##### **ARTICLE #**

Appeal to Decision of Lower Court to Higher Court

#### **SECTION 4 COMPLAINT AGAINST TO DECISION OF ADMINISTRATION OF GOVERNMENTAL AUTHORITIES**

##### **ARTICLE #**

Right of Affected Natural Person/Legal Entities

##### **ARTICLE #**

Time Limitation of Issuance of Decision on the Complaint

##### **ARTICLE #**

Appeal to Decision of Higher Administration Institute

## SECTION 2 OUT OF COURT RESOLUTION OF ENVIRONMENTAL DISPUTE

### ARTICLE #

Objective

### ARTICLE #

Appointment of Mediator/Arbitrator

### ARTICLE #

Obligation of Government to Create the Environmental Arbitration Institute

### ARTICLE #

Appeal to the Decision of Arbitrator to the Court

## CHAPTER # MONITORING, COMPLIANCE AND CITIZENS RIGHTS TO BRING PROCEEDINGS

### SECTION 1 GENERAL

- a) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against any natural or legal person who violates or fails to comply with the provisions of this Code and its implementing regulations [by emitting restricted substances into the environment, harming protected species, habitats or ecosystems, beginning work without a license on construction or extraction projects that require a license, or any other act that is clearly in violation of this Code].
- b) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against a Minister or Ministry charged with a nondiscretionary duty in this Code to enforce any of the Code's provisions or to create regulations, where the Minister or Ministry has failed to discharge that duty within a reasonable time.
- c) Any plaintiff pursuing an action under Section 1 shall do so for the public good and does

**Commented [KEAPL209]:** A more appropriate approach for Cambodia may be required which recognises that private prosecution is not a concept currently practised under Cambodian law.

not need to be directly impacted.

- d) Any plaintiff pursuing an action under this Section 1 shall do so for the public good and must not receive economic benefit.
- e) An action under this Section 1 shall not affect the rights of any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society in an action for personal injury or damage due to the same conduct that is the subject of a Section 1 complaint.

### SECTION 2 NOTICE

- a) Before any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursues any action under Section 1, they must give notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.
- a)b) A Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing any action under Section 1 must also give notice to
  - i) the relevant Ministry; and
  - ii) the administration of the District in which the violation or failure to comply has occurred.
- c) No action may be commenced under Section 1
  - i) within 30 working days of notice provided under Subsection 2(a) and (b); or
  - ii) if the relevant Ministry or District has commenced and is diligently prosecuting a civil action in Court to require compliance with the Code provision in question.
- d) Notwithstanding Subsections 2(a), 2(b), and 2(c), where the violation of the Code represents a public health or environmental emergency, any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing action under Section 1 may commence any action under Section 1 immediately after giving notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.

### SECTION 3 VENUE

- a) An entity filing a written complaint under Subsection 1(a) must do so with the

Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal.

- b) An entity filing a written complaint under Subsection 1(b) may do so with
  - i) The Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal; or
  - ii) The Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.
- c) Notwithstanding Subsections 3(a) and 3(b), where the violation of a provision of the Code represents a public health or environmental emergency, an entity filing any complaint under Section 1 must do so with the Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.

#### **SECTION 4 PROCEDURE**

- a) An entity filing any written complaint under Section 1 with the Administrative Tribunal must comply with the procedures for the Administrative Tribunal.
- b) Notwithstanding the procedures for the Administrative Tribunal, the Administrative Tribunal must give notice to the public of its acceptance of the action within ten working days of its acceptance.
- c) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Administrative Tribunal to participate in the complaint under Subsection 1(a) within thirty working days of the announcement under Subsection 4(b).
- d) An entity filing a written complaint under Subsection 1(b) of this Code shall do so in compliance with the Code of Civil Procedures.
- e) Notwithstanding the Code of Civil Procedures, the Court shall give notice to the public of its acceptance of an action under Subsection 1(b) within ten working days of its acceptance.
- f) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Court to participate in the complaint under Section III of the Code of Civil Procedures.

#### **SECTION 5 REMEDY, AWARDS AND CIVIL PENALTIES**

- a) The Administrative Tribunal, in issuing any final order in any action brought under Subsection 1(a), may require the natural or legal person to perform its duty under the Code.
- b) The Administrative Tribunal in issuing any final order in any action brought under Subsection 1(a), may have recourse to any appropriate civil penalties.
- c) The Court, in issuing any final order in an action brought under Subsection 1(b) may require the Minister or Ministry to perform its nondiscretionary duty.
- d) The Administrative Tribunal or the Court, upon motion of the complainant, may issue a provisional disposition establishing a provisional status.
- e) The Administrative Tribunal or the Court, in issuing any final order in any action brought under Section 1, may issue an injunction requiring the defendant to stop all illegal activity and to pay for the costs of remedying all of the environmental damage or human injuries resulting from violations of the Code.
- ~~a)f)~~ The administrative tribunal or Court, in issuing any final order in any action brought under Section 1, may require a defendant found to have violated the Environmental Code to pay
  - i) a successful plaintiff's costs of litigation (including reasonable attorney and expert witness fees) to the plaintiff; and/or
  - ii) any fee established by law as a consequence of violating the Code into a special fund for licensing, the costs of the Minister or Ministry as defendant in an action under Subsection 1(b), and other services; and/or
  - iii) any civil penalty to be paid into the fund specified in Subsection 5(f)(ii).
- g) The administrative tribunal or Court, in issuing an order under Subsection 5(f)(iii), shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in Subsection 5(f)(iii), be used in beneficial mitigation projects which are consistent with this Code and enhance the protection of the environment.
- h) The award of costs of litigation to a plaintiff must not be considered an economic benefit to the plaintiff.

#### **SECTION 6 PLAINTIFF'S COSTS**

- a) The Court shall exempt an action under Section 1 from the payment of filing fees until

either the complaint is proven to be without merit or a final order is issued, in which case such fees shall be included as part of a successful plaintiff's costs of litigation under Subsection 4(d)(ii).

#### **SECTION 7 TIME**

- a) Claims raised under Section 1 shall be resolved within one year of filing.

#### **SECTION 8 STRATEGIC LITIGATION TO DETER PUBLIC PARTICIPATION (SLDPP)**

- a) Where a counter-suit is filed or administrative action undertaken against a Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society who has filed an action under Section 1 or has given notice under Section 2, the court or administrative decision-maker must make a determination in not less than thirty working days from the commencement of the counter-suit or action on whether said counter-suit or action is intended to harass, vex, exert undue pressure, or stifle the resources of the entity filing under Section 1 or the entity giving notice under Section 2. If the court or administrative decision-maker makes such a determination supported by evidence, the Court shall dismiss the counter-action or administrative action and award attorney's fees and double damages to the SLDPP defendant.
- b) Subsection 7(a) also applies where a court action is filed or an administrative action undertaken against a government official or entity acting in their official capacity, provided that the court or administrative decision-maker has made a determination based on evidence that the government official or entity was acting in the course of enforcing this Code, and that there was no abuse of authority.

#### **CHAPTER # COMMUNITY DRIVEN OPERATIONAL GRIEVANCE MECHANISMS**

##### **CHAPTER # JUDICIAL POLICE OFFICERS**

##### **ARTICLE #**

Role and Obligation of Judicial Police Officers

##### **ARTICLE #**

Procedure of Qualification of Judicial Police Officers

##### **ARTICLE #**

**Commented [KEAPL210]:** A more appropriate approach for Cambodia may be required which recognises that private prosecution is not a concept currently practised under Cambodian law.

**Commented [KEAPL211]:** Details needed to be provided. Is the formation of such judicial police officers (where enforcement and judiciary are merged) constitutional or permitted under Cambodian law?  
**RECOMMEND**  
MoE to provide details.



Territory of Judicial Police Officers

**ARTICLE #**

Investigation of Environmental Crime of Judicial Police Officers

**ARTICLE #**

Obligation of Relevant Authorities in Co-Operation to Environmental Crime Investigation

**ARTICLE #**

Procedure of Environmental Complaint Compilation

**CHAPTER # ESTABLISHMENT OF ROYAL ACADEMY OF RANGER  
PROFESSIONALS**

**ENVIRONMENTAL OFFENCES AND REMEDIES (PENALTIES)**

- This Title will outline the Environmental Offences that will be subject to possible action under the Civil Code or Criminal Code.
- It will provide an outline for determining which breaches of the Code should be subject to criminal prosecution.
- The Title will identify specific offences and failures to comply with relevant provisions of the Code.
- It will provide options for penalties from fines to imprisonment and remediation orders. It will be based of the work done on the draft EIA Law.

**CHAPTER # BREACH OF ANY PROVISION OF THE ENVIRONMENTAL CODE**

**CHAPTER # PENALTY PROVISIONS**

**CHAPTER # ENVIRONMENTAL IMPACT ASSESSMENT OFFENSES**

**CHAPTER # AIR POLLUTION OFFENSES**

**CHAPTER # CLASSIFICATION OF OFFENSES**

**CHAPTER # TABLE OF PENALTIES FOR OFFENSES**

**CHAPTER # APPLICATION OF CRIMINAL CODE TO ENVIRONMENTAL  
OFFENSES**

**CHAPTER # APPLICATION OF CIVIL PENALTIES FOR ENVIRONMENTAL  
OFFENSES**

**TITLE 2 RESTORATION AND COMPENSATION FOR INJURIES  
TO NATURAL, CULTURAL, HISTORIC AND  
ARCHAEOLOGICAL RESOURCES**

- This Title will provide relevant information about compensation and restoration orders, if a breach of the Code has led to environmental harm or harm to human health.

**CHAPTER 1 GENERAL PROVISIONS AND OBJECTIVES**

**ARTICLE 1**

There is a national interest in restoring and compensating for injuries to resources of Cambodia.

**ARTICLE 2**

Application of the polluter pays principle requires that any person found responsible for any injury to any resources of Cambodia shall be required to restore all such injuries, and or otherwise compensate for all losses resulting therefrom.

**ARTICLE 3**

Timely restoration and just compensation critical to long term well-being of the people of Cambodia.

**CHAPTER 2 LIABILITY PROVISIONS**

**ARTICLE 4**

Liability.

**ARTICLE 5**

Liability in rem (directed towards property).

**ARTICLE 6**

Liability of corporate officials.

**ARTICLE 7**

Joint and several liability.

**ARTICLE 8**

Right to seek contribution from other potentially liable persons.

**CHAPTER 3 DEFENCES AND EXCEPTIONS TO DEFENCES**

**ARTICLE 9**

Defences.

**ARTICLE 10**

Exceptions to defences.

**CHAPTER 4 – ENVIRONMENTAL COMPENSATION**

Commented [KEAPL212]: More detail is requested .

**ARTICLE 11**

Measure of environmental compensation.

**CHAPTER 5 – PARTIES CLAIMANT**

**ARTICLE 12**

Parties who can make claims for Environmental Compensation.

**CHAPTER 5 – RESTORATION PLANNING COUNCIL AND COMPENSATION  
EVALUATION PROCESS**

**ARTICLE 13**

Restoration Planning Council.

**ARTICLE 14**

Duties and authority of the Council

**ARTICLE 15**

Restoration Compensation Evaluation.

**CHAPTER 6 – RESTORATION CONSULTATION AND RESOLUTION**

**ARTICLE 16**

Restoration consultation process.

**CHAPTER 7 – SETTLEMENT REQUIREMENTS AND JUDICIAL STANDARD OF REVIEW**

**ARTICLE 17**

Administrative and judicial resolutions.

**ARTICLE 18**

Judicial standard of review of a restoration compensation claim.

**CHAPTER 8 – ADMINISTRATIVE ORDER AUTHORITY**

**ARTICLE 19**

Authority of the Minister of the Environment to order support of Restoration Compensation Evaluation, and Restoration Council activities.

**ARTICLE 20**

Authority of the Minister of the Environment to order emergency restoration.

**CHAPTER 9 – AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO RECOVER COSTS OF RESTORATION**

**ARTICLE 21**

Notwithstanding any other provision of this Code, the Minister of the Environment may undertake the necessary restoration of injuries to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.

Chapter 10 – Management and Use of Recovered Funds

**Commented [KEAPL213]:** Costs of decommissioning and restoration are already imposed on oil extraction industry. More detail is requested.

#### **ARTICLE 22**

Monies recovered as payment towards or reimbursement of the costs and expenses of Restoration Compensation Evaluation and Restoration Council activities shall be paid directly to the party incurring, or who will be incurring, said costs and expenses, and shall be used for that purpose only.

#### **ARTICLE 23**

Monies recovered for the implementation of restoration shall be held in a special account. (Restoration Implementation Fund).

#### **ARTICLE 24**

Authorization for release of funds.

#### **ARTICLE 25**

Fund Manager shall be personally responsible for maintaining the Restoration Implementation Fund and insuring that all transactions are properly recorded and made available for viewing online.

### **CHAPTER 11 – SCOPE OF TITLE AND RELATIONSHIP OF OTHER ACTIONS**

### **CHAPTER 12 – STATUTE OF LIMITATIONS**

#### **ARTICLE 26**

Statute of limitation for right to claim for environmental compensation.

### **Book 8 BOOK 10 TRANSITIONAL PROVISIONS**

- This Book will provide details of the transitional provisions required to allow the Code to become effective in the shortest period of time.
- It will provide details of how existing protected areas and relevant reserves will be maintained, based on the principles of the Environmental Code, until they have been reviewed and assessed in accordance with the provisions of the Code.
- The development of the Environmental Code should not be used to allow continued environmental destruction during the period that new management plans are being

developed.

- This Book will provide details of the laws and sub-decrees that will be repealed.
- This Book will clarify how the Environmental Code will amend the various existing natural resources laws and laws relating to environmental protection and natural resource management.

## ~~Book 9~~**BOOK 11** FINAL PROVISIONS

Polluter Pays Principle: Reference to “*or will cause environmental pollution*” is problematic and contrary to principle 9 (evidence based decision making). (A) Imposing punitive measures against an action that has not occurred does not have a basis under Cambodian jurisprudence. Claims/damages should only be imposed for a wrong/damage done and not one considered to occur in the future. It is impossible to determine who “*will cause*” environmental pollution and not reasonable to ask companies to pay for reparations if no damage has actually occurred. (B) How is the MoE to establish predictive or pre-emptive liability? What standard/threshold is to be adopted? This principle as found in case law of other jurisdictions does not contain this limb of predictive or pre-emptive liability.

MoE ability to impose “additional screening” in addition to standards already specified in the Code will create uncertainty and be prone to abuse. The Code is intended to be exhaustive and this provision allows MoE to expand its supervisory powers beyond the requirements of the Code. This discretionary power will extend the EIA process. This will further deter investment and development in Cambodia.

#### RECOMMEND

1. The Code is intended to be exhaustive and MoE should not be granted ad hoc powers to impose “additional screening” beyond what is already required in the Code.

2 If such “additional screening” is required, the Code must specify a clear basis for this and specific time limits for the process.

(A) What is meant by “Master Plan”? Does it refer to plan of development as approved by the relevant regulating Ministry? (B) What is the threshold of change in order for the EIA report/approval to be amended? What threshold of change is required for the entire EIA process to be re-started? (C) If the change in the Master Plan results in less environmental impact, there must be a mechanism to expedite the EIA re-approval process to incentivise companies to reduce environmental impact as technology improves.

#### RECOMMEND

1. MoE to provide definition of “Master Plan”.
2. MoE to clarify threshold(s) of change for which EIA reports need to be re-submitted and the EIA approval process to be re-started.
3. MoE to provide for shorter review process/time given that an amendment to a Master Plan is not as major as a fresh new Master Plan.

MoE to provide for expedited review and approval process for changes to Master Plans which reduce in a reduced environmental impact.

(pre-enactment of Code) need to be provided for review. This is a crucial grandfather provision and details need to be provided since all developments in Cambodia will be affected. (B) The provision appears to be require existing projects or projects in operation to conduct EIA reports and abide by the Code. This amounts to retrospective application the Code to projects that were in place before the Code. This must clearly be against Cambodian jurisprudence.

## RECOMMEND

1. Details of the Prakas should be made available before enactment of the Code. The reasonableness and practicality of the Code can only be assessed by reviewing the details of the Prakas.
2. Existing projects or projects in operation all already have some form of EIA approval. These projects should not be required to produce another report or go through another EIA approval process.

Existing projects and projects approved before enacted of the Code should not be subject to the provisions of the Code. Specific grandfather protection provisions need to be incorporated into the Code. Retrospective application of the Code to such pre-existing or pre-approved projects are not in accordance with Cambodian law/jurisprudence.

**Page 49: [5] Commented [KEAPL116]**

**KrisEnergy**

**21/09/2016 16:41:00**

The range/scope of fees are excessive. (B) What are the fee/expense rates? (C) How are the fee/expense rates determined? (E) Given the quest for transparency, are the fee/expense rates published? (D) This is prone to abuse. Reviewers/participants are incentivised to drag out the review process in order to maximise fee earning. (E) How are such fees/expenses paid treated and accounted for by MEF (taxation) and relevant Ministry (eg: MME for oil & gas)?

## RECOMMEND

1. MoE needs to publish details of all fees/expenses and applicable rates in a Prakas or sub-decree that is public. No hidden/arbitrary fees should be permitted. All expenses/fees must not be designed to incentivise delays. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.
2. All fees/expenses actually paid and received should be published in detail.
3. MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such fees/expenses are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/expenses must be agreed by all relevant Ministries in terms of:
  - classification as part of “petroleum operations” in the case of oil and gas sector
  - cost recoverability
  - tax deductibilityetc

**Page 49: [6] Commented [KEAPL117]**

**KrisEnergy**

**21/09/2016 16:41:00**

Which party is responsible for conduct of EMP? (B) What are the fee/expense rates for EMP? (C) How are the fee/expense rates determined? (D) Given the quest for transparency, are the fee/expense rates published? (E) This is prone to abuse. Monitors are incentivised to drag out the monitoring process in order to maximise fee earning. (F) How are such fees/expenses paid treated and accounted for by MEF (taxation) and relevant Ministry (eg: MME for oil & gas)?

## RECOMMEND

1. MoE needs to clarify who is responsible for the conduct of EMP.
2. MoE to publish details of all fees/expenses and applicable rates in a Prakas or sub-decree that is public. No hidden/arbitrary fees should be permitted. All expenses/fees must not be designed to incentivise delays. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.
3. All fees/expenses actually paid and received should be published in detail.



4. MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such fees/expenses are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/expenses must be agreed by all relevant Ministries in terms of:

- classification as part of “petroleum operations” in the case of oil and gas sector
- cost recoverability
- tax deductibility

etc

**Page 49: [7] Commented [KEAPL118]**

**KrisEnergy**

**21/09/2016 16:41:00**

This is excessive! What exactly is expected by MoE? Such payments are unreasonable and without basis. Are such deposits refundable? What is the deposit used for? If the company has met the requirements for EIA approval and put in place an EMP, what is the basis for the levy of a reserve/insurance deposit? Who manages the deposit? What security does MoE provide in ensuring that the deposit is available for use or refund at the end of the project? This is a form of indirect taxation and will only serve to discourage/deter much needed investment and development in Cambodia.

#### RECOMMEND

1. purpose/details of this provision.
2. All requirements for deposits should be removed.
3. MoE to publish details of all deposits (and managers of such deposits) in a Prakas or sub-decree that is public. Deposits should not be at the discretion of the MoE. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.
4. MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such deposits/payments are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/expenses must be agreed by all relevant Ministries in terms of:

- classification as part of “petroleum operations” in the case of oil and gas sector
- cost recoverability
- tax deductibility

etc

**Page 59: [8] Commented [KEAPL145]**

**KrisEnergy**

**21/09/2016 16:41:00**

Many of the Chapter headings indicate an overlap with existing MME Legislation. For example:

- Financial and economic arrangements to ensure proper site management;
- Restoration of sites
- Licensing and permitting following EIA approval
- Rehabilitation and closure plans
- Financing remediation and restoration

Is this section limited to environmental matters or does it extend further into the extractive industries? If so, the Code would be stepping outside its scope and engaging in matters best left to the industry regulator, MME.

#### RECOMMEND

1. MoE to provide details.

2. Decommissioning in the oil and gas industry is already regulated by the MME. This covers site restoration and rehabilitation etc. This overlap will cause confusion.
3. We will need more detail on licensing and permitting following EIA approval. The EIA should be comprehensive enough to include most permissions.

|                                      |              |                            |
|--------------------------------------|--------------|----------------------------|
| <b>Page 59: [9] Commented [M149]</b> | <b>Megan</b> | <b>21/09/2016 16:41:00</b> |
|--------------------------------------|--------------|----------------------------|

Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

**Environmental Code Analysis**

**Submitted by: KrisEnergy**

**Dated: 21 September 2016** (Originated: 18 July 2016)

**Legend:**

**J:** jurisdictional overlap

**U:** unnecessary as duplicated elsewhere

**A:** not adopted for local conditions

**W:** wrong/flawed basis

**C:** lack of clarity/certainty

**\$:** excessive/unjustified fees

| No. | Code Ref.                | Issue – Details   | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis                                      |
|-----|--------------------------|---|------------------------|--|-------------------|---|
| 1.  | Book 1, Chapt. 1, Art. 4 | <b>J + W</b><br><u>Applicable Entities:</u> Reference to international treaties prevailing is inconsistent with Cambodian legislative process. International treaties signed by Cambodia have to be first adopted/ratified by Cambodian legislative body before application within Cambodia. Current draft could be a derogation of Cambodia's sovereign/legislative process. |                        | 1. Policy level review needs to be done to assess how (a) international treaties are to be implemented in Cambodia and (b) overlapping Ministries managing the relevant international treaty.<br>2. Adoption of any international treaty requires specific adoption/ratification by Cambodian legislative body, especially when such treaty may conflict with existing laws/regulations. | See mark-up.      | Will be addressed during legal review.                      |
| 2.  | Book 1 Chapt. 2          | <b>J + A</b><br><u>Principles:</u> The chapter is an adoption of principles without taking into account the local context and developmental requirements of Cambodia.   |                        | The principles to be adopted should be tailored to suit the local requirements and developmental needs of Cambodia. The principles described are distilled from jurisprudence and case law of more established jurisdictions where those countries   |                   | Note: Will send copy of the principles document. Principles |

| No. | Code Ref.                    | Issue – Details   | Comparative Experience | Recommendations  | Proposed Language  | Drafting Team Analysis   |
|-----|------------------------------|---|------------------------|--|--|--|
|     |                              |   |                        | have attained high levels of development with substantially lower levels of poverty.   |  | do take into account Cambodian legal norms and practice.                 |
| 3.  | Book 1<br>Chapt. 2<br>Art. 1 | <b>J + A</b><br><u>Principle of Public Participation:</u> This adoption of FPIC (free, prior, informed consultation) principle should be tempered with the Government's need to bring development to the entire country against the needs of small affected communities.                                |                        | This concept of FPIC (free, prior, informed consultation) should be clarified as one of consultation and not consent.  | References to "consent" or "decision-making" should be replaced with "consultation". | FPIC is an international principle which includes consent.               |
| 4.  | Book 1<br>Chapt. 2<br>Art. 2 | <b>J + A</b><br><u>Principle of Access to Information:</u> While we have no issue with disclosure and granting access to information, we are under confidentiality obligation to the Government (under relevant licence/petroleum agreement) to only provide information if approved by the Government. |                        | 1. Affected Ministries with control over relevant companies/persons (eg: MME for the oil & gas sector) need to coordinate with MoE to avoid inconsistent/conflicting laws and obligations.<br>2. Limit the access to information directly related to environmental matters only. |  | We will draft a specific provision dealing with confidential information |
| 5.  | Book 1<br>Chapt. 2<br>Art. 3 | <b>J + A</b><br><u>Principle of Access to Effective Remedies:</u> Setting up a separate judicial/enforcement body under the Code will only create more  |                        | This principle needs to be aligned with the Cambodian Constitution and laws as the legal/judicial framework within Cambodia already exists.  |  | Not proposed to set up a separate judicial                               |

| No. | Code Ref.                    | Issue – Details  | Comparative Experience | Recommendations  | Proposed Language                              | Drafting Team Analysis   |
|-----|------------------------------|--|------------------------|--|--|--|
|     |                              | inconsistencies and possibly be contrary to the Constitution.  |                        |  |  | body.<br>Access to remedies will be in accordance with the Constitution. |
| 6.  | Book 1<br>Chapt. 2<br>Art. 4 | <p><b>J + A + W</b></p> <p><u>Polluter Pays Principle</u>: Reference to “<i>or will cause environmental pollution</i>” is problematic and contrary to principle 9 (evidence based decision making). (A) Imposing punitive measures against an action that has not occurred does not have a basis under Cambodian jurisprudence. Claims/damages should only be imposed for a wrong/damage done and not one considered to occur in the future. It is impossible to determine who “<i>will cause</i>” environmental pollution and not reasonable to ask companies to pay for reparations if no damage has actually occurred. (B) How is the MoE to establish predictive or pre-emptive liability? What standard/threshold is to be adopted? This principle as found in case law of other jurisdictions does not contain this limb of predictive or pre-emptive liability.</p> |                        | Damage that may happen is already covered in principle 6 (Prevention Principle). | Delete “or will cause environmental pollution” | This has been amended to reflect this comment.                           |

| No. | Code Ref.                    | Issue – Details   | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis  |
|-----|------------------------------|---|------------------------|--|-------------------|---|
| 7.  | Book 1<br>Chapt. 2<br>Art. 5 | <b>J + A + W</b><br><u>Precautionary Principle</u> : (A) The concept that a development can be stopped for concerns that cannot be supported given “ <i>lack of full scientific certainty</i> ” will set back Cambodia’s desire to develop its economy and people. (B) A principle that is not based on any scientific basis is contrary to principle 9 (evidence based decision making). (C) If scientific basis is not a standard to be adopted, what standard does MoE intend to apply that is able to balance the needs of development of the entire country against the fears of a small group that is not based on science or evidence? |                        | 1. Concerns about any development will already be addressed in the EIA process and in principle 6 (prevention).<br>2. This principle should be deleted for now. It can be introduced in the future once more development has occurred in Cambodia’s economy and its body of case law dealing with environmental matters.                                     | Delete            | This is principle of international environmental law and does not conflict with other principles. |
| 8.  | Book 1<br>Chapt. 2<br>Art. 7 | <b>J + A + C</b><br><u>Intergenerational Equity principle</u> : What is meant by “ <i>ecosystem services</i> ”?   |                        | MoE to provide definition for “ <i>ecosystem services</i> ”.   |                   | Definition will be developed.   |
| 9.  | Book 1<br>Chapt. 2<br>Art. 8 | <b>A + C</b><br><u>Principle of Environmental Liability</u> : If liability is to cover the cost of the ecosystem, how is the “ <i>cost of ecosystem</i> ” to be determined?   |                        | 1. MoEo to provide clarity/basis of who “cost of ecosystem” is to be determined.<br>2. If the “cost of ecosystem” valuation methodology is to be adopted, then this amount has to be set-off against the cumulative benefits brought on by the development to country, economy, environment, etc. For example, waters around offshore oil platforms are well |                   | To be considered.   |

| No. | Code Ref.                     | Issue – Details   | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis   |
|-----|-------------------------------|---|------------------------|---|-------------------|--|
|     |                               |   |                        | known for improving marine flora and fauna.   |                   |  |
| 10. | Book 1<br>Chapt. 2<br>Art. 8  | <b>J + A + W</b><br><u>Principle of Environmental Liability:</u> (A) The imposition of “strict liability without the need for proof of fault and can be joint and several” is unprecedented. It is not found in the region and possibly contravenes Cambodian jurisprudence on the need to establish proof and culpability in order for punitive measures to be imposed. (B) This strict-liability-without-proof concept is unreasonable, unfair and is contrary to principle 9 (evidence based decision making). |                        | The sentence “ <i>strict liability without the need for proof of fault and can be joint and several</i> ” should be deleted.  | Delete sentence.  | Deleted from principle definition.                                       |
| 11. | Book 1<br>Chapt. 2<br>Art. 10 | <b>J + A + W</b><br><u>Principle of Gender Equality:</u> (A) While gender equality is important, it is not relevant in the Environmental Code which deals with environmental matters and not women’s affairs. (B) This overlaps with the remit/jurisdiction of the Ministry of Women’s Affairs.   |                        | 1. This principle should be deleted as it not relevant to the Environmental Code.<br>2. Gender Equality is an important issue and should be addressed in a stand-alone legislation designed to protect women and recognise legal protection and rights for women. For example, a Women’s Charter, etc. This should be addressed by the Ministry of Women’s Affairs and not the MoE. | Delete            | Principles document provides rationale for this environmental principle. |
| 12. | Book 1<br>Chapt. 2            | <u>Principle of Integration,</u><br><u>Principle of Public Trust</u>  |                        | These principles are not clearly understood .<br>MoE to provide greater clarity to these .  |                   | To be considered   |

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|     | Art 11,12,13, 14 | <b><u>Principle of public interest in protecting the environment vs. private interest</u></b><br><b><u>Principle of User Pays</u></b>  |                        |  |                   |   |
| 13. | Chapt. 3         | <b>A + W + C</b><br><b><u>General Duty to Avoid Environmental Harm:</u></b><br>It must be recognised that all human activity will impact the environment. A blanket statement that a “ <i>person must not carry out any activity that causes, or is likely to cause, environmental harm</i> ” is unrealistic and would almost mean a standstill on development in Cambodia. This must be tempered with the Government’s need to bring development to the entire country against the needs of small affected communities. |                        | We recommend reinserting the deleted words “ <i>unless the person takes all reasonable and practicable measures to prevent or minimize harm</i> ”.   | See mark-up.      | Revised to add “significant” to the harm. and reinserted this text. |
| 14. | Chapt. 4         | <b>J + W + C</b><br><b><u>International Environmental Agreements:</u></b><br>Cambodia’s commitment to implement international/regional agreements should be determined by the Cambodian legislative body in accordance with Cambodia’s legislative process and not automatically mandated by the Code. Current draft could be a derogation of Cambodia’s sovereign/legislative process.  |                        | 1. Policy level review needs to be done to assess how (a) international treaties are to be implemented in Cambodia and (b) overlapping Ministries managing the relevant international treaty.<br>2. Adoption of any international treaty requires specific adoption/ratification by Cambodian legislative body, especially when such treaty may conflict with existing laws/regulations. | See mark-up.      | This is a matter for further legal review.                          |
| 15. | Title 2          | <b>J + A</b>   |                        | The Ministry of Women’s Affairs should be included in this process if the MoE wants to   |                   | Will invite review by   |



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|     |                     | <p><u>Organisation of Jurisdictional Institutions/Issues:</u> If gender equality is a goal of MoE, then the Ministry of Women's Affairs should be part of the process.</p> <p>If environmental education is a goal of MoE, then the Ministry of Education should be part of the process.</p>       |                        | <p>extend the ambit of the Code to include gender equality.</p> <p>The Ministry of Education should be included in the this process is the MoE wants to extend the ambit of the Code to include environmental education.</p>   |                   | other ministries' gender specialists, including Ministry of Women's Affairs.                        |
| 16. | Title 2<br>Chapt. # | <p><b>J + A + \$</b></p> <p><u>Relevant environmental interactions between the Ministry of Environment and the Ministry of Mines and Energy:</u> There are no details on how MME and MoE are intended to interact and which areas are overlapping.</p>   |                        | All overlapping areas between MoE and MME need to be addressed to ensure consistency and workability. All expenses incurred by companies in respect of such areas need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, cost recoverability, tax deductibility, management of funds, etc. |                   | In development / in analysis. Will provide appropriate inter-ministerial procedures and structures. |
| 17. | Title 2<br>Chapt. # | <p><b>J + A + \$ + C</b></p> <p><u>Relevant environmental interactions between the Ministry of Environment and the Ministry of Economy &amp; Finance:</u> This chapter is missing and should be included. Details on how MEF and MoE are intended to interact and which areas are overlapping.</p> |                        | All overlapping areas between MoE and MEF need to be addressed to ensure consistency and workability. All expenses incurred by companies in respect of such areas need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, cost recoverability, tax deductibility, management of funds, etc. |                   | Overlapping areas between MOE and MEF for the Code are being addressed.                             |

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| 18. | Title 2<br>Chapt. #           | <b>J + A</b><br><u>Central repository of government environmental information:</u> While we have no issue with disclosure and granting access to information, we are under confidentiality obligation to the Government (under relevant licence/petroleum agreement) to only provide information if approved by the Government.  |                        | 1. Affected Ministries with control over relevant companies/persons (eg: MME for the oil & gas sector) need to coordinate with MoE to avoid inconsistent/conflicting laws and obligations.<br>2. Limit the access to information directly related to environmental matters only. |                   | Agree.   |
| 19. | Title 3<br>Chapt. #<br>Art. # | <b>J + A + W</b><br><u>Public consultation a fundamental requirement for environmental decisions:</u><br>Statement that “community would have the opportunity to participate in project monitoring” is not feasible or safe (eg: offshore oil and gas development). How would the community be involved in project monitoring? The community at large is not trained in environmental matters. This could lead to abuse by the public. |                        | Project monitoring should be left to qualified experts given the safety and insurance issues involved. The results of such monitoring can be made public for the entire community/country to review.   | See mark-up       | Monitoring can be for experts but public participation can be involved in considering the results. |
| 20. | Title 3<br>Chapt. #<br>Art. # | <b>J + A + W + C</b><br><u>Public consultation a fundamental requirement for environmental decisions:</u><br>The public participation process is to be determined by the MoE Prakas. Draft Prakas needs to be provided.  |                        | Details of the Prakas should be made available before enactment of the Code. The reasonableness and practicality of the Code can only be assessed by reviewing the details of the Prakas.  |                   | Noted  |

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| 21. | Title 3<br>Chapt. # | <p><b>J + A + W + C</b></p> <p><u>Chapter # - Minimum time allowed for public consultation in natural resources matters</u></p> <p><u>Chapter # - Minimum time allowed for public consultation in EIA matters</u></p> <p><u>Chapter # - Minimum time allowed for indigenous people to provide comments</u></p> <p>Details needs to be provided. Time allotted for public consultation will delay project execution and adversely affect the feasibility of any development.</p> |                        | Maximum time limits also need to be specified to prevent the consultation process to be prolonged and abused. All developments are constrained by time and a prolonged and unpredictable consultation process will discourage much needed investment/development in Cambodia. | See mark-up  | Suggest in accordance with NSW legislation that the failure to determine the project with the specific time can be considered a “deemed refusal” of the project. |
| 22. | Title 3<br>Chapt. # | <p><b>J + A</b></p> <p><u>Free, prior and informed consent for indigenous people in natural resources and environmental impact assessment matters:</u></p> <p>The adoption of “<i>free, prior and informed consent</i>” principle should be tempered with the Government’s need to bring development to the entire country against the needs of small affected communities.</p>   |                        | This concept of FPIC (free, prior, informed consultation) should be clarified as one of consultation and not consent. This could lead to abuse by the people.   | References to “consent” should be replaced with “consultation” | This is not in accordance with international law.  |

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| 23. | Title 3<br>Chapt. # | <p><b>J + A + W</b></p> <p><u>Free, prior and informed consent for indigenous people in natural resources and environmental impact assessment matters:</u></p> <p>Last paragraph, which states that where the project-affected community disagrees with the mitigation measures proposed by the Project Proponent, the development project still continues however “<i>the Project Proponent shall seek other appropriate mitigation measures or provide resolution of the impacts to the affected community</i>”.</p> <p>This is subjective and open to abuse.</p> |                        | <p>If a project has been reviewed and approved, the community should not be able to request other mitigation measures or provide resolution.</p> <p>If the experts have approved the project, the project should proceed.</p>  |                   | Amended.  |
| 24. | Title 3<br>Chapt. # | <p><b>J + A + \$ + C</b></p> <p><u>Free, prior and informed consent for indigenous people in natural resources and environmental impact assessment matters:</u></p> <p>Details for compensation for impacted community is to be determined by the MoE Prakas. Draft Prakas needs to be provided.</p>  |                        | <p>Details of the Prakas should be made available before enactment of the Code. The reasonableness and practicality of the compensation mechanism reviewing the details of the Prakas.</p> <p>Furthermore, all expenses incurred by companies in respect of such areas need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, the nature of cost recoverability and tax deductibility and whether such compensation is considered part of development operations needs to be ascertained and made clear.</p> |                   | This has no application for off-shore projects. |

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| 25. | Title 4<br>Chapt. #<br>Art. # | <b>J + A + W</b><br><u>Public participation in environmental monitoring and gathering of information – development of shared or open-source systems:</u> Public participation in “environmental monitoring” is not feasible or safe (eg: offshore oil and gas development). How would the public be involved in project monitoring? The public at large is not trained in environmental matters. This could lead to abuse by the public. |                        | Project monitoring should be left to qualified experts given the safety and insurance issues involved. The results of such monitoring can be made public for the entire public/country to review. |                   | Noted.   |
| 26. | Book 2<br>Title 5 Art #       | <b>J + A + C</b><br><u>Individual pollutant discharge standards to be set in the code</u><br><u>Individual pollutant discharge standards to be set by the relevant ministry</u><br>Details for such standards need to be provided for review. Standards for gas emissions and water discharge are particularly important for offshore oil and gas projects.  |                        | MoE needs to provide details for such standards for review.   |                   | These are being developed.                     |
| 27. | Book 2<br>Title 5 Art #       | <b>U + C</b><br><u>Relationship to EIA Law:</u> What is the relevance of EIA Law? Will there be a separate EIA Law? The Environmental Code is intended to be a codification of all environmental laws/regulations in   |                        | There should not be a separate EIA Law as the Environmental Code is intended to be a codification of all environmental laws/regulations in Cambodia.  |                   | The EIA Title will replace the EIA Sub-Decree. |

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|     |                                | Cambodia. So there should not be a need for another EIA Law which could lead to inconsistencies and conflicts.   |                        |  |                   |  |
| 28. | Book 2<br>Title 6 & 7          | <p><b>U + A + C</b></p> <p><u>Strategic Environmental Assessment:</u></p> <p>(A) There seems to be significant overlap between SEAs and EIAs. What is the relevance of having both? (B) What is the relation between SEA and EIA? (C) Which is to be done first – SEA or EIA? (D) What if an EIA is approved by a SEA is not? (E) Which Ministry is tasked with managing and coordinating the SEA? (F) What law/rule compels other Ministries/bodies to work with the coordinating Ministry on SEA? (G) The relevant government institution is required to ensure “all options are available for consideration and amendment”. What is meant by “all options”? Who is responsible for compiling “all options”? (H) What are the minimum and maximum time limits for the SEA process?</p> |                        | <p>1. Given the overlap between SEAs and EIAs, MoE needs to clarify in the Code how they will work together and in what context a SEA will be required. Uncertainty/delays over the process will only discourage much needed development.</p> <p>2. MoE needs to clarify how the coordinating Ministry is to be determined and what powers that coordinating Ministry has to compel other Ministries/bodies to work with it on the SEA. Without specification/clarity of leadership, the SEA process will be unduly delayed and disorganised.</p> <p>3. MoE needs to clarify what role (if any) an individual company has in participating in SEAs.</p> <p>4. MoE needs to specify clear guidelines on minimum and maximum time limits for the SEA process to avoid uncertainty and delays.</p> <p>5. MoE needs to clarify what is meant by “all options” and the standards of fulfilling that obligation.</p> |                   | SEA and EIA do not overlap. SEA deals with plans and programmes. EIA deals with projects and activities. A Master Plan may be able to reduce the need for EIA in many circumstances. |
| 29. | Book 2<br>Title 5<br>Art # (5) | <p><b>W + C</b></p> <p><u>Responsibility of Ministry of Environment in EIA:</u> Sub-article 5 grants MoE broad powers of search and seizure. This is open to abuse.</p>  |                        | <p>1. Limits and procedures need to be specified in respect of powers of search and seizure.</p> <p>2. These powers should be assessed against Cambodia’s criminal procedure code or</p>   |                   | Noted.   |

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|     |                               |   |                        | equivalent law which sets out procedures/thresholds for search and seizure in normal criminal matters.   |                   |   |
| 30. | Book 2<br>Title 7<br>Art #(6) | <b>W + C</b><br><u>Responsibility of Ministry of Environment in EIA:</u> Sub-article 6 grants MoE broad powers of require environmental compliance assessment meetings with directors/representatives/staff at least once a year. This seems excessive and open to abuse.   |                        | Frequency of meetings should only be mandated if breaches have occurred or monitored results are close to set limits.  |                   | Noted.  |
| 31. | Book 2<br>Title 7<br>Art #    | <b>A + W + C</b><br><u>Registration of EIA experts:</u> (A) EIA consultants should be under the supervision of MoE and not “ <i>management of MoE</i> ”. EIA consultants are independent of MoE, so not under MoE’s management. (B) The requirement for project team leader to have Khmer nationality may not be feasible given the lack of proper EIA consultancies within Cambodia. Khmerisation of the EIA consultant should be deferred under the environmental sector in Cambodia is more established. (C) Requiring use of EIA consultants with only Khmer project leaders (without regard for relevant knowledge and experience) will at this stage increase cost of EIA compliance and decrease the efficacy of the Code. International investors will need |                        | As there is insufficient local expertise to attain project leader status, the Khmerisation requirement should be applied towards having some Khmer staff in the EIA consultant and not the project team leader role. If the MoE wishes to enhance the level of EIA competence in Cambodia, the panel of EIA consultants should be open to international experts but require the use of some local staff. |                   | International experts and firms should be able to register and conduct IEE and EIA. |

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|     |                            | to have appropriate insurance in place before commencing development. Such insurance will require EIA report/compliance performed and certified by international standards that such insurers require (and such standards do not mandate the use of Khmer project leaders). If the EIA consultants mandated by MoE are not on the approved panel of insurers, international investors will need to commission separate EIA consultants that meet the standards of insurers. This will result in the engagement of 2 consultants for the same job. |                        |  |                   |   |
| 32. | Book 2<br>Title 7<br>Art # | <b>J + W + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u> The last sentence “ <i>licenses, permission letters, or decisions that are in contradiction to the spirit of this provision are considered null and void</i> ” is unreasonably wide and unclear (ie: “spirit”).  |                        | 1. Given the consequence of “null and void”, the trigger for this provision should be “contradiction to the <b>terms</b> of this provision” and not “spirit”.<br>2. Provision should be clarified that it is subject to other provisions in the Code – for example: state sanctioned projects, projects approved or in place before the enactment of the Code.                           |                   | Amended.                                    |
| 33. | Book 2<br>Title 7<br>Art # | <b>J + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u> In the provision that the Code does not apply to “ <i>State’s development projects</i> ” or “ <i>State activities that have been approved by the</i>   |                        | MoE needs to clarify what is meant by the exemptions for “ <i>State’s development projects</i> ” or “ <i>State activities that have been approved by the government or the National Assembly</i> ”. For example, for oil and gas projects, development of oil and gas resource can be construed as “ <i>State’s development projects</i> ” since the oil/gas resource ultimately belongs |                   | Noted. Will include in definitions section. |



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|     |                            | <i>government or the National Assembly”, the scope of this exemption is not clear.</i>  |                        | to the State and the companies involved are contracted by the State to implement its development/production.  |                   |   |
| 34. | Book 2<br>Title 7<br>Art # | <b>J + U + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u> Provision specifies that Environmental Protection Agreement (EPA) is needed. This seems unnecessary and unclear. If EIA standards are met with approved mitigation and the Code exhaustively states the environmental obligations of all parties, why should there be a need for EPA? EPA is redundant and is prone to abuse as additional obligations not required in the Code may be included in the EPA in order for EIA permit to be attained. |                        | Unless MoE has good justifications for it, the EPA requirement should be deleted.   |                   | The EPA covers projects with limited impact but which may still require an EMP or a pollution permit. |
| 35. | Book 2<br>Title 7<br>Art # | <b>U + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u> MoE ability to impose “additional screening” in addition to standards already specified in the Code will create uncertainty and be prone to abuse. The Code is intended to be exhaustive and this provision allows MoE to expand its supervisory powers beyond the requirements of the Code. This discretionary power will extend the EIA  |                        | <ol style="list-style-type: none"> <li>1. The Code is intended to be exhaustive and MoE should not be granted ad hoc powers to impose “additional screening” beyond what is already required in the Code.</li> <li>2. If such “additional screening” is required, the Code must specify a clear basis for this and specific time limits for the process.</li> </ol> |                   | Noted. The aim of EIA is to ensure that projects likely to “significantly affect the environment”     |

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|     |                              | process. This will further deter investment and development in Cambodia.   |                        |  |                   | conduct EIA.           |
| 36. | Book 2<br>Title 7<br>Art #   | <b>U + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u><br>Provision dealing with “transfer or changes to the Project Proponent”. This provision is unclear. Does “transfer or changes to the Project Proponent” deal with transfer of project management from one party to another or does it deal with changes in control of the Project Proponent (eg: change in shareholding, etc). |                        | MoE to clarify provision (eg: definitions, purpose, consequence, etc).   |                   | Noted                  |
| 37. | Book 2<br>Title 7<br>Art. 16 | <b>U + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u><br>Provision setting out when IEE reports are needed.   |                        | 1. MoE needs to clarify in the Code when IEEs are needed. It should be made clear when IEEs are not needed. For example, for the oil and gas upstream sector, IEEs should not be needed as exploration and development activities will require EIAs. Conducting IEE and then EIA will only unnecessarily increase costs and time.<br>2. MoE needs to provide draft of sub-decree setting out IEE projects. |                   | This is understood.    |
| 38. | Book 2<br>Title 7<br>Art. #  | <b>U + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u><br>Provision setting out when EIA reports are needed.   |                        | 1. MoE needs to clarify in the Code when EIAs are needed. If EIA is needed, it should be made clear that IEE will not be needed. For example, for the oil and gas upstream sector, IEEs should not be needed as exploration and development activities will  |                   | This is understood.    |

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|     |                             |   |                        | require EIAs. Conducting IEE and then EIA will only unnecessarily increase costs and time.<br>2. MoE needs to provide draft of Annexure 1 setting out IEE projects.   |                   |   |
| 39. | Book 2<br>Title 7<br>Art. # | <b>U + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u><br>Provision describing the “terms of reference” for the EIA consultant is unclear.  |                        | 1. A template terms of reference (with space for customisation for individual projects) should be adopted. This is to avoid redrafting much of the ToR for each project. This will provide clarity to investors.<br>2. All guidelines of MoE for the ToR should be incorporated into the Code or done via Prakas. Current draft of “any provisions of guidelines of MoE” will make the EIA process arbitrary and unpredictable. |                   | Noted.  |
| 40. | Book 2<br>Title 7<br>Art. # | <b>\$ + U + C</b><br><u>Levels of assessment will include EIA, IEE or environmental protection agreement:</u><br>Provision dealing with Environmental Protection Agreement (EPA).<br><br>(A) Provision specifies that Environmental Protection Agreement (EPA) is needed. This seems unnecessary and unclear. If EIA standards are met with approved mitigation and the Code exhaustively states the environmental obligations of all parties, why should there be a need for EPA? EPA is redundant and is prone to abuse (eg: arbitrary fees imposed on prior EPAs with no legislative/regulatory basis) as additional |                        | The EPA requirement should be deleted.  |                   | The EPA covers projects with limited impact but which may still require an EMP or a pollution permit. |

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|     |                               | obligations not required in the Code may be included in the EPA in order for EIA permit to be attained. (B) The provision goes on to mention that EPA will be needed for projects with little negative impact. In such cases, an EPA is even more redundant as any residual environmental obligation is far better addressed in the Code than in an EPA.   |                        |  |                   |   |
| 41. | Book 2<br>Title 7<br>Chapt. # | <p><b>\$ + J + U + C</b></p> <p><u>Establishment of EIA Review Committee:</u><br/>Provision specifying that “<i>Review Committee shall be reimbursed for the services based on an agreement between MoE, each member and Project Proponent</i>”. (A) The costs of such review should be borne by MoE as it is part of its role. (B) Whenever fees are made on an ad hoc basis with negotiations between the parties, it will be prone to abuse since this is in relation to an approval process.</p> |                        | <p>1. The costs of any review should be borne by MoE. The review is part of MoE’s role. Oil and gas companies are subject to higher tax rates (plus excess profits tax) in Cambodia. This higher taxation forms part of the Government’s revenue base to handle the cost of review.</p> <p>2. If fees are to be paid by the companies, the fees should be nominal and fixed. This is for certainty, cost control and transparency.</p> <p>3. MoE must work with MME and MEF on the classification of such fees. Fees to be paid by companies need to be properly classified and managed given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, the nature of cost recoverability and tax deductibility and whether such compensation is considered part of development operations needs to be ascertained and made clear.</p> |                   | This is a matter for negotiation between MoE and MEF. |

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| 42. | Book 2<br>Title 7<br>Chapt. # | <p><b>U + C</b></p> <p><u>Timeframes for EIA and IEE procedure:</u><br/>Provision specifying minimum time for public review of EPA, IEE and EIA.</p> <p>More details needs to be provided.<br/>Excessive time allotted for public exhibition may delay project execution and adversely affect the feasibility of any development.</p>  |                        | Maximum time limits also need to be specified to avoid process being unnecessarily prolonged and abused. All developments are constrained by time and a prolonged and unpredictable process will discourage much needed investment/development in Cambodia.  |                   | See above. A maximum time limit is inconsistent with the provisions of the Environmental Code and environmental governance.                 |
| 43. | Book 2<br>Title 7<br>Art. 24  | <p><b>\$ + W + C</b></p> <p><u>Timeframes for EIA and IEE procedure:</u><br/>Provision details 90-day review period.</p> <p>(A) The determination made by MoE at the end of the 90-day review period should be definitive and not just comments without a clear determination. This is to avoid delays in the process. (B) The 90-day review process restarts every time an instruction is given by MoE. This is cumbersome and will prolong the review process.</p> |                        | <p>1. At the end of the 90-day review process, the determination of MoE should be definitive and limited to either (a) rejection (b) approval or (c) order to make modifications/improvements. MoE should not be permitted to make comments (which do not amount to a clear determination) at the end of the 90-day review period.</p> <p>2. The 90-day review period should not be restarted by MoE. MoE should be required to provide all instructions at one time to avoid restarting the 90-day review period.</p> |                   | It is the obligation of the MoE to ensure that all matters are considered. It is the obligation of the EIA Consultant to provide timely and |

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|     |                             |   |                        |   |                   | clear responses.       |
| 44. | Book 2<br>Title 7 Art. #    | <p><b>\$ + W + C</b></p> <p><u>Preparation of Environmental Management Plan:</u> Project-affected persons and all stakeholders shall have the right to report issues and grievances of environmental and social concerns to the Project Proponent and to petition competent authorities.</p> <p>There is insufficient detail on how the reporting and grievance mechanism is to be addressed.</p>   |                        | Details and certainty need to be provided by MoE to prevent abuse and harassment. |                   | Noted.                 |
| 45. | Book 2<br>Title 7<br>Art. # | <p><b>\$ + J + U + C</b></p> <p><u>Revision of EIA Report:</u> Provision stating that EIA approval letter and certificate should include Environmental Protection Agreement (EPA).</p> <p>Inclusion of Environmental Protection Agreement (EPA) seems unnecessary and unclear. If EIA standards are met with approved mitigation and the Code exhaustively states the environmental obligations of all parties, why should there be a need for EPA? EPA is redundant and is prone to abuse (eg: arbitrary fees imposed on prior EPAs with no legislative/regulatory basis) as additional obligations not required</p> |                        | The EPA requirement should be deleted.  |                   | See above.             |

| No. | Code Ref.                   | Issue – Details   | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis   |
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|     |                             | in the Code may be included in the EPA in order for EIA permit to be attained.  |                        |  |                   |  |
| 46. | Book 2<br>Title 7<br>Art. # | <b>U + C</b><br><u>Revision of EIA Report:</u> Provision stating that “where the MoE rejects an IEE or EIA report, the MoE shall provide the reasons for the decision”.<br><br>Will there be an appeal mechanism?   |                        | MoE to include details on appeal process. This is especially important if the Review Committee have made an error or relied on erroneous materials.  |                   | Noted.   |
| 47. | Book 2<br>Title 7Art.<br>#  | <b>J + C</b><br><u>Prohibition of activities without EIA approval letter:</u> MoE has the power to postpone all construction activities or project operations that do not have an EIA Approval Letter and Certificate. This cessation power is rather wide and the current draft not distinguish between preparatory work (eg: setting up supply base, office, etc) and work that has a material impact on the environment. |                        | MoE’s powers of suspension/cessation should be limited to work/operations that materially impact the environment and not apply to preparatory work or work that is ordinarily conducted by regular business (eg: setting up supply base, office, etc). |                   | This is to ensure that all projects and activities comply with the Environmental Code. |
| 48. | Book 2<br>Title 7<br>Art. # | <b>J + C</b><br><u>Prohibition of activities without EIA approval letter:</u> Provision dealing with validity period of EIA Approval Letter and Certificate, specifies that validity shall be for the “life cycle of the project”. Given the importance of the EIA approval, the validity period should be clarified in more detail.  |                        | The EIA approval should be valid for the duration of the life cycle of the project or the duration of the production period (including any extension) for the relevant petroleum licence/permit.   |                   | Noted.   |

| No. | Code Ref.                   | Issue – Details   | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis  |
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| 49. | Book 2<br>Title 7<br>Art. # | <p><b>J + C</b></p> <p><u>Prohibition of activities without EIA approval letter:</u> Provision specifies that EIA report/approval may need to be updated if changes are made to the Master Plan. (A) What is meant by “Master Plan”? Does it refer to plan of development as approved by the relevant regulating Ministry? (B) What is the threshold of change in order for the EIA report/approval to be amended? What threshold of change is required for the entire EIA process to be re-started? (C) If the change in the Master Plan results in less environmental impact, there must be a mechanism to expedite the EIA re-approval process to incentivise companies to reduce environmental impact as technology improves.</p> |                        | <ol style="list-style-type: none"> <li>1. MoE to provide definition of “Master Plan”.</li> <li>2. MoE to clarify threshold(s) of change for which EIA reports need to be re-submitted and the EIA approval process to be re-started.</li> <li>3. MoE to provide for shorter review process/time given that an amendment to a Master Plan is not as major as a fresh new Master Plan.</li> <li>4. MoE to provide for expedited review and approval process for changes to Master Plans which reduce in a reduced environmental impact.</li> </ol>    |                   | This needs to be further considered and detailed.   |
| 50. | Book 2<br>Title 7Art. #     | <p><b>J + A + W + C</b></p> <p><u>Existing Projects:</u> (A) Details of the Guidelines for existing projects or projects in operation (pre-enactment of Code) need to be provided for review. This is a crucial grandfather provision and details need to be provided since all developments in Cambodia will be affected. (B) The provision appears to be require existing projects or projects in operation to conduct EIA reports and abide by the Code. This amounts to retrospective application the Code to</p>   |                        | <ol style="list-style-type: none"> <li>1. Details of the Prakas should be made available before enactment of the Code. The reasonableness and practicality of the Code can only be assessed by reviewing the details of the Prakas.</li> <li>2. Existing projects or projects in operation all already have some form of EIA approval. These projects should not be required to produce another report or go through another EIA approval process.</li> <li>3. Existing projects and projects approved before enacted of the Code should</li> </ol> | See mark-up       | This is not possible. This only covers projects that have not complied with the EIA Sub-Decree. This is |



| No.                            | Code Ref.                   | Issue – Details  | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis   |
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|                                |                             | projects that were in place before the Code. This must clearly be against Cambodian jurisprudence.   |                        | not be subject to the provisions of the Code. Specific grandfather protection provisions need to be incorporated into the Code. Retrospective application of the Code to such pre-existing or pre-approved projects are not in accordance with Cambodian law/jurisprudence.  |                   | included to provide illegal projects that opportunity to become legal. |
| 51.                            | Book 2<br>Title 7Art.<br>#  | <b>U + \$</b><br><u>Cumulative impact assessment:</u> (A) Is this CIA part of the EIA or in addition to the EIA? (B) When is this CIA to be done? (C) What is the threshold that triggers the requirement for a CIA? (D) What is the extent/scope/limit of “surrounding of the Project” which triggers the requirement for a CIA? (E) If the CIA indicates an adverse finding, how does MoE determine which affected projects are suspended or terminated given the cumulative nature of impact? |                        | 1. This CIA should be covered as part of the EIA Report and not require another report. A separate report/finding will add to costs and delays – further discourage much needed investment in Cambodia.<br>2. MoE needs to clarify the details, triggers and consequences of a CIA (even if the CIA is incorporated into the EIA). |                   | Agreed   |
| 52. A<br>g<br>g<br>A<br>g<br>r | Book 2<br>Title 7<br>Art. # | <b>J + C</b><br><u>Reporting Requirements:</u> Annual environmental report to be submitted (including environmental auditor’s opinions) within 3 months after financial year end. (A) What is an “environmental auditor”? (B) Who qualifies to be an “environmental  |                        | 1. Reporting requirements are excessive.<br>2. MoE needs to provide clarifications on the requirement, qualification, details and report required of an “environmental auditor”. Without any clarification from MoE, the reporting requirements are excessive. Reports   |                   | It is not designed to be onerous but to make clear the reporting       |

| No.    | Code Ref.                   | Issue – Details  | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis                              |
|--------|-----------------------------|--|------------------------|---|-------------------|---|
| e<br>e |                             | auditor”? (C) Under the relevant licence/concession agreement issued by the regulating Ministry, companies are under confidentiality obligation to the Government to only provide information if approved by the Government.   |                        | are being churned (and audited) with little to no appreciable benefit.<br>3. Affected Ministries with control over relevant companies/persons (eg: MME for the oil & gas sector) need to coordinate with MoE to avoid inconsistent/conflicting laws and obligations on disclosure of information/materials.   |                   | requirements.                                       |
| 53.    | Book 2<br>Title 7<br>Art. # | <p><b>\$ + U + W + C</b></p> <p><u>Fees and charges:</u> Company is liable for all expenses/costs associated with (1) IEE report (2) EIA report (3) project screening (4) project scoping (5) public participation process (6) MoE's review/comments on IEE/EIA reports (7) environmental monitoring report review and (8) fees of Expert Review Committee.</p> <p>(A) The range/scope of fees are excessive.<br/>(B) What are the fee/expense rates? (C) How are the fee/expense rates determined?<br/>(E) Given the quest for transparency, are the fee/expense rates published? (D) This is prone to abuse. Reviewers/participants are incentivised to drag out the review process in order to maximise fee earning. (E) How are such fees/expenses paid treated and accounted for by MEF (taxation) and relevant Ministry (eg: MME for oil &amp; gas)?</p> |                        | <p>1. MoE needs to publish details of all fees/expenses and applicable rates in a Prakas or sub-decree that is public. No hidden/arbitrary fees should be permitted. All expenses/fees must not be designed to incentivise delays. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.</p> <p>2. All fees/expenses actually paid and received should be published in detail.</p> <p>3. MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such fees/expenses are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/expenses must be agreed by all relevant Ministries in terms of:</p> <ul style="list-style-type: none"> <li>classification as part of “petroleum operations” in the case of oil and gas sector</li> <li>cost recoverability</li> </ul> |                   | This is a matter for discussion between MoE and MEF |

| No. | Code Ref.                   | Issue – Details   | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis   |
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|     |                             |   |                        | <ul style="list-style-type: none"> <li>tax deductibility</li> <li>etc</li> </ul>  |                   |  |
| 54. | Book 2<br>Title 7<br>Art. # | <p><b>\$ + U + W + C</b></p> <p><u>Fees and charges:</u> Company is liable for all expenses/costs associated with (1) Environmental Management and Monitoring Plan (EMP) and mitigation plans.</p> <p>(A) Which party is responsible for conduct of EMP? (B) What are the fee/expense rates for EMP? (C) How are the fee/expense rates determined? (D) Given the quest for transparency, are the fee/expense rates published? (E) This is prone to abuse. Monitors are incentivised to drag out the monitoring process in order to maximise fee earning. (F) How are such fees/expenses paid treated and accounted for by MEF (taxation) and relevant Ministry (eg: MME for oil &amp; gas)?</p> |                        | <ol style="list-style-type: none"> <li>MoE needs to clarify who is responsible for the conduct of EMP.</li> <li>MoE to publish details of all fees/expenses and applicable rates in a Prakas or sub-decree that is public. No hidden/arbitrary fees should be permitted. All expenses/fees must not be designed to incentivise delays. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.</li> <li>All fees/expenses actually paid and received should be published in detail.</li> <li>MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such fees/expenses are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/expenses must be agreed by all relevant Ministries in terms of: <ul style="list-style-type: none"> <li>classification as part of “petroleum operations” in the case of oil and gas sector</li> <li>cost recoverability</li> <li>tax deductibility</li> <li>etc</li> </ul> </li> </ol> |                   | The Project Proponent is responsible for the conduct of the EMP. The costs should be included in the EMP and the EIA Report. |

| No. | Code Ref.                   | Issue – Details  | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis                                 |
|-----|-----------------------------|--|------------------------|--|-------------------|--|
| 55. | Book 2<br>Title 7<br>Art. # | <p><b>\$ + U + W + C</b></p> <p><u>Fees and charges:</u> Company is required to contribute towards a (1) reserve deposit or (2) insurance deposit for the management of environmental and social risks to be determined by MoE.</p> <p>This is excessive! What exactly is expected by MoE? Such payments are unreasonable and without basis. Are such deposits refundable? What is the deposit used for? If the company has met the requirements for EIA approval and put in place an EMP, what is the basis for the levy of a reserve/insurance deposit? Who manages the deposit? What security does MoE provide in ensuring that the deposit is available for use or refund at the end of the project? This is a form of indirect taxation and will only serve to discourage/deter much needed investment and development in Cambodia.</p> |                        | <ol style="list-style-type: none"> <li>1. MoE needs to clarify what is the intent/purpose/details of this provision.</li> <li>2. All requirements for deposits should be removed.</li> <li>3. MoE to publish details of all deposits (and managers of such deposits) in a Prakas or sub-decree that is public. Deposits should not be at the discretion of the MoE. Details of such fees/expenses (in Prakas / sub-decree) must be made available before enactment of the Code.</li> <li>4. MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such deposits/payments are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/expenses must be agreed by all relevant Ministries in terms of: <ul style="list-style-type: none"> <li>• classification as part of “petroleum operations” in the case of oil and gas sector</li> <li>• cost recoverability</li> <li>• tax deductibility</li> <li>• etc</li> </ul> </li> </ol> |                   | Noted.   |
| 56. | Book 2<br>Title 7Art. #     | <p><b>\$ + U + W + C</b></p> <p><u>Fees and charges:</u> Company is required to bear all costs for adjustments and improvements to mitigation measures and project monitoring programmes.</p>  |                        | <ol style="list-style-type: none"> <li>1. Any adjustment or improvement to an approved project mitigation/ monitoring programme must be agreed by both MoE and the company.</li> </ol>   |                   | If the project is causing harm the liability is on the |

| No. | Code Ref.                   | Issue – Details  | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis  |
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|     |                             | This is only reasonable is the adjustments and improvements are agreed by MoE and the company. It would be excessive for any party to unilaterally require adjustments and improvements to be made and the company to bear the costs, without the agreement of the company, especially if such adjustments and improvements have no appreciable or proven benefit. |                        | 2. See comments as per Items 54 and 55.  |                   | Project Proponent . This provision requires the use of adaptive management. |
| 57. | Book 2<br>Title 7Art.<br>#  | <b>\$ + U + W + C</b><br><u>Fees and charges</u> : Company is required to fund all dispute resolution processes.<br><br>This is excessive! This only serves to incentivise frivolous and vexatious claims as the company has to fund its defence and the costs of spurious claimants.  |                        | 1. Company should only be obliged to fund its own defence. Claimants needs to fund their own case.<br>2. See comments as per Items 54 and 55.  |                   | This comment will be considered in the context of access to remedies.       |
| 58. | Book 2<br>Title 7<br>Art. # | <b>\$ + C</b><br><u>Fees and charges</u> : Service fees and other charges shall be determined by an Inter-ministerial Prakas between the MoE and the MEF.<br><br>This is insufficient. Regulating ministries (MME for oil and gas) needs to be involved in the classification process as well.   |                        | MoE needs to work with MEF and regulating Ministry (MME for oil and gas) to ensure that such fees/charges/payments are properly classified and accounted given the specific contractual and fiscal terms that the Government would have agreed with the relevant companies. For example, such fees/charges/payments must be agreed by all relevant Ministries in terms of: <ul style="list-style-type: none"> <li>classification as part of “petroleum operations” in the case of oil and gas sector</li> <li>cost recoverability</li> </ul> |                   | Noted   |

| No. | Code Ref.                  | Issue – Details   | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis   |
|-----|----------------------------|---|------------------------|---|-------------------|--|
|     |                            |   |                        | <ul style="list-style-type: none"> <li>• tax deductibility</li> <li>• etc</li> </ul>  |                   |  |
| 59. | Book 2<br>Title 7Art.<br># | <p><b>\$ + U + W + C</b></p> <p><u>Fees and charges:</u> Company is required to pay fees/charges for each and every review of EIA and EMP reports.</p> <p>This is excessive! This only serves to incentivise fee earning by incremental changes to documents.</p>   |                        | <ol style="list-style-type: none"> <li>1. Fees/charges should be only be collected once for each EIA and EMP, and not for each reiteration or change.</li> <li>2. See comments as per Items 54 and 55.</li> </ol>   |                   | Noted  |
| 60. | Book 8<br>Title 3Art. #    | <p><b>\$ + U + W + C</b></p> <p><u>Fees and charges:</u> Company is required to contribute towards an Environmental and Social Fund.</p> <p>This is excessive and a case of double-dipping in the case of oil and gas companies. For oil and gas companies, the objective of restoration is already achieved through a Decommissioning Plan (which is plan for decommissioning of facilities and site environmental restoration). For a Decommissioning Plan, it is an exhaustive and technical exercise that is reviewed and approved by the MME and the funds are progressively in advance and jointly administered by MME and MEF.</p> |                        | <ol style="list-style-type: none"> <li>1. This Environmental and Social Fund should be removed from the Code.</li> <li>2. If not removed, oil and gas companies should be exempt from this Environmental and Social Fund as the objective is already addressed in a Decommissioning Plan.</li> <li>3. See comments as per Items 54 and 55.</li> </ol> |                   | This clause should not apply to existing oil and gas developments and projects where there is agreements in place. |

| No. | Code Ref.                     | Issue – Details  | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis  |
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| 61. | Book 8<br>Title 3<br>Art. #   | <p><b>\$ + U + W + C</b></p> <p><u>Fees and charges:</u> Company is required to contribute towards an Environmental Endowment Fund.</p> <p>This is excessive and a case of double-dipping in the case of oil and gas companies. For oil and gas companies, the objective of environmental protection and restoration is already achieved through a Decommissioning Plan (see Item 59). Furthermore, what is the relationship between Environmental Endowment Fund and the Environmental and Social Fund? This is a form of indirect taxation and will only serve to discourage/deter much needed investment and development in Cambodia.</p> |                        | <p>1. This Environmental and Social Fund should be removed from the Code.</p> <p>2. If not removed, oil and gas companies should be exempt from this Environmental and Social Fund as the objective is already addressed in a Decommissioning Plan.</p> <p>3. See comments as per Items 54 and 55.</p> |                   | See above.  |
| 62. | Book 2<br>Title 5<br>Art. #   | <p><b>\$ + U + W + C</b></p> <p><u>Promoting Corporate Social Responsibility:</u> Details need to be provided. CSR is not relevant to the Environmental Code. Legislation over CSR will have the unintended consequence of curtailing current charitable/CSR programmes run by companies operating in Cambodia.</p>  |                        | This should be deleted as it not relevant to the Environmental Code.   |                   | Agree. References to CSR should be deleted from the Environmental Code. |
| 63. | Book 4<br>Title 3<br>Chapt. 1 | <p><b>C</b></p> <p><u>Coastal Zone Management:</u> What is the definition of “Coastal Zone”? Is the definition similar to the term as used in the</p>  |                        | MoE to provide clarification on definition and use of the term “Coastal Zone”.   |                   | Agreed  |

| No. | Code Ref.                     | Issue – Details  | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis  |
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|     |                               | Fishery section of the Code (ie: being 5 km from shoreline)?   |                        |  |                   |   |
| 64. | Book 6<br>Title 3<br>Chapt. # | <b>C</b><br><u>Hazardous Waste Management</u> : Details need to be provided. This may be relevant to the offshore oil and gas sector for the management of drill cuttings and water discharge. |                        | MoE to provide details.  |                   | Agree   |
| 65. | Book 3<br>Title 6<br>Chapt. # | <b>J + W</b><br><u>Sustainable Energy Plan</u> : How is the national policy on sustainable energy (which is intimately linked to energy security) relevant to the Environmental Code?          |                        | This should be deleted as it is outside the scope of the Environmental Code.                                       |                   | It is part of the scope of the request from the Government to address this. Oil and gas are not currently addressed in the sustainable energy provisions. |
| 66. | Book 3<br>Title 7             | <b>J + U + W + C</b>   |                        | 1. MoE to provide details.<br>2. Decommissioning in the oil and gas industry is already regulated by the MME. This |                   | Noted.  |



| No. | Code Ref.                     | Issue – Details  | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis                          |
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|     |                               | <p><u>Extractive Industries</u>: Many of the Chapter headings indicate an overlap with existing MME Legislation. For example:</p> <ul style="list-style-type: none"> <li>- Financial and economic arrangements to ensure proper site management;</li> <li>- Restoration of sites</li> <li>- Licensing and permitting following EIA approval</li> <li>- Rehabilitation and closure plans</li> <li>- Establishment of a Super fund</li> <li>- Financing remediation and restoration</li> </ul> <p>Is this section limited to environmental matters or does it extend further into the extractive industries? If so, the Code would be stepping outside its scope and engaging in matters best left to the industry regulator, MME.</p> |                        | <p>covers site restoration and rehabilitation etc. This overlap will cause confusion.</p> <p>3. We will need more detail on licensing and permitting following EIA approval. The EIA should be comprehensive enough to include most permissions.</p>  |                   |   |
| 67. | Book 3<br>Title 7<br>Chapt. # | <p><b>J + U + W + C</b></p> <p><u>Extractive Industries Transparency Initiative (EITI)</u>: The EITI deals with disclosure of revenues (and use thereof) associated with the extractive industries and not materially related to environmental protection. It is outside the scope of the Code.</p>  |                        | <p>1. This should be deleted as EITI is outside the scope of the Code.</p> <p>2. If EITI is an issue to be addressed, it would require the involvement of both MEF and MME. In fact, much of the Government take from the extractive industries is received via taxation and thus managed by MEF.</p> |                   | This is part of the requirements of the project |

| No. | Code Ref.                       | Issue – Details  | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis  |
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| 68. | Book 3<br>Title 7<br>Chapt. #   | <b>J + U + W + C</b><br><u>Financing remediation and restoration for extractive industry</u> : Details are needed. What is this provision intended to address? What is meant by “financing remediation and restoration”? Does this deal with project financing or end-of-life site restoration? If the latter, that is already addressed in oil and gas Decommissioning Plans. |                        | MoE to provide details.   |                   | Details will be provided. This covers harm that has been caused by the project or activity. |
| 69. | Book6<br>Title 6                | <b><u>Marine Pollution Control</u></b> : Details are needed.   |                        | MoE to provide details  |                   | Details will be provided.   |
| 70. | Book 6<br>Title 11<br>Article 2 | <b><u>Role of Environmental Pollution Inspectors as outlined in articles 1,2,3,4</u></b> : The mechanism for appointment of these personnel (where enforcement and judiciary are merged) ; is this constitutional or permitted under Cambodian law?  |                        | MoE to provide details of how these personnel will carry out their duties in accordance with criminal procedure code.   |                   | Noted.  |
| 71. | Book 7                          | <b><u>Environmental Education and Awareness</u></b> : Education is an important foundation which should be treated in its entirety. This overlaps with the remit/jurisdiction of the Ministry of Education   |                        | Education is an important issue and should be addressed in a stand-alone legislation designed to ensure the education of the community. The issues should be included in a syllabus encompassing responsibility toward the environment. |                   | This is part of the requirements of the Environmental Code project.                         |

| No. | Code Ref.                                     | Issue – Details  | Comparative Experience | Recommendations   | Proposed Language | Drafting Team Analysis  |
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| 72. | Book 8  | <b>J + U + W + C + \$</b><br><u>Establishment of a Superfund:</u> Details are needed. What is this provision intended to address? What is meant by “Superfund”? What is the purpose of this “Superfund”? How much more amorphous fees/charges does MoE intend to extract from the extractive industry? This appears to be yet another form of indirect taxation that will only serve to discourage/deter much needed investment and development in Cambodia. |                        | MoE to provide details. There are already a number of funds listed in the Code so this appears to be redundant.   |                   | This is deleted.  |
| 73. | Book 8  | <b>C + \$</b><br><u>Environmental incentives, fees and charges:</u> Details are needed. Are these fees/charges/incentives applicable to offshore oil and gas projects? Do these fees/charges overlap with earlier sections of the Code?  |                        | MoE to provide details.   |                   | This is about ensuring funding requirements are met for future project. |
| 74. | Book 9<br>Title 1<br>Chapter#<br>Section 1, 8 | <b><u>Monitoring, Compliance and Citizens Rights to bring Proceedings:</u></b> Private prosecution is not a concept under Cambodian law<br><b><u>Strategic litigation to deter public participation</u></b>  |                        | Private prosecution pre-supposes that the very bodies that have been charged with enforcing the Environment Code have failed the private citizens . The notion that private citizens at this time in would have the resources to bring any litigation seems premature.<br><br>MoE to provide a better timeline to implement this. |                   | Noted. Further details are being developed for access to remedies.      |

| No. | Code Ref.                      | Issue – Details  | Comparative Experience | Recommendations  | Proposed Language | Drafting Team Analysis  |
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| 75. | Book 9<br>Title 1<br>Chapt. #  | <b>J + W + C</b><br><u>Judicial Police Officers</u> : Details needed to be provided. Is the formation of such judicial police officers (where enforcement and judiciary are merged) constitutional or permitted under Cambodian law? |                        | MoE to provide details.  |                   | Noted. Further details are being developed .  |
| 76. | Book 9<br>Title 2<br>Chapter 4 | <b><u>Environmental Compensation</u></b>   |                        | MoE to provide more detail   |                   | Further details are being developed . This is to cover the costs to restore actual harm to the environment under the polluter pays principle. |
| 77. | Book 9<br>Title 2<br>Chapter 9 | <b><u>Authority of the Minister of the Environment to recover costs of restoration</u></b>   |                        | MoE to provide more detail on when costs of restoration may be recovered and under what time line. How does this |                   | Further details are being developed . This is to cover the  |

| No. | Code Ref. | Issue – Details | Comparative Experience | Recommendations | Proposed Language | Drafting Team Analysis   |
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|     |           |                 |                        |                 |                   | costs to restore actual harm to the environment under the polluter pays principle. |

# **Submission Form**

## **Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia**

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission:

22<sup>nd</sup> September 2016

Submitted by (provide individual and STWG contact information):

STWG 1; WWF Cambodia; Luc Hoffmann Institute and Ken Sereyrotha

### 1. Issue:

Planning (how to implement it using scientific methodologies; how it can be more integrated);  
Measures of Environmental Progress

### 2. Reference to Code Book and Title (if applicable):

New book after: Book 1 Environmental Planning, Assessment and Monitoring

### 3. Comparative Experience (if any):

N/A

### 4. Recommendation:

- Recommend the inclusion of a new Book (see enclosed document for the suggested text) to be located after *Book 1: Environmental Planning, Assessment and Monitoring* so that environmental plans can be better aligned to Development plans (e.g. the NSDP etc.) and ensure better integration in planning processes.
- If the suggested text wants to be inserted elsewhere (e.g. as part of Book 1), that's ok with us too.

### 5. Proposed Language to be Inserted into the Draft Code (if any):

Please see other document titled 'RecommendedTextEnvironmentalCodeCambodia'.

### 6. Cambodian Laws to be Abrogated or Modified (if any):

N/A

### 7. Drafting Team Analysis/Response (to be included in public database):

## **BOOK X: INTEGRATED PLANNING TO ACHIEVE SUSTAINABLE DEVELOPMENT**

### **TITLE I: Implementing integrated planning for resources management and sustainable development**

The successful implementation of the National Environment Strategy and Action Plan will rely on integrated planning processes that can allow policymakers to embed environmental protection objectives into national development plans as well as shape overarching national development goals to include social, economic and environmental objectives. This type of planning considers outcomes across sectors and actors, and over time. Through integrated planning, policymakers can understand the deep interdependencies of natural resources, agriculture and land use when making policy and investment decisions.

When applying integrated planning to resource management planning, policymakers can understand the effects of a single resource management policy on the supply and performance of other resources and sectors. The significant trade-offs between resources require decision-makers to move away from single-sector planning to cross-sectoral economic development planning with a long term outlook. By understanding the trade-offs and externalities of their decisions (policies), government authorities can make better decisions that support the achievement of sustainable development outcomes.

Integrated planning explicitly considers how ecosystem services and human wellbeing change over time under various scenarios of economic and environmental management. The risk of underestimating potential side effects, and their related costs (in social, economic and environmental terms) is too high. A cross-sectorial evaluation of policy outcomes will make decisions more defensible, transparent and efficient, especially when it is grounded in the participation of stakeholders.

With integrated planning natural capital is valued and incorporated into the measurement of societal progress and equity, and recognized and managed as a fundamental pillar of economic infrastructure (UNEP, 2012).

This form of planning calls for a strong emphasis on stakeholder input and engagement, involving leadership across ministries at the national level and engagement with regional and local governments, private sector businesses, civil society and non-governmental organizations.

Integrated planning also relies on methodologies and tools (economic, technological, social, environmental and health, see more on **TITLE IV**) that can assist policy makers with the analysis of large and complex data, integrated assessments of policy interventions and with decision making.

There are various approaches to integrated planning that must be identified and selected upon, as well as a framework that identifies operating principles (methodologies) and essential elements to practice integrated planning.

### **TITLE II: Operationalizing integrated planning**

In order to operationalize an approach of integrated planning for Cambodia, and oversee its implementation, the government will establish an **Inter-Ministerial Committee for Integrated Planning**. The scope of work, mandate and operational guidelines will be developed in a subsequent sub-decree, following the framework below.

Members of this Committee shall represent the Ministries of Environment, Planning, Interior, Agriculture, Forestry and Fisheries, Economy and Finance, Health, Land Management, Urban Planning and Construction, Mining and Energy, Rural Development and Tourism.

The Inter-Ministerial Committee will develop:

- a) **Principles to Guide the Development of Integrated Planning:** these principles will guide the process of implementing integrated planning by stating its overall objectives - for example:
  - i) integrating sustainable development goals into national development plans
  - ii) bridging environmental protection, conservation efforts and national development objectives;
  - iii) ensuring that resources are managed sustainably and that their interconnectedness is addressed and governed responsibly;
  - iv) strengthening coordination between the relevant Ministries, and between provincial and national governments;
  - v) increasing collaboration between government authorities, private sector, community and non-governmental stakeholders, and researchers;
  - vi) improving knowledge, promoting information sharing and producing sustainable policies through stronger collaboration between stakeholders;
  - vii) broadening national government bodies' accessibility to more sources of current data - qualitative and quantitative.
- b) **Operational elements for integrated planning:** this section will lay out the steps to practice integrated planning.

Integrated planning should include the following elements:

- i) **Stakeholder mapping** - to identify all the relevant stakeholders to be consulted in the planning processes.
- ii) **Stakeholder-led engagements** - stakeholders/actors must participate in the definition of problems and the identification of interconnections (or linkages) between sectors, providing information to government authorities, based on their local knowledge, expertise and experience.
- iii) **Indicators** - Policy makers and stakeholders will need to rely on indicators of governance and other institutional processes, ecological condition, economic and social outcomes to understand, characterize and track/monitor changes in these dimensions, based on current and future policy interventions. Well selected indicators can become consistent and reliable sources of information on change/progress towards targets laid out in the National Environment Strategy and the National Strategic Development Plan.



- iv) Integrated assessment methodologies and tools to assist the process of data and information analysis, policy and trade-off assessment and decision making. A variety of approaches have been developed to assess the impact of public policies and private investments on land use, environmental conservation, social wellbeing and inclusive economic growth. For example, decision support systems (DSS) which constitute a set of processes, guidance, analytical tools and technologies designed to assist with problem structuring/evaluation and strategic planning when the nature and impact of problems are uncertain and contested (Nilsson et al., 2008; McIntosh et al. 2011). Once a DSS has been identified and selected, policymakers can use information provided with relevant indicators to understand the cross-sectoral complexities around resource management; and, most importantly, they can evaluate multiple scenarios based on alternative policies in order to make evidence-based, strategic decisions.
- c) Implementation of integrated plans - guidelines on government coordination across scales will be further developed by the Committee. This section should refer to agreements between local, provincial and national governments (and enforcement tools) to ensure documentation, implementation and evaluation of decisions made through integrated planning.

### **TITLE III: Training and capacity building on integrated planning**

Members of this committee must receive training on integrated planning and its key operational elements, prior to developing on technical sub-decree on practice and implementation of integrated planning.

Training will focus on understanding the integrated planning approach and reviewing its various methodologies and tools, including stakeholder engagement; identifying and using indicators to track progress and inform policy; integrated policy assessment methodologies; and, implementation of decisions made through integrated planning across scales.

Additionally, members of this Committee shall organize training to ensure that at a minimum two (relevant) staff members from each Ministry attend a training course. Government officials selected to receive training should receive three weeks' training per year by attending a three week training course.

Local academic institutions (such as universities or research institutes) should be employed to design and undertake the training, as much as possible. Training courses should not exceed 25 people.

Subsequently, trained staff can become the trainers for other government officials at the local level and share their learning with colleagues to ensure continuity and sustainability in capacity development. This is more effective at enabling information learned to be embedded in the government institution.

More detail on content, periodicity and resources for training on integrated planning will be included in a subsequent sub-decree.

#### **TITLE: IV Scientific methodologies**

A variety of approaches have been developed to assess the impact of public policies and private investments on land use, environmental conservation, social wellbeing and inclusive economic growth.

Relevant methods include:

- **Economic/technological assessment:** these are assessment frameworks designed to support the analysis of policies, projects and investments with respect to their economic/technological feasibility. They include (1) Decision Support Systems (DSS) for computer-based data management and impact assessment; and (2) Feasibility studies.
- **Social/Governance assessment:** these provide guidance to decision makers on how to evaluate policy impacts on different social groups (i.e., inclusiveness), as well as to review and monitor key governance indicators in relation to policy objectives, as a means to identify gaps and capacity building needs. They include: (1) Poverty and Social Impact Analysis (PSIA) for the assessment of policy inclusiveness and pro-poor orientation; and (2) Governance Assessments, which guide national stakeholders in the evaluation of the institutional and policy frameworks at the national level.
- **Environmental / health assessment:** this category includes methods that combine tools for the evaluation of the environmental impacts of development strategies, policies, projects and investments and consequent impacts on people's health. They include: (1) Strategic Environmental Assessment (SEA) and (2) Environmental Impact Assessment (EIA).

The need for integrating spatial considerations in economic development planning is clear. The risk of underestimating potential side effects, and their related costs (in social, economic and environmental terms), is too high.

The following criteria should be considered for the selection and use of integrated assessment methods, and models:

- Applicability to country/local context: does the model (for economic/technological assessments) reflect the local context and does it coherently represent the problems to be solved? In other words, does the structure of the model naturally fit the system to be analyzed?
- Sectoral coverage: is the model covering only one or more sectors? What is the level of detail of the analysis? Is there any vertical (within the sector, e.g. value chain, income

distribution) and/or horizontal integration (across sectors, e.g. energy-water and environment-economy nexus)?

- Transparency: is the model transparent or a “black box”, meaning that its source code (i.e., equations) can be easily accessed and understood? Is there broad knowledge of the methodology, software and model in the country? How long would it take to develop knowledge and skills to create the model and/or understand its results?
- Multi-stakeholder consultation: does model creation allow (and is it conducive) to involve a broad range of stakeholders (public and private; technical and policy)? Could they take an active role in the design of the model and analysis? Can their knowledge, and practical expertise (or understanding of the core functioning of the system analyzed) be fully incorporated in the modeling exercise?
- Data needs/intensity: is the model heavily reliant on data? Would the confidence in the results greatly decrease in case data are not available? Could the model incorporate qualitative variables, and could equations (relations among variables) be developed even in the absence or lack of data?
- Ease of customization: if the model can be customized, how easily could this be done? Is the software allowing the use of a modular approach? What is the level of knowledge and proficiency required to make numerical and structural changes to the model?
- Time required for implementation: how long does it take to calibrate, customize and run the model? Is this an activity that could be carried out locally or does it require expert support?

While no tool is perfect, and all tools require customization to better account for local specificities, the use of an integrated approach can help overcome bottlenecks that often emerge in planning processes. The analysis of the complementarity of methodologies and models, and their integration are crucial to fully account for the social, economic and environmental outcomes of policy implementation and effectively inform policy formulation and evaluation, on top of providing an adequate framework for monitoring and evaluation.

## **Submission Form**

### **Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia**

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission:

26 September 2016

Submitted by (provide individual and STWG contact information):

*(Required, including relevant STWG, if any.)*

WCS, member of STWG 1, 3, 4, 5,6 and 7

*(The contribution from Teng Rithiny, Ashish John, Yeang Donal and Ezra Neale)*

#### **1. Issue:**

*(Please provide a brief description of the issue that is addressed by the recommendation included in number 4 [“4. Recommendation”] below.).*

Public Participation

Environmental Impact Assessment

REDD+

Sustainable cities

Mining

Environmental Incentive

#### **2. Reference to Code Book and Title (if applicable):**

*(Please provide the Book and Title names and not just the number; the Book and Chapter numbers may change from one draft to the next if the Code is reordered.)*

Book 1, Title 3: Public participation

Book 2, Title 7: Environmental Impact Assessment

Book 3, Title 2: Climate change adaptation and mitigation

Book 3, Title 4: Sustainable cities

Book 3, Title 7: Sustainable extractive industries

Book 8, Title 1: Environmental Incentives

### 3. Comparative Experience (if any):

*(Please include any Cambodian and international examples and experience.)*

The conservation agreement have been practiced in Australia.

<https://www.environment.gov.au/protection/environment-assessments/conservation-agreements>

Attached Cambodia INDC and Paris Agreement

<https://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf>

Cancun safeguards <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

### 4. Recommendation:

*(Please include here the text of the recommendation to address the issue provided in number 1 [“1. Issue”] above. If needed, note “See Attachment” for corresponding documents.)*

Book 1, Title 3: Public Participation

- objective of public participation should also include “have the opportunity to involve in the early stage of the project”
- In the article of objective should have a separate article to show the different forms of public participation, EIA and other decision making, including decision of natural resource management. The public participation here mostly refer to only public participation in the EIA, how about public participation in others such as public involvement in law and regulation development, policies and strategies and natural resources management.
- Should include public participation not only in the EIA planning but should also in the early stage of the proposed project. Eg. Mining project, it should involve public in the exploration stage.

Book 3, Title 7: Environmental Impact Assessment

- Chapter#: “level of assessment .... Environmental Protected Agreement”. Suggested to add “Conservation Agreement”. Conservation agreement: A conservation agreement is an agreement between the MoE and a person for the protection and conservation of biodiversity in areas of land or sea where the proposed project has potential impacts. Should have definition of Environmental Protection Agreement.
- Chapter#: “Timeframes for EIA and IEE Procedure”. Suggested to have public comment on EPA for 20 working days. The period is starting from EPA is published in the internet or where accessible and starting from the date of invitation for public comment.
- IEE and EIA report should also add “The period is starting from EPA is published in the internet and starting from the date of invitation for public comment”
- For the Term of Reference (ToR) of EIA consulting firm the minimum time period for public comment is 20 days, starting from the date of ToR is published in the internet and

the date of invitation for public comment

- Suggest to add another ARTICLE# on notice for public comment that “The invitation for public comments should be announced publicly via Televisions and Local Newspapers.”
- Suggest to have own chapter on “Grievance Mechanism”
- Chapter # Grievance Mechanism. Article # The Department of EIA shall have an online platform for grievance and complain. The Department of EIA shall response to the complaints within 30 days.
- Chapter of environmental management and monitoring should also include “auditing”.

### Book 3, Title 2: Climate change adaptation and mitigation

#### Proposed REDD+ chapter

- Using REDD+ as climate change mitigation measure (emission reduction) - attached Cambodia INDC and Paris Agreement
- Compliant with international agreement (eg. Cancun safeguards)
- Develop spatial land use plans that help guide development of activities (e.g. agricultural development and infrastructure improvements), conservation areas and multiple use zones
- Develop national policies to help govern and regulate agribusiness (eg. standard practices for sustainable palm oil and rubber)
- Sustainable forest management
- Restoration
- Public private partnership for Conservation
- Cooperate social responsibility
- Source of funding (attached sustainable forest financing)

### Book 3, Title 4: Sustainable cities

Suggestion to add text as following:

Chapter # Development of sustainable urban centers.

Green urban city:

- All the proposed development in the cities (buildings, houses, factories) need to consider minimum environmental consideration. (eg. wider road, drainage system, green space for recreation, play ground ....)

#### Chapter # Making a sustainable city plan

- Establishing priorities for sustainable cities development across scales (i.e. at the local, regional and national level) with cooperation between multiple ministries at the national and local levels.
- Article # City Zoning
- Article # Traffic management
- Article # Transportation management
  - o *Sustainability of transportation:*

The importation of vehicles shall consider the minimum environmental standards of emissions.

The existing road shall improve by providing sufficient facilities for pedestrians (sidewalks, traffic lights etc).

Construction of new road shall providing sufficient facilities for pedestrians (sidewalks, traffic lights etc).

#### Chapter # Promoting energy efficiency

- Mechanisms to support energy efficiency

#### Chapter # Setting of standards for green buildings

- Develop sustainable building policies
- Develop sustainable building practices

#### Chapter # Open space, public parks and green spaces

- Promotion of ecological space within cities, given that increasing urbanization is contributing to the deterioration of environmental services.
- City and town shall promote *eco-villages* to integrate urban and rural ways of life, and promote sustainable lifestyles through of ecological design, permaculture, ecological building, green production, alternative energy, community building practices, etc.

#### Chapter # financial mechanisms to support green investment

Cities, and district level administrations shall allocate a financial budget for green space, recreation

#### Tax policy

#### Book 3, Title 7: Sustainable extractive industries

Suggest to add text in Chapter # Licensing and permitting system following EIA approval

- No mining in protected areas and areas with high biodiversity values and Indigenous Communal Land. The mining in areas of high conservation value (HCV, IUCN Categories I-IV, World Heritage Areas) should be avoided.
- Require approval of full EIA before conducting any form of mining including sand, rock, minerals, metal, oil and gas.

#### Chapter # Adoption of best practice in extractive industry

- The mine and related development projects should give priority to conservation of biodiversity and wildlife, and even when granted should not affect habitat or wildlife negatively.

#### Book 8, Title 1: Environmental Incentives

Suggest to add articles as following under to chapter # of eco-labelling

Article # Government conditions and procedures for eco-labelling products. e.g product produced by CF, CPAs or CFi, Indigenous People etc.

Article # Government tax exclusions for eco-labelled products within the country and on export of these items. e.g. flat rate of 1% tax for all eco-labelled products

Article # Concessions by the Royal Government of Cambodia, on transport of eco-labelled within the country and export.

Article # Description and registration of social enterprise that assist in conservation of biodiversity and forests.

Article # Tax exemptions for entities that are registered as Social Enterprise improving Conservation

*Please see attached recommendation in the Title 4*

5. Proposed Language to be Inserted into the Draft Code (if any):

*(Optional. Note: when proposing modifications to existing draft Code text, please extract the relevant text and insert here, in track changes if possible.)*

6. Cambodian Laws to be Abrogated or Modified (if any):

*(Please include the law title and the titles of specific articles and clauses.)*

*Attached the summary article by GGGI (STWG1) on sustainable cities and green economy*

7. Drafting Team Analysis/Response (to be included in public database):



# ENVIRONMENTAL CODE OF CAMBODIA

**Fourth Draft - DRAFT 4.0 – 12 August 2016**

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## BOOK 1 GENERAL PROVISIONS

### TITLE 1 GENERAL PROVISIONS

#### Chapter 1 OBJECTIVE OF THE ENVIRONMENTAL CODE

##### ARTICLE 1: PURPOSES OF THE ENVIRONMENTAL CODE

The purposes of this Environmental Code are the protection of the environment, the conservation of natural resources, and the sustainable development of Cambodia.

Commented [M1]: Per M. Barash.

##### ARTICLE 2: OBJECTIVES OF THE ENVIRONMENTAL CODE

- (1) The Environmental Code includes the following objectives:
  - (a) Conserve Cambodia's biodiversity, ecosystems and ecosystem services;
  - (b) Protect the environment from harm and damage, and sustainably manage natural resources, in accordance with Article 59 of the Constitution of Cambodia;
  - (c) Preserve and promote national culture, preserve ancient monuments and artefacts, and restore historic sites, in accordance with Article 69 of the Constitution of Cambodia;
  - (d) Guarantee the health of the people, in accordance with Article 72 of the Constitution of Cambodia;
  - (e) Safeguard the individual and collective rights of indigenous people as postulated in Sub-decree No 83 (No 83 ANK.BK) and So Chor No 653 (653 So Chor No SR).
  - (f) Ensure that environmental protection and sustainable development objectives are fully integrated into national and regional economic planning and into natural resources planning and management;
  - (g) Implement the National Environmental Strategy and Action Plan;

(h) Promote a collaborative approach to the protection and management of the environment involving government, communities, land-holders, indigenous and other vulnerable people including minorities, women, youth, and disabled people, and business;

Commented [M2]: Per P. Karpe.

(i) Promote environmental awareness and support for environmental protection through transparency and public participation, especially by women, the poor, indigenous people, and other traditionally marginalized communities;

Commented [M3]: Per Mang M.

(j) Assist the implementation of Cambodia's international environmental responsibilities;

(k) Implement the key principles of environmental law and policy as described in Chapter 2;

### ARTICLE 3: SCOPE OF THE ENVIRONMENTAL CODE

This Code regulates environmental protection activities; policies, measures and resources for protection of the environment; and the rights and obligations of organisations, community, family households and individuals with respect to protection of the environment.

### ARTICLE 4: APPLICABLE ENTITIES

This Code applies to Cambodian State bodies, organisations, family households and individuals; to Cambodians residing overseas and "foreign organisations" individuals with operations in the territory of Cambodia, and individuals or entities whose actions otherwise adversely impact or effect the Cambodian environment or its natural resources. Where an international treaty of which Cambodia is a member contains provisions, which are different from the provisions in this Code, the provisions of such international treaty shall prevail.

Commented [M4]: Per M. Barash.

### ARTICLE 5: DEFINITION/GLOSSARY

In this Code, the following terms shall be construed as follows:

- *Definitions will be based on existing definitions in Cambodian legislation where applicable, and relevant international usage of key terms.*

Non-exhaustive list to be defined:

Sustainable development  
Environmental protection  
Environmental conservation  
Environmental standards  
Best practices  
Natural resources  
Environmental disputes  
Environmental harm  
Ecosystem services  
Liability  
Jurisdictional organisation  
Forest  
Climate change  
REDD+  
Ecotourism

**Coastal Lands** – The normally dry land extending inland 5 km from the shoreline, including the intertidal zone.

**Coastal Waters** – Marine waters extending seaward 5 km from the shoreline, including the associated submerged lands.

**Coastal Watershed** – The river basins in the Kingdom of Cambodia that flow directly to the Gulf of Thailand, taken as a whole.

**Coastal Zone** – The totality of the coastal waters, shoreline, and land area behind the shoreline that interacts hydrologically with the coastal waters.

**Commercial fishing** – Fishing in which the marine fishery resources harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

**Exclusive Economic Zone of the Kingdom of Cambodia** – Waters with any detectable degree of salinity extending from the shoreline of the Kingdom of Cambodia to 200 nautical miles offshore, consistent with the 1982 Third United Nations Conference on the Law of the Sea.

**EEZ** – Exclusive Economic Zone (see definition above).

**Environment** – definition will be developed that is clear and through, reflects Cambodian values, and includes examples. Definition will be broad, comprehensive and robust.

**Significant Environmental Impacts**, means any impact on the environment, including human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, ecosystems, natural sites, material assets, cultural heritage and the interaction among these factors.

Commented [M5]: Per comments on EIA, definition of “significant environmental impact” will be further developed and clarified.

**Environmental Report as used in Book 2, Title 4, Strategic Environmental Assessment,** means a report that identifies, describes and evaluates the likely significant environmental, including, health, social and ecosystem effects of implementing the plan or programme and its reasonable alternatives, taking into account: (a) Current knowledge and methods of assessment; (b) The contents and the level of detail of the plan or programme and its stage in the decision-making process; (c) The interests of the public; and (d) The information needs of the decision-making body.

**Fisher** – Any person who engages in Fishing as defined below.

**Fishery** – One or more stocks of fish or other forms of marine life, occupying a particular geographic area or water depth range, which are deliberately harvested for commercial or non-commercial purposes.

**Fishery stock** – An individual species or subspecies of fish or marine life harvested for commercial or non-commercial fishery purposes.

**Fishery stock complex** – A group of species of fish or marine life occupying similar habitat that are harvested in a similar fashion using similar gears, for commercial or non-commercial fishery purposes, and are capable of being treated as a unit for fishery management purposes. Members of a fishery stock complex often share similar ecologies but need not be closely related taxonomically.

**Fishing** – Consistent with Article 4 of the Law on Fisheries, NS/RKM/506/11, within the Marine Fishery Domain of Cambodia refers to:

1. The catching, taking, or otherwise obtaining possession of live fish or other living marine resources;
2. The attempted catching, taking or otherwise obtaining possession of live fish or other living marine resources;
3. Any other activity which can reasonably be expected to result in the catching, taking or otherwise obtaining possession of live fish or other living marine resources;
4. Any operations at sea in support of, or preparation for, any activity described in subparagraphs (1) through (3) above.

This definition does not include any scientific research activity which is conducted by a researcher or research vessel approved by the appropriate ministry.

**Fishing vessel** – Any vessel, boat, ship or other craft used for or equipped for the harvest of marine life in the Marine Fishery Domain of Cambodia, or for aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including but not limited to preparation, supply, storage, refrigeration, transportation or processing.

**Foreign fishing vessel** – Any fishing vessel not based in and registered by the Kingdom of Cambodia.

**Future inundation hazard area** – Any portion of the current Cambodian coastal lands that is projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

**Geographic Information System** – A computer system capable of capturing, storing, analysing, and displaying geographically referenced information.

**Geospatial information** – Data referenced to a specific set of geographic coordinates which can gathered, manipulated, and displayed using a Geographic Information System.

**GIS** – See Geographic Information System.

**Harvest** – See Fishing above

**Individual fishing quota** – A ministerial permit under a limited access system to harvest a quantity of fish or other marine life, expressed by a unit of units representing a percentage of the total allowable catch of a fishery, that may be received or held for exclusive use by an individual person.

**Intertidal zone** – The fluctuating extent of the shoreline between mean higher high tide and mean lower low tide that is on a daily basis submerged to some degree by the coastal waters

**Limited entry system** – A system that limits participation in a fishery to those persons satisfying certain eligibility criteria or requirements.

**Mapping products** – Maps in both electronic and printed formats.

**Metadata** – A set of data that provides additional information about a geospatial data element, including the author, date of creation, etc.

**Marine fishery resources** – Consistent with Article 4 of the current Law on Fisheries, NS/RKM/506/11, marine fishery resources consist of all marine organisms, including but not limited to fish, molluscs, crustaceans, and all other forms of animal and plant life other than marine mammals and birds, and the habitats upon which these species depend, including but not limited to coral reefs, mangroves, estuaries, and seagrass beds.

**Marine fishery domain** – Waters with any degree of detectable salinity extending from the shoreline to the outer limit of the Exclusive Economic Zone of the Kingdom of Cambodia.

**Marine waters** – Those waters comprising or connected to the ocean, which possess a detectable degree of salinity and exhibit daily tidal fluctuations.

**Mean higher high tide** – The average height on an annual basis of the highest tide of the day. Equivalent to the term Mean Higher High Water as used in other countries.

**Mean lower low tide** – The average height on an annual basis of the lowest tide of the day. Equivalent to the term Mean Lower Low Water as used in other countries.

**Meaningful Stakeholder Engagement** – Provide meaningful opportunities for interested stakeholders to participate in planning and decision-making for projects or related activities that may impact communities, their livelihoods, land and the natural environment.

Commented [M6]: Per NGO Forum. Definition to be further developed.

**Optimum sustainable yield** – The rate of harvest from a fishery that provides the greatest long-term level of catch and social benefit while retaining the ecological integrity of the fishery stock or stocks involved.

**Overfishing** – A rate or level of harvest in a fishery that exceeds the capacity of the fishery to produce the optimum sustainable yield on a continuing basis.

**Public** – Public includes but is not limited to citizens, communities, civil society, business . . .

Commented [M7]: A non-exhaustive but clear and thorough definition of “PUBLIC” will be developed.

**Remedy** – Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (or guarantees of non-repetition injunction such as fines), as well as the prevention of harm through, for example . . .

Commented [M8]: Per NGO Forum. Definition to be further developed.

**Risk-Based Due Diligence** – To identify, prevent, mitigate and remedy actual and potential adverse impacts.

Commented [M9]: Per NGO Forum. Definition to be further developed.

**SCUBA** – Self-contained underwater breathing apparatus.

**Shoreline** – The boundary between land and water at the average height of the daily higher high tide along the margins of lands bordering waters with any detectable degree of salinity. Equivalent to the term Mean Higher High Water as used in other countries.

**Strategic Environmental Assessment** means the evaluation of the likely environmental impacts, including health and social impacts. The steps of an SEA include the following: determination of the scope of an environmental report and its preparation, the carrying out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

**Transshipment** – Transportation of fish or other marine life by a foreign vessel or vehicle from a point within the Kingdom of Cambodia or its EEZ to a point outside the Kingdom of Cambodia or its EEZ.

**Waters of a foreign nation** – Any part of the territorial sea or Exclusive Economic Zone (or equivalent) of a foreign nation, to the extent such territorial sea or Exclusive Economic Zone is recognized by the Kingdom of Cambodia.

## Chapter 2 PRINCIPLES OF THE ENVIRONMENTAL CODE

This Environmental Code is premised on, and should be implemented and interpreted in accordance with, the following fundamental principles of environmental law and policy:

Commented [M10]: Incorporation of the additional eight principles for the guidance of the development and implementation of the Code per comments from experts and STWG members.



## ARTICLE 1: THE PRINCIPLE OF PUBLIC PARTICIPATION

The principle of public participation, that those who may be affected by a decision shall be entitled to provide informed, timely and meaningful input prior to the decision being made. They shall also be able influence in a transparent, inclusive and accountable manner the decision-making process. Participatory decision-making leads to more well-informed decisions, enhances the ability of governments to respond to public concerns and demands and improves acceptance of and compliance with environmental decisions because stakeholders feel ownership over these decisions.

Commented [M11]: Per USEPA.

## ARTICLE 2: THE PRINCIPLE OF ACCESS TO INFORMATION

The principle of access to information, that individuals, legal entities and civil society shall have far-reaching access to information concerning the environment and natural resources, such as impact assessments and mitigations and resettlement plans and information on hazardous materials and development activities in their communities. Information on environmental protection and natural resource management shall be made widely available and publically accessible in a manner that maximizes the opportunity for public participation in planning and decisions affecting the environment and society.

Commented [M12]: The format of information and method of access to be outlined in other sections of the Code, with adaptability built in for changes in and access to technology.

Commented [M13]: Per NGO Forum.

Commented [M14]: Per NGO Forum.

Commented [M15]: Per USEPA.

## ARTICLE 3: THE PRINCIPLE OF ACCESS TO EFFECTIVE REMEDIES

The principle of access to effective remedies, that people, legal organisations and entities shall have access to appropriate venues, whether administrative, ~~or~~ judicial or other appropriate means, and to appropriate and effective remedies, to enable the resolution of environmental disputes. Impartial, effective and efficient procedures and remedies should exist to enforce procedural rights, punish those responsible for environmental harm, and establish an incentive structure that encourages a culture of compliance.

Commented [M16]: Per NGO Forum.

Commented [M17]: Per NGO Forum.

Commented [M18]: Per USEPA.

## ARTICLE 4: THE POLLUTER PAYS PRINCIPLE

The polluter pays principle, that all persons, including natural persons, private legal entities and public legal entities who have caused or will cause environmental pollution – such as pollution by noise, vibration, smell, smoke, draining of liquid waste or emission of all kinds of waste or causing damage to the environment, health, economy or society or culture – shall bear the cost for repairing the damage and preventing, avoiding and mitigating the damage.

## ARTICLE 5: THE PRECAUTIONARY PRINCIPLE

The precautionary principle, that in situations where the environment may be faced with threats of

serious or irreversible damage, the lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

#### ARTICLE 6: THE PREVENTION PRINCIPLE

The prevention principle, that negative impacts to the environment should be stopped before they occur. In applying this principle, action should be taken at an early stage to reduce or prevent environmental damage rather than wait for potentially irreversible effects to occur. The prevention principle is based on the idea that it is better ~~– and often more cost effective – to~~ prevent harm than employ measures to restore the environment after harm has occurred.

Commented [M19]: Per USEPA.

#### ARTICLE 7: THE PRINCIPLE OF INTERGENERATIONAL EQUITY

The principle of intergenerational equity, that the right to development, including decisions affecting natural resources and ecosystem services, must be fulfilled so as to equitably meet the developmental, social and environmental needs of both present and future generations.

#### ARTICLE 8: THE PRINCIPLE OF ENVIRONMENTAL LIABILITY

Liability to compensate for environmental harm applies to environmental damage and imminent threat of damage resulting from developmental activities, where it is possible to establish a causal link between the harm and the activity in question. Liability should cover the cost of ecosystem or resource restoration or of replacing the damaged resources, the cost of assessing the damage, and the interim losses pending restoration or replacement. Liability includes personal injury or environmental harm to public natural resources. Liability can be strict-liability without the need for proof of fault and can be joint or several.

#### ARTICLE 9: THE PRINCIPLE OF EVIDENCE-BASED DECISION-MAKING

Environmental policy and natural resource decision-making should be open and evidence-based, utilizing the best available information. Information can be scientific and technical and can also be gathered from community and indigenous knowledge.

#### ARTICLE 10: PRINCIPLE OF GENDER EQUALITY AND PARTICIPATION OF OTHER VULNERABLE PEOPLE IN ENVIRONMENTAL PROTECTION AND NATURAL RESOURCE MANAGEMENT FOR NATURAL RESOURCES DECISIONS

The involvement of women and other vulnerable persons, including youth, minority and indigenous people, and disabled people, is to be promoted in environmental protection and natural resource management planning and decision-making at all levels. Impact assessments for

development projects and environmentally relevant policies will include mechanisms to effectively assess the impacts on women and other vulnerable people and develop risk management strategies to mitigate and prevent adverse impacts. Gender concerns and the perspective of women and other vulnerable groups ~~concerns and perspectives~~ will be integrated into policies and programmes for sustainable development and into the implementation of this Code. Consideration is being given to separating this into two principles, one on gender and one on vulnerable persons.

Commented [M20]: Per P. Karpe and NGO Forum.

#### **ARTICLE 11: THE PRINCIPLE OF INTEGRATION**

Environmental protection and sustainable development objectives must be integrated into the development planning and decision-making process. There must be integration of environmental protection, economic development, and environmental rights at the conceptual level as well as the implementation stage of policies and laws.

#### **ARTICLE 12: THE PRINCIPLE OF THE PUBLIC TRUST**

The government is the trustee of all natural resources, including both economically and ecologically important resources, and these resources must be held on behalf of the people and for the benefit of the people, including current and future generations.

#### **ARTICLE 13: THE PRINCIPLE OF PUBLIC INTEREST IN PROTECTING THE ENVIRONMENT VS. PRIVATE INTEREST**

Priority should be given to public health and environmental protection over economic considerations or private interest. Standards for protection of health should provide an adequate margin of safety for vulnerable peoples.

Commented [M21]: Per USEPA.

#### **ARTICLE 14: THE PRINCIPLE OF USER PAYS**

Natural resources, including ecosystem services, have value and the users of natural resources, including ecosystem services, should pay the direct and indirect cost for use of or the impacts from use of these resources and services.

#### **ARTICLE 15: THE PRINCIPLE OF FREE, PRIOR AND INFORMED CONSENT**

States shall consult and cooperate in good faith with the indigenous peoples and local communities concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water, or

[other resources.](#)

**ARTICLE 16: THE PRINCIPLE OF REJECT, REDUCE, REUSE RECYCLE**

**Commented [M22]:** Per Z. Fadeeva, in collaboration with STWG 2.

Proposed new principle related to Sustainable Consumption and Production per USEPA and UNEP. Subject to further analysis and definition.

Sustainable consumption and production (SCP) approach deals with social and economic development that addresses poverty eradication and sustainable resource use. It is concerned with "the use of services and related products, which respond to basic needs and bring a better quality of life while minimizing the use of natural resources and toxic materials as well as the emissions of waste and pollutants over the life cycle of the service or product so as not to jeopardize the needs of further generations". (Oslo symposium 1994).

The critical insight offered by SCP is that in order to facilitate sustainable development, integrative approach (also pointed out by the national documents such as Report to Rio+20 and GG Strategy), has to be employed. These approach touches the whole material and energy flow through the society including selection of resources (and their sources), their processing, distribution, efficiency and effectiveness of consumption and end-of-life.

**Chapter 3 GENERAL DUTY TO AVOID ENVIRONMENTAL HARM**

**ARTICLE 1**

A person [or legal entity](#) must not carry out any activity that causes, or is likely to cause, environmental harm. (The general environmental duty).

**Chapter 4 INTERNATIONAL ENVIRONMENTAL AGREEMENTS**

**ARTICLE 1**

Cambodia recognizes the value of international and regional environmental agreements as a response to environmental problems and the need to adopt or modify its laws accordingly and in a manner consistent with international and regional agreements to which it is party.

This Code hereby reflects the commitment of Cambodia to effectively implement in its laws and practices the international and regional agreements to which it is party.

- This Chapter will explain how the Environmental Code implements and is based upon existing international and regional agreements.
- It will also address future agreements and treaties and how these shall be integrated into the environmental responsibilities of the relevant Ministries.

**TITLE 2 ORGANISATION OF JURISDICTIONAL INSTITUTIONS/JURISDICTIONAL ISSUES**

- This Title will establish the objective of inter-ministerial cooperation and the requirement for consultation and discussion between relevant line Ministries in order to achieve the objectives of the Code. Jurisdictional organisation will examine the roles, duties and means of collaboration for the following institutions:
  - Ministry of Environment
  - Ministry of Agriculture, Forests and Fisheries

- Ministry of Mines and Energy
- Ministry of Water Resources and Meteorology
- Ministry of Land Management, Urban Planning and Construction
- Ministry of Economics and Finance
- Ministry of Culture and Fine Arts
- Ministry of Tourism
- Council for the Development of Cambodia
- Provincial and Local Authorities

Commented [M23]: Per Mang. M.

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF AGRICULTURE,  
FORESTRY AND FISHERIES**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF MINES AND  
ENERGY**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF WATER  
RESOURCES AND METEOROLOGY**

**CHAPTER # RELEVANT ENVIRONMENTAL INTERACTIONS BETWEEN THE  
MINISTRY OF ENVIRONMENT AND THE MINISTRY OF LAND  
MANAGEMENT, URBAN PLANNING AND CONSTRUCTION**

**CHAPTER # CONFIRMING NATIONAL COUNCIL FOR SUSTAINABLE  
DEVELOPMENT (NCSD) ROLES AND RESPONSIBILITIES**

**CHAPTER # CONFIRMING NATIONAL PROGRAMME FOR SUB-NATIONAL  
DEMOCRATIC DEVELOPMENT (NCDD) ROLES AND RESPONSIBILITIES**

**CHAPTER # ROLE OF AUTHORITIES SUCH AS APSARA AUTHORITY, PREAH  
VIHEAR AUTHORITY, TONLE SAP AUTHORITY AND CAMBODIAN  
NATIONAL MEKONG COMMITTEE**

**CHAPTER # ESTABLISH MECHANISM TO PROMOTE INTERDEPARTMENTAL  
COMMITTEE**

**CHAPTER # ESTABLISH A NATIONAL ECOSYSTEM MAPPING AND PLANNING  
COMMITTEE**

**CHAPTER # FACILITATING ENVIRONMENTAL INFORMATION-SHARING  
BETWEEN RELEVANT MINISTRIES**

**ARTICLE 1**

Assigning environmental monitoring and information gathering responsibilities among governmental institutions

**CHAPTER # CENTRAL REPOSITORY OF GOVERNMENT ENVIRONMENTAL  
INFORMATION**

**CHAPTER # CAMBODIAN ENVIRONMENTAL MAPPING CENTRE**

**ARTICLE 1: GENERAL PROVISIONS**

Conservation and management measures undertaken by any government institution in relation to the management of biodiversity, natural resources and the environment in the Kingdom of Cambodia shall be based on the best scientific evidence.

Pursuant to this, the appropriate government institution shall have the authority to establish a Cambodian Environmental Mapping Centre (CEMC). The purpose of this centre shall be to establish standards, compile, analyse, and distribute geospatial information. Information may include but is not limited to biodiversity, natural resources (e.g. lands, water and forests), the environment (e.g. water, soil and air qualities), and climate change, using modern, computerized Geographic Information Systems (GIS).

All geospatial data, mapping products, and metadata held by the CEMC shall be deemed property of the state, and available for public use.

**ARTICLE 2: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE MANDATES**

Pursuant to this authority, the appropriate government institution shall:

1) Require all organisations and institutions that are undertaking natural resource and biodiversity mapping in the Kingdom of Cambodia to provide copies of their geospatial data, information, and

the reports that are the products of such projects to the CEMC, so that they may be incorporated into a national base of environmental data and information. Such information and data held by the CEMC shall be shared and made available without restriction to all contributing organisations and institutions, through a clearly defined procedure for data transfer and associated data transfer agreement, to be developed by the government institution.

2) Ensure that all data provided to the CEMC are made available for public use, with the exception of those data that the appropriate government institution housing the CEMC deems necessarily withheld for the protection of endangered or rare species. If any data are withheld from the public for the above purposes, a specific written justification and explanation must be provided by the appropriate government institution housing the CEMC.

3) Ensure that any decision to withhold data from the public may be appealed for reconsideration directly to the office of the minister in charge of the government institution housing the CEMC.

4) Set data standards for the collection of new geospatial information. The standards to be specified by CEMC shall include, but are not limited to:

- a) A requirement that all geospatial data provided to the CEMC shall utilize the WGS 84 datum.
- b) Coordinate system.
- c) Assignment and standardized spelling of names for geographic features, such as administrative units, populated places, water bodies, landmarks, hills and mountains, etc.
- d) Metadata content and format.

5) Require that data collected by other institutions be submitted to the CEMC in the technically standardized format specified by the CEMC.

5) Require that geospatial data provided to the CEMC be accompanied by all available and relevant metadata.

6) Ensure that collection of geospatial information and data related to specific subjects or sectors is not duplicated among government institutions, and that there is one specified official government institution source for data related to any given subject or sector.

**ARTICLE 3: CAMBODIAN ENVIRONMENTAL MAPPING CENTRE  
DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate government institution may at its sole discretion:

- 1) Obtain the necessary GIS computer software to effectively analyse, manipulate, and output geospatial data.
- 2) Obtain computer hardware of sufficient technical sophistication and power to run and utilize GIS computer software.
- 3) Accept geospatial data in the following formats:
  - a) point data
  - b) line data
  - c) shape files in raster format
  - d) shapefiles in vector format.
- 4) Produce maps and other data visualization products and provide these to other relevant ministries to assist such ministries in effectively carrying out their natural resource management authorities and obligations.
- 5) Produce maps and other data visualization products for public education and outreach, in order to improve awareness of biodiversity conservation and natural resource management in the Kingdom of Cambodia.
- 6) Establish quality assurance and quality control (QA/QC) procedures for all maps and data visualization products produced by the CEMC.
- 7) Provide for ongoing maintenance, curation, updates, and access to spatial databases hosted by the CEMC.
- 8) Adopt new methods and technologies, as they become available, which enhance the utility of GIS products and activities.
- 9) Promote, wherever possible, collaborative production, use, and analysis of geospatial datasets across ministries.



### TITLE 3 PUBLIC PARTICIPATION

#### CHAPTER # PUBLIC CONSULTATION A FUNDAMENTAL REQUIREMENT FOR ENVIRONMENTAL DECISIONS

##### ARTICLE #

The main objective of public participation is to ensure that project-affected persons and relevant stakeholders:

- a) are well informed about the project,
- b) Have the opportunity to involve in the early stage of the project.
- c) have the opportunity to be involved in the discussion and decision-making process related to the project, and
- d) have the opportunity to participate in the project monitoring.

Project Proponents that are required to conduct an EIA shall include public involvement and consultation from local administrations, civil society, community representatives, the project-affected persons and other relevant stakeholders in the EIA process during project planning in order to:

- a) identify areas of significance of environment, economy, society and culture
- b) collect opinions of stakeholders and integrate such opinions into the decision making process
- c) review the project proposal and explain impacts on environment, economy, society, and culture.
- d) consider a wider range of alternatives and mitigation measures.

The public participation process in the stage of studying, consulting and reviewing the EIA report and project monitoring shall be determined by Prakas of MoE.

##### ARTICLE #

The EIA Report shall:

**Commented [TR24]:** Will this cover country planning and infrastructure projects?

**Commented [TR25]:** Should have a separate article to show the different forms of public participation, EIA and other decision making, including decision of natural resource management. The public participation here mostly refer to only public participation in the EIA, how about public participation in others such as public involvement in law and regulation development, policies and strategies and natural resources management

**Commented [TR26]:** Should include public participation not only in the EIA planning but should also in the early stage of the proposed project. Eg. Mining project, it should involve public in the exploration stage.

**Commented [M27]:** Comments from NGO Forum on EIA will be addressed during the final EIA review.

- a) record the public participation and the Project Proponent shall take this into account during the planning and conduct of EIA.
- b) focus on the issues raised by women and those most vulnerable potentially impacted by the proposed project.
- c) include the details of the project impacts on the public and the acceptance or rejection of the requests of the public.
- d) provide clear reasons why those concerns are rejected.

#### **ARTICLE #**

MoE shall ensure that IEE and EIA reports and related documents, including the EIA Approval Letter and Certificate and EMP, shall be made publically available, and that stakeholders and project-affected communities have access to clear and sufficient information.

At a minimum the Project Proponent shall make available on publically accessible website copies of the IEE or EIA, any EMP for the project, maps and plans of the project and all proposed mitigation measures for the project.

The procedures for public participation and access to information shall be determined by a Prakas of MoE.

#### **CHAPTER # DUTY TO CONSULT WITH POTENTIAL AFFECTED PERSONS**

#### **CHAPTER # DUTY TO CONSIDER CONCERNS RAISED BY THE COMMUNITY**

#### **CHAPTER # IDENTIFICATION OF PROJECT AFFECTED PERSONS AND OTHER STAKEHOLDERS**

#### **CHAPTER # MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN NATURAL RESOURCES MATTERS**

#### **CHAPTER # MINIMUM TIME ALLOWED FOR PUBLIC CONSULTATION IN EIA MATTERS**

#### **CHAPTER # MINIMUM TIME ALLOWED FOR INDIGENOUS PEOPLE TO PROVIDE COMMENTS**

#### **CHAPTER # FREE, PRIOR AND INFORMED CONSENT FOR INDIGENOUS PEOPLE AND LOCAL COMMUNITIES IN NATURAL RESOURCES AND**

## ENVIRONMENTAL IMPACT ASSESSMENT MATTERS

### ARTICLE #

The public participation process shall ensure that the consent of the project-affected communities to the proposed mitigation measures is based on the free, prior, and informed consent principle (FPIC).

In the mitigation measures, the Project Proponent shall:

- a) identify measures to improve the livelihood and to assist project affected persons.
- b) ensure that project-affected persons are involved in any resettlement planning to minimise the adverse effects of resettlement, to ensure that compensation for lost assets is fair, suitable and acceptable as equivalent to the market price and that the mitigation measures are appropriate and sustainable.

In cases where the project-affected community disagrees with the mitigation measures proposed by the Project Proponent, the development project still continues; however, the Project Proponent shall seek other appropriate mitigation measures or provide resolution of the impacts to the affected community.

Commented [M28]: Per NGO Forum. Text to be reviewed for consistency with FPIC.

The procedure of resettlement and solution of compensation to the affected community shall be determined by Sub-Decree.

Commented [M29]: Per NGO Forum. Procedure will be determined in Code.

The formalities and procedures of payment of compensation to the impacted community shall be determined by an Inter-Ministerial Prakas between MoE and the Ministry of Economy and Finance.

## CHAPTER # RESPONDING TO PUBLIC SUBMISSIONS

### CHAPTER # TAKING INTO ACCOUNT PUBLIC SUBMISSIONS

#### TITLE 4 ACCESS TO ENVIRONMENTAL INFORMATION

- This Title will clarify and detail the requirements for access to environmental information. The aim of this Title is to provide a consistent approach across all ministries and pertaining to the various decisions made under the Environmental Code.

#### CHAPTER 1 GENERAL PROVISIONS

Commented [M30]: Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

(Right to access to information, refer to Principle of Access to Information in Book 1.)

A comprehensive regime of access to environmental information is one of the means to secure rights of people to live in clean environment and their obligations to assure it.

The Government of the Kingdom of Cambodia commits to transparency, accountability and public participation. The commitment is grounded in relevant Multilateral Environmental Agreements and national laws.

Management of natural resources, including ecosystems, environmental conservation, measures related to protection of health, shall be based on reliable information, including scientific information and knowledge of the local communities.

The people of the Kingdom of Cambodia have the right to obtain reliable environmental information from a public authority.

Public authorities/institutions shall give access to information and will proactively disseminate it. Environmental information, such as environmental impacts in EIA, to be made publicly available upon request in a timely manner.

Commented [M31]: Per NGO Forum.

In general:

- They are to inform public about rights and how to exercise these rights.
- They should make efforts to maintain environmental information and have it accessible and reproducible.

MoE has responsibility to make a list of authorities responsible for maintaining and disseminating environmental information.

## **CHAPTER 2 – ENVIRONMENTAL INFORMATION**

Environmental information includes information on:

- a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
- b) Factors, such as substances, energy, noise, radiation or waste, including radioactive waste.

Commented [M32]: Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

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Commented [M33]: Shall include all ecosystems data, all research and field data, all documents created within the EIA process, all project specific documentation and reporting.

emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment.

- c) Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to above as well as measures or activities designed to protect those elements.
- d) Instances of non-compliance with environmental laws, policies, regulations, agreements.
- e) Information about environmental risks that can affect the state of human health and safety, cultural sites and built structures.
- f) The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in (b) and (c) above.
- g) Reports on the implementation of the measures in the item (c) above and in implementation of MEAs.

Commented [M34]: Per M. Desrousseaux.

### **CHAPTER 3 – RELIABILITY OF INFORMATION**

To assure that environmental information is reliable, the relevant authorities have to provide rational of the measures in the item (C) above including life cycle analysis, environmental assessments, cost-benefit and other analyses and assumptions; these documents also have to be publicly accessible.

Commented [M35]: Draft text on Access to Information provisions from experts with UNDP/UNEP. Will be developed further.

### **CHAPTER 4 ENVIRONMENTAL COMPLIANCE RECORDS**

The government is required to establish a format for documenting environmental review compliance.

### **CHAPTER 5 ACCESS TO INFORMATION**

The government shall establish informational systems, including registers to support environmental decision making. Includes, but is not limited to:

- Environmental Mapping Centre
- Pollutant Release and Transfer Register (PRTR)
- Biodiversity Clearinghouse

- Carbon Registry
- Database of EIA and SEA

Public shall be granted access to information specified by Chapter 2 unless stipulated by law.

#### **CHAPTER 6 – PROVISION OF ENVIRONMENTAL INFORMATION**

The competent authorities shall publish a regulation on provision of environmental information including procedure, timing, format, grounds for refusing information and arbitration.

The state authorities shall provide information to fulfil requirements to comply with multi-lateral environmental agreements (MEAs) and local issues/national legislation.

Public authorities shall provide information on the results of EIA, SEA and other information as required by national law, including the results of commissions of inquiry into EIA or natural resources decisions.

Commented [M36]: National and provincial level reporting.

Private and public organisations shall provide information on aspects related to the environment as required by law, including on aspects specified in Chapter 2.

Mass-media organisations should dedicate xxx of their time to coverage of environment-related issues, including through informational and educational programmes.

#### **CHAPTER 7 – MONITORING OF INFORMATION PROVISION**

The government shall develop procedures that enable third party organisations to assess procedures of information provision mandated by law.

Commented [M37]: NGO Forum comments on responsibilities for monitoring and reporting and types of reporting will be addressed during final EIA review.

Chapter will be further developed to include types and methods of monitoring programs.

Public participation in environmental monitoring and gathering of information—development of shared or open-source systems.

#### **CHAPTER 8 – VIOLATIONS AND REMEDIES AND ENFORCEMENT**

Where there are instances of non-compliance with provision of environmental information, remedies should be applied.

The government is to establish minimum penalties for non-compliance with requirements for information provision; these provisions do not preclude other remedies established by relevant

regulations.

Relevant authorities shall publish instances of non-compliance with environmental laws and regulations.

## CHAPTER 9 PROTECTION OF WHISTLEBLOWERS FOR PROVISION OF INFORMATION AND JOURNALISTS WHO PUBLISH INFORMATION

### BOOK 2 ENVIRONMENTAL PLANNING, ASSESSMENT AND MONITORING

Commented [M38]: Per STWG 3/5. Revised Book name.

#### TITLE 1 MAKING OF NATIONAL, SUB-NATIONAL AND LOCAL ENVIRONMENTAL AND NATURAL RESOURCES PLANS

- This Title will set out the procedures for the adoption of National, Sub-national and Local Environmental and Natural Resources Plans. These Plans will be prepared for environmental and natural resources management, integrating food and water security issues and relevant materials exploitations certifications. This Title will provide for a planning framework to set sustainable use limits and protections for Cambodia's commercial and non-commercial natural resources.
- This Title will also relate to Book 2, Title 6~~Title 5~~ Strategic Impact Assessment that may be required prior to the adoption of plans and polices.
- This Title will detail the procedures for the creation of a national land and natural resources plan under which regional and local plans will be made and refer to Book 1~~Title 3~~Book 1~~Title 3~~ – Public Participation and Book 1~~Title 4~~Book 1~~Title 4~~ – Access to Environmental Information. The national plans will provide the clear policy and strategic direction. Sub-national plans will provide for the specific measures to implement these national objectives.
- One option is to try to adopt a single method for the making and approval of management plans for protection and management (including exploitation) of heritages areas, marine and terrestrial protected areas and management plans for threatened and endangered species.

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#### CHAPTER # PREPARATION OF MANAGEMENT PLANS IN ACCORDANCE WITH

**NATIONAL, REGIONAL OR LOCAL ENVIRONMENTAL AND NATURAL  
RESOURCE MANAGEMENT PLANS**

**CHAPTER # CONSERVATION AND RATIONAL UTILIZATION OF NATURAL  
RESOURCES**

**CHAPTER # CREATION OF A NATIONAL ENVIRONMENTAL AND NATURAL  
RESOURCE MANAGEMENT PLAN (NEP)**

**CHAPTER # APPOINTMENT OF A COMMISSION TO PREPARE THE NEP**

**CHAPTER # DRAFT NEP TO BE PREPARED WITH PUBLIC PARTICIPATION**

**CHAPTER # APPROVAL OF NEP**

**CHAPTER # PREPARATION AND APPROVAL OF SUBNATIONAL AND LOCAL  
NEP**

**CHAPTER # ESTABLISHMENT OF A NATIONAL LAND AND RESOURCES  
INFORMATION DATABASE**

**CHAPTER # DATABASE TO BE PUBLICALLY AVAILABLE**

**CHAPTER # DATABASE TO BE USED TO MAKE NATIONAL, SUB-NATIONAL AND  
LOCAL PLANS**

**CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO PLANNING  
INCLUDING RECOGNITION AND VALUATION OF ECOSYSTEM  
SERVICES**

**TITLE 2     LANDSCAPE PLANNING AND THE ESTABLISHMENT  
OF NATIONAL CONSERVATION LANDSCAPES /  
CORRIDORS**

- This Title will establish a system of national conservation landscapes or corridors. These will be areas with specific legal status and protections. This could include:
  - National parks
  - Urban parks and tree corridors
  - Private land with conservation agreements, including eco-resorts, organic

Commented [M39]: Per STWG 3/5 Members.



agriculture

**CHAPTER # ESTABLISHMENT OF NATIONAL CONSERVATION CORRIDORS,  
INCLUDING NAMING, LOCATION AND BOUNDARY/MAP REFERENCE**

**CHAPTER # CLASSIFICATION OF ZONES WITHIN THE NATIONAL  
CONSERVATION CORRIDORS**

**CHAPTER # ACTIVITIES PROHIBITED IN THE NATIONAL CONSERVATION  
CORRIDORS**

**CHAPTER # PREPARATION AND APPROVAL OF MANAGEMENT PLANS FOR  
THE NATIONAL CONSERVATION CORRIDORS**

**CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS IN THE  
NATIONAL CONSERVATION CORRIDORS**

**CHAPTER # PROCEDURES FOR ADJUSTMENTS TO THE BOUNDARIES OF THE  
NATIONAL CONSERVATION CORRIDORS**

**TITLE 3      URBAN LAND USE PLANNING**

- This Title will examine land planning for urban areas. It will establish the creation of zoning plans and land classification for urban areas. It will also provide for the approvals process for developments in urban areas, in accordance with appropriate zonings. This may require the review of the Law on Land Management, Urban Planning and Constructions 1994.
- Urban areas and the development of towns and cities create significant burdens on the environment and the community. It is suggested that this be dealt with as a separate Title to focus on promoting sustainable urban development.
- The Title will establish the procedures for classifying land as urban land and the zone of urban land as housing construction zone, commercial zone and other relevant zones. It will provide the guidance for the sustainable development of cities in accordance with best practice planning principles. This will use the One Map process outlined in Book 2 Title 1.
- This Title will also provide the minimum requirements for the management of urban land, including provisions for plans covering water, energy, storm water management, traffic, noise and construction.

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- The roles of different authorities in land use planning and management will be addressed, referencing Book 1 Title 2~~Book 1 Title 2~~.
- The Title will address the specific requirements for public participation, referencing Book 1 Title 3~~Book 1 Title 3~~.
- This Title will address social housing.

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#### **CHAPTER # ESTABLISHMENT OF TRANSPARENT ZONING PROCESS AT CITY AND LOCAL LEVEL, INCLUDING PERIODIC TIMING, SCOPE AND STAKEHOLDERS TO BE INVOLVED AND HOW**

##### **ARTICLE #**

Mitigating and compensating for risks of displacing residents or existing businesses through new zoning

#### **CHAPTER # CLASSIFICATION OF URBAN LAND**

##### **ARTICLE #**

Population threshold at which a zoning plan is required

#### **CHAPTER # ZONING OF URBAN LAND**

##### **CHAPTER # MINIMUM STANDARDS OF URBAN ZONING PLANS**

Include specifications for delineation and co-existence of industrial, commercial and residential zones.

#### **CHAPTER # BUFFER ZONES AND PREVENTION OF ENCROACHMENT OF NON- COMPATIBLE USES**

#### **CHAPTER # URBAN INFRASTRUCTURE REQUIREMENTS**

##### **ARTICLE #**

Improving traffic flow (through the use of one way streets, no parking zones/times, bus lanes, stop signs, etc.)

##### **ARTICLE #**

Facilitating public-private infrastructure financing

**CHAPTER # PUBLIC TRANSPORTATION, BICYCLE ACCESS, RECYCLING,  
WASTE MANAGEMENT, MAINTENANCE OF URBAN GREEN SPACES,  
ETC., INCLUDING CLARITY ON ROLES AND RESPONSIBILITIES OF  
DIFFERENT LEVELS OF AUTHORITIES**

**ARTICLE #**

Incentivizing public transit ridership.

**ARTICLE #**

Promoting Walkability

**CHAPTER # BUILDING, PARKING, OPEN SPACE REQUIREMENTS**

Special building requirements (example: open space set asides, parking space requirements, energy efficiency standards), addressing minimum parking place allocations, open space set aside requirements for urban developments, traffic flow management issues, public transportation, etc.

**CHAPTER # OTHER PRIVATE SECTOR PROVISIONS**

**CHAPTER # MOTOR VEHICLE EXHAUST STANDARDS**

**CHAPTER # POTENTIAL NEW TENURE SYSTEMS FOR SOCIAL HOUSING  
PROJECTS**

**TITLE 4 EXTENDED PRODUCER RESPONSIBILITY**

**Commented [M40]:** Per Z. Fadeeva. This concept will be more fully developed and will either be included as a Principle or a section in the Code (Title).

**~~Title 4~~ TITLE 5 ENVIRONMENTAL QUALITY STANDARDS**

- This Title will establish the procedures for the setting of National and Local Environmental Quality Standards (EQS) and Guidelines. It will provide details on the type and quantity of the emissions. It will also adopt existing standards and levels until it is possible to revise or amend the Environmental Standards and Guidelines.
- This Title will require that all relevant Ministries will be required to follow the Environmental Quality Standards and Guidelines.

**Commented [MB41]:** Per STWG 2 at 6 April Workshop. EQS will be developed in collaboration with international experts.

- The Environmental Quality Standards and Guidelines in this Title will also extend to food safety principles and objectives.

#### **CHAPTER # SETTING OF ENVIRONMENTAL QUALITY STANDARDS (EQS)**

##### **CHAPTER # SETTING OF AMBIENT STANDARDS**

###### **ARTICLE #**

Air Quality Standards

###### **ARTICLE #**

Water Quality Standards

#### **CHAPTER # SETTING OF DISCHARGE STANDARDS FOR WATERBORNE POLLUTANTS**

###### **ARTICLE #**

Individual pollutant discharge standards to be set in the code

###### **ARTICLE #**

Individual pollutant discharge standards to be set by the relevant ministry

###### **ARTICLE #**

Setting of polluting threshold for emission monitoring

###### **ARTICLE #**

Taking local ecological characteristics into account when setting emissions standards

###### **ARTICLE #**

Relationship to EIA law

###### **ARTICLE #**

Incorporating international standards

#### **CHAPTER # SETTING OF DISCHARGE STANDARDS FOR AIRBORNE**

## **POLLUTANTS**

### **ARTICLE #**

Individual stationary source pollutant discharge standards to be set in the code

### **ARTICLE #**

Individual stationary source pollutant discharge standards to be set by the relevant ministry

### **ARTICLE #**

Motor Vehicle emissions standards

### **ARTICLE #**

Setting of polluting threshold for emission monitoring

### **ARTICLE #**

Taking local ecological characteristics into account when setting emissions standards

### **ARTICLE #**

Relationship to EIA law

### **ARTICLE #**

Incorporating international standards

## **CHAPTER # REVISION OF EQS**

## **CHAPTER # APPLICATION OF EQS IN CAMBODIA**

## **CHAPTER # PROVISIONAL ADOPTION OF INTERNATIONAL STANDARDS**

## **CHAPTER # DEFINITION OF BEST AVAILABLE TECHNIQUES**

## **CHAPTER # DEFINITION OF GOOD PRACTICES**

## **~~Title 5~~ TITLE 6 STRATEGIC ENVIRONMENTAL ASSESSMENT**

- This Title will outline the use of Strategic Environmental Assessment (SEA) for the

**Commented [M42]:** SEA is for PLANS and POLICIES. Not to be confused with EIA, which is for ACTIVITIES, such as development projects.

**Commented [M43]:** Per NGO Forum and other comments, content in this Title will be clarified, further developed, and made consistent with text regarding EIA as appropriate.

assessment and development of plans and policies in Cambodia. The use of SEA can be for all types of policies and plans, including decisions that may have impacts on natural resources management. The relationship between SEA and EIA will be further considered.

- The threshold for trigger for SEA will be clearly defined.
- This Title will also provide the link between National Environmental and Natural Resources Plans, SEA and also EIA for specific projects.

#### CHAPTER # OBJECTIVE OF SEA

To provide a high level of protection to the environment, including health, through the prior assessment of policies, programmes and plans.

#### CHAPTER # AIMS OF SEA

The key aims of SEA include:

- Ensuring that environmental impacts, including health and social impacts, are thoroughly taken into account in the development of plans and programmes;
- Contributing to the consideration of environmental impacts, including health and social impacts, in the preparation of policies and legislation;
- Establishing clear, transparent and effective procedures for strategic environmental assessment;
- Providing for genuine public participation in strategic environmental assessment; and
- Integrating by these means environmental concerns, including health and social concerns, into measures and instruments designed to further sustainable development.

**Commented [M44]:** Definitions for Environment and for Significant Environmental Impact will be developed that are clear and through, reflect Cambodian values, and include examples.

#### CHAPTER # IMPLEMENTATION OF SEA

##### ARTICLE #

The SEA procedure will include the following steps:

- 1) Screening
- 2) Scoping
- 3) Preparation of the Environmental Report

- 4) Consultation and Public Participation
- 5) Review and Decision
- 6) Information on Decision
- 7) Monitoring

#### ARTICLE #

##### Relevant Government institution

The relevant government institution shall be the institution with jurisdiction on the sector the subject of the SEA.

The relevant government institution shall coordinate with the MOE to ensure that these procedures are complied with.

[Confirm institutional arrangements, including role of NCSD].

#### ARTICLE #

##### Screening

Any plan or programme that in the opinion of the relevant government institution is likely to have a significant effect on the environment, health or society shall be required to undertake a SEA.

Any plan or programme that is in the following sectors shall be required to undertake a SEA unless the relevant government institution determines that an SEA is not required.

- a) agriculture,
- b) forestry,
- c) fisheries,
- d) energy,
- e) industry,
- f) mining,

**Commented [MB45]:** Or this could be in accordance with the Appendix I. Based on the Vietnam Decree on SEA.

g) transport,

h) infrastructure,

i) regional development,

j) water management,

k) waste management,

l) telecommunications,

m) tourism,

n) urban and regional planning or land use.

The relevant government institution shall determine if the plan or programme is likely to have a significant impact on the environment or health or society.

The relevant government institution shall ensure that all relevant ministries and government institutions are consulted in the preparation of the screening recommendation.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme should be the subject of SEA.

In reaching the decision whether to conduct a SEA the relevant government institution shall take into account the following factors:

1. The relevance of the plan or programme to the integration of environmental, including health and social considerations, and in promoting sustainable development.
2. If the plan or programme will provide an overall framework for projects and other activities, including location, nature, size, operations or the allocation of natural resources.
3. Environmental, including health and social problems and impacts relevant to the plan or programme.
4. The nature of the environmental impacts, including health and social impacts such as probability, duration, frequency, reversibility, magnitude and extent (such as geographical area or size of population likely to be affected).

Commented [M46]: Per NGO Forum.

Commented [M47]: The Code will clarify who must determine what constitutes a Significant Environmental Impact and the definition for Environment and Significant Environmental Impact.

Commented [MB48]: This is modified from the SEA Protocol, Annex III



5. The risks to the environment, including to health and society.
6. If the plan or programme will affect valuable or vulnerable areas, protected areas, including areas with a recognised national or international protection status.
7. If the plan or programme will affect indigenous peoples or natural resources allocation to indigenous people.
8. Comments received from the public participation and consultation process.

The relevant government institution will prepare, in collaboration with MOE, a screening analysis and recommendation.

Once the relevant government institution has determined if the plan or programme requires a SEA, the determination will be made public in accordance with the provision of this Code.

#### **ARTICLE #**

##### Scoping

The relevant government institution shall determine together with MOE and based on the screening process and comments received from other Ministries, the information and scope of the SEA.

The relevant government institution shall ensure that other relevant ministries and institutions are consulted in the preparation of the scoping report and the information to be included in the SEA.

The relevant government institution shall provide opportunities for public participation and involvement in determining whether a plan or programme requires preparation of an Environmental Report

#### **ARTICLE #**

##### Consultation and Public Participation

The relevant government institution shall ensure early, timely and effective opportunities for public participation, when all options are available for consideration and amendment, in the SEA of plans and programmes.

The relevant government institution shall provide for consultation and public participation in accordance with the provisions of the Environmental Code.

The relevant government institution shall comply with the provisions of the Environmental Code for access to information.

The relevant government institution shall make the Scoping Report, the Environmental Report, details of submissions received, the SEA Report Assessment and determination of the SEA publicly available in both draft and final forms.

Special consideration shall be given to providing opportunity for participation by vulnerable persons, including women, children, disabled persons, and ethnic minority groups and indigenous peoples.

#### **ARTICLE #**

##### **Environmental Report**

The relevant government institution shall prepare an Environment Report for those plans and programmes that are subject to SEA.

The relevant government institution may prepare the Environmental Report itself or may use an appropriately qualified consultant.

The Environmental Report shall, in accordance with the Scoping Report, identify, describe and evaluate the likely significant environmental impacts, including health, social and ecosystem impacts, of implementing the plans or programmes and any reasonable alternatives or modifications.

Special consideration shall be given to protecting the rights of and evaluating the impacts on vulnerable persons, including women, children, disabled persons, and ethnic minority groups and indigenous peoples.

#### **ARTICLE #**

##### **Review and Decision**

The assessment of the SEA shall be conducted by a SEA report assessment committee established by the relevant government institution and will include the representatives of the Office of the PM, the CDC, the institution of the Environment, and other concerned Ministries.

The SEA report assessment committee shall comprise a minimum of 9 members.

The SEA Report assessment committee shall consider the content of the Environmental Report and provide opinions and comments.

The relevant government institution shall provide support and guidance on the operations and management of the SEA report assessment committee.

The SEA report assessment committee may:

- (i) Conduct a survey on areas or adjacent areas where the project is carried out;
- (ii) Verify and evaluate information, data, analysis results, evaluation, or forecast in the Environmental Report;
- (iii) Collect opinions of relevant socio-political organisations, social organisations, socio-professional organisations, or experts;
- (iv) Hold thematic meetings between experts.

The SEA report assessment committee must conduct the assessment and send the results to the relevant government institution and MOE within 45 days of the completion of any further surveys or verification or evaluation.

#### **ARTICLE #**

##### **Results of assessment of SEA reports**

The SEA report assessment committee shall send the results of the assessment of Environmental Report to the relevant government institution and MOE.

The assessment must contain assessment procedures, outcomes and shortcomings, suggestions of the relevant government institution in order for the SEA report assessment authority to consider approving the plans or programmes.

The relevant government institution must comprehensively and objectively consider opinions or requests of the SEA report assessment authority.

The relevant government institution shall consider approving the plans or programmes according to Environmental Reports.

#### **CHAPTER # INFORMATION ON DECISION**

Once the relevant government institution has considered and made a decision on the plans or programme, this shall be notified to all the parties who have made submissions or been consulted during the SEA process.

The decision shall also be notified on a web-site of the relevant government institution.

#### **CHAPTER # MONITORING**

The relevant government institution in collaboration with MOE shall develop a monitoring programme.

The monitoring programme shall monitor the significant environmental impacts, including health and social impacts, of the implementation of the plans and programmes.

If the monitoring programme identifies any adverse impacts on environment, health or society, by the plans and programmes the relevant government institution should revise the plan or programme to undertake appropriate remedial action.

The results of the monitoring shall be made available to all relevant government institutions and to the public in accordance with the provisions of the Environmental Code.

#### **ARTICLE #**

Evaluating effects on ecosystem services.

#### **CHAPTER # APPRAISAL OF SEA REPORTS**

#### **~~Title 6~~ TITLE 7 ENVIRONMENTAL IMPACT ASSESSMENT**

- This Title will establish the EIA process in Cambodia. It will replace the Sub-Decree on EIA 72 ANRK.BK 1999. It will incorporate the details and provisions of the Draft EIA Law.
- This Title will cover new projects as well as existing projects and will provide three levels of assessment:
  - Environmental Impact Assessment;
  - Initial Environmental Evaluation; and

o Environmental Permit.

- The aim of this Title on EIA is to require all development projects and activities that will have an impact on the **environment or society** to undertake some form of environmental assessment. The level of assessment will be determined according to the potential impact on the environment or society.
- The threshold for trigger for EIA will be clearly defined.
- An EIA Approval Certificate will be issued and any other permit will be issued in accordance with the EIA Approval Certificate.
- EIA will be required for all projects or activities likely to have a significant impact on the environment or society.
- IEE will be required for those projects or activities likely to have a minor impact on the environment or society.
- An Environmental Permit will be required for those projects or activities that do not require an EIA or IEE. These will be required to have permission to ensure that the project is not likely to cause harm or damage to the environment or society.

**Commented [M49]:** The definition of environment in the definition section will be clear and thorough (and comprehensive and robust) and will provide examples in order for there to be an appropriate understanding that "environment" is very broadly defined and includes relationships and the characteristics important to Cambodia.

**CHAPTER # PURPOSE OF EIA**

**CHAPTER # SCOPE OF EIA IN CAMBODIA**

**CHAPTER # OBJECTIVES OF EIA IN CAMBODIA**

- [A tool for decision making](#)

**CHAPTER # APPLICATION TO PUBLIC AND PRIVATE DEVELOPMENT PROJECTS**

**CHAPTER # RESPONSIBILITY OF MINISTRY OF ENVIRONMENT IN EIA / ROLES AND RESPONSIBILITIES OF SUB-NATIONAL AUTHORITIES**

**Commented [M50]:** Per NGO Forum. Must ensure EIA is conducted for every phase of a project or activity, such as exploration/feasibility studies, land clearance, construction, operation, expansion, closure).

**Commented [M51]:** Per NGO Forum. Also, funding for sub-national authority role? Scope of project approval under sub-national authority?

**ARTICLE #**

Officials of the EIA Unit of the Ministry of Environment have the following authorities:

1. - To inspect and monitor compliance with the laws and regulations in force, guidelines, Environmental Protection Agreement, [conservation agreement](#), standards, EMPs and other

related environmental requirements. In necessary cases, EIA officials can order the project proponent to provisionally postpone activities or provisionally close the location of the project.

2. - To check documents and electronic data on environmental management and other records on development projects and project operations.
3. - To listen to and make minutes after listening to the answers of workers, employees, representatives of Project Proponents as well as other relevant persons.
4. - To order the workers, employees, managers, legal representatives, and agents of development projects to provide information, written documents, plans as well as minutes of all kinds that are related to the environmental management of a Project Proponent.
5. - To search the project site and seize evidence where a violation of laws or regulations on EIA or EMP is suspected to have been committed.
6. - To meet with Boards of Directors, legal representatives, workers, and employees of development projects at least once per year in order to assess the implementation of this law and other relevant regulations.
7. - To make minutes of searching and seizing of evidence in order to compile the case file of the commission of the offense against this or any other law in order to take measures in accordance with procedures in force.

#### ARTICLE #

Capital and Provincial Environmental Departments of the MoE shall take part in implementing this law in accordance with the laws and regulations in force as well as the assignment of the MoE.

[Article #](#)

[MoE should make public announcement for selection of EIA consulting firm for EIA report.](#)

**Commented [TR52]:** The public announcement should be made for selection of EIA consulting firm for conducting EIA for transparency and accountability.

#### CHAPTER # REGISTRATION OF EIA EXPERTS

**Commented [TR53]:** EIA consulting firm should registered with MOE

#### ARTICLE #

EIA Consultants, which could either be natural persons or legal entities, shall be under the management of the MoE.

EIA Consulting Firms shall have Khmer nationality with the project team leader who is the consultant accredited by the MoE.

[The international EIA consulting firm can join venture with local EIA consulting firm.](#)

All EIA consultants must be registered with MoE before professionally preparing EIA with an EIA consulting firm.

Registration of certificates of accreditation as an EIA Consultant shall be valid for a maximum period of 5 years and may be renewed.

## CHAPTER # LEVELS OF ASSESSMENT WILL INCLUDE EIA, IEE OR ENVIRONMENTAL PROTECTION AGREEMENT

### ARTICLE # Definition

#### Environmental protection agreement:

Conservation agreement: A conservation agreement is an agreement between the MoE and a person for the protection and conservation of biodiversity in areas of land or sea where the proposed project has potential impacts.

### ARTICLE #

All development projects must properly assess the impacts on the environment, economy, society, health and culture with prior approval of the MoE before being sent to the government for decision.

Issuance of licenses or permission letters to development projects by Approval Ministry-Institution shall be done in accordance with the principle of FPIC and conditions determined in the EIA Approval Letter and Certificate. Licenses, permission letters, or decisions that are in contradiction to the spirit of this provision are considered null and void.

### ARTICLE #

This law does not apply to State's development projects or State activities that have been approved by the government or the National Assembly and that are considered to be necessary and emergency projects relating to national security, territorial integrity, national sovereignty, or disaster management.

### ARTICLE #

The MoE shall conduct screening to determine the type of development projects, to require the project proponent to prepare the following documents:

1. An IEE with an attachment of Environmental Protection Agreement and conservation agreement;

**Commented [TR54]:** Should also include conservation agreement in this chapter which the proponents should responsible for protecting certain biodiversity and ecosystem

**Commented [M55]:** A comprehensive and robust definition of "environment" would clarify and simplify the text and meaning.

**Commented [M56]:** Per NGO Forum.

**Commented [M57]:** Per NGO Forum.

2. An EIA with an attachment of Environmental Protection Agreement [and conservation agreement.](#)
3. An Environmental Protection Agreement (EPA)

The projects that are required to prepare an EPA shall attach with it technical principles such as Environmental Protection Plan (EPP) in accordance with the requirements of the MoE,

#### ARTICLE #

The MoE can determine additional screening of the type of project based on the scale of environmental and social impacts that shall be determined by the MoE.

#### ARTICLE #

In cases where there is any transfer or changes to the Project Proponent by any reasons, then the IEE and/or EIA Approval Letter and Certificate as well as contract and all conditions provided for in this paragraph shall be automatically transferred to the new Project Proponent. The Contract of Transfer or the changes of the Project Proponent shall not be valid for implementation unless the transfer or the changes are done after MoE has received notification about the changes.

#### ARTICLE #

IEE report shall be required for:

1. Projects listed in sub-decree.
2. Projects that have prepared Environmental Protection Agreement and decided by MoE that they do IEE.

When the proposed project is required to do an IEE, the Project Proponent shall cooperate with consulting firms in order to prepare the Terms of Reference (ToR) in accordance with the provisions and guidelines of MoE and submit to EIA Unit for final approval.

Project Proponent and consulting firms shall prepare IEE report based on the approved ToR.

#### ARTICLE #

An Environmental Impact Assessment report shall be required for:

- 1- Projects listed in Annexure 1 or;
- 2- Projects that have received an IEE and the result of the study demonstrate [significant](#)



environmental impacts and the MoE requires the project to conduct an EIA.

When the proposed project is required to undertake an EIA report, the Project Proponent shall collaborate with consulting firms to draft the Terms of Reference in accordance with any provisions and guidelines of MoE and submit to EIA Unit for final approval.

Project Proponent and consulting firms shall prepare EIA report based on the approved ToR.

#### ARTICLE #

An Environmental Protection Agreement shall be entered into by all projects that are listed in sub-decree or projects with little negative impacts on environment and society.

When the proposed project is required to conduct an EPA, the project proponent shall enter into to the EPA by attaching with it the technical principles such as Environmental Protection Plan and relevant documents and submit to EIA Unit for final approval.

The form of EPA and EPP shall be determined by MoE.

### CHAPTER # ESTABLISHMENT OF EIA REVIEW COMMITTEE

#### ARTICLE #

All development projects that are required to perform an EIA are required to have technical comments from the Expert Review Committee.

The composition of the Expert Review Committee includes officials from MoE and relevant ministries and institutions, and independent experts with qualifications and appropriate experience in reviewing EIA reports. Members of an Expert Review Committee shall be selected on a project-by-project basis by MoE based on the technical aspects of the EIA report.

The organisation and functioning of the Expert Review Committee shall be determined by Prakas of MoE.

The members of the Expert Review Committee shall be reimbursed for their services based on an agreement between MoE, each member, and Project Proponent.

**Commented [M58]:** While representatives from the public, including potentially affected communities, are not included in the Expert Review Committee, the public participation process provides the opportunity for EIA review and input on the decisions.

### CHAPTER # ROLE OF EIA REVIEW COMMITTEE

#### CHAPTER # TIMEFRAMES FOR PEA, EIA, ~~AND~~ IEE AND TOR PROCEDURE

#### ARTICLE #

**Commented [M59]:** Per NGO Forum. Reimbursement for participation in an EIA Expert Review Committee should be limited to those committee members acting outside their normal responsibilities. Government officials or staff whose job it is to participate in the EIA process should not be specially remunerated.

The MoE may only make a determination in accordance with this procedure after the IEE or EIA has been on public exhibition [and comment](#) for at least the time period specified in the Code.

For the Environment Protection Agreement the minimum time period for public exhibition and comment is [a 3 weeks, starting from the date of EPA is published in the internet or where accessible and the date of invitation for public comment.](#)

**Commented [TR60]:** Suggested to have public comment for 20 working days, when EPA is published in the internet or where accessible.

For the IEE Report the minimum time period for public exhibition and comment is a 6 weeks, [starting from the date of IEE report is published in the internet and the date of invitation for public comment.](#)

For the EIA Report the minimum time period for public exhibition and comment is a 8 weeks, [starting from the date of EIA report is published in the internet and the date of invitation for public comment.](#)

[For the Term of Reference \(ToR\) of EIA consulting firm the minimum time period for public comment is 20 days, starting from the date of ToR is published in the internet and the date of invitation for public comment](#)

#### ARTICLE#

[The invitation for public comments should be announced publicly via Televisions and Local Newspapers.](#)

#### **ARTICLE #**

The MoE has a period of 30 (thirty) working days to review, comment, approve, reject, or require adjustment or correction to Environmental Protection Agreement and Environmental Protection Plan. The period is counted from the date of the submission of Environmental Protection Agreement, Environmental Protection Plan, and relevant documents.

#### **ARTICLE #**

MoE shall review and comment on the IEE report within sixty (60) working days counting from the date of receiving the report. The period of sixty (60) days will expire when the Ministry of Environment has provided the comments regardless of whether the comment is in the form of rejection, approval, or an order to make modification or improvement on the reviewed report.

The period of sixty (60) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the

Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the slowness or failing to make correction in accordance with the above order or instruction.

#### **ARTICLE #**

MoE shall review and comment on the EIA report within ninety (90) working days counting from the date of receiving the report. The period of the ninety (90) days will expire when the Ministry of Environment has provided the comments regardless of whether the comments are in the form of rejection, approval, or an order to make modification or improvement on the reviewed report.

The period of ninety (90 ) days of working days for the review and comment shall always restart when MoE receives an application asking for review as well as the final EIA report which the Project Proponent has corrected in accordance with the order or instruction that MoE has provided previously.

The Project Proponent shall be liable for any damages caused by their own mistakes for the slowness or fail to make correction in accordance with the above order or instruction

### **CHAPTER # PREPARATION OF EIA REPORT**

[Article # Standard of EIA Report](#)

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### **CHAPTER # PREPARATION OF ENVIRONMENTAL MANAGEMENT PLAN**

#### **ARTICLE #**

An Environmental Management Plan (EMP) shall be prepared by the Project Proponent.

The EMP shall include the [prevention](#), protection, mitigation, monitoring and management requirements that were identified in the IEE and EIA reports.

The EMP shall be regularly updated to take into account any amendments in Environmental Standards, or changes in sector performance practices or other changing circumstances of the Project.

#### **ARTICLE #**

All development projects and project operators shall establish and maintain an Environmental Management System (EMS) that shall ensure the self-monitoring procedures and methods as

stipulated in their EMP.

In cases where the environmental impacts are greater than those estimated in the EIA report or EMP, then the MoE shall require immediate action to remedy the impact or an adjustment of the EMP.

The adjusted EMP and monitoring programme shall be approved by MoE. A time limit to make adjustments or improvements shall be agreed upon in writing by all parties.

The Project Proponent shall prepare the environmental monitoring report every three (3) months and submit to EIA Unit for review and evaluation. The EIA Unit has the right to make site inspections and verify the monitoring data of the Project Proponent.

#### ARTICLE #

Project-affected persons and all stakeholders shall have the right to report issues and grievances of environmental and social concerns to the Project Proponent and to petition competent authorities. Such issues will be addressed by a sub-national commission and it can continue to an inter-ministerial commission established as part of the EMP.

**Commented [M61]:** Per NGO Forum. Define in more detail, link to relevant sections of the Code.

Relevant competent authorities shall respond to the grievance or petition and deal with concerned environmental and social issues within an appropriate time limit and inform the concerned persons accordingly.

**Commented [TR62]:** Grievance mechanism should have its own separate chapter/

#### Chapter # Grievance Mechanism

Article #: The Department of EIA shall have an online platform for grievance and complain. The Department of EIA shall response to the complaints within 30 days.

Article #: The project proponent shall have regular meeting with project-affected communities and relevant stakeholders at less every 6 months to discuss and resolve any concern.

Article#: The formalities and procedures of the grievance or petition shall be determined by Prakas of MoE.

#### CHAPTER # SUBMISSION OF EIA REPORT

#### CHAPTER # CONSIDERATION AND ASSESSMENT OF EIA REPORT

#### ARTICLE #

During the period for review and comment the MoE shall review and comment on the IEE or EIA report after:

- Listening to and considering the official presentation and defending of the report which is conducted by the Project Proponent and consulting firm;
- Considering the comments of direct or indirect project-affected people, opinion of the public and civil society;
- Considering the comments from relevant ministries or institutions, and
- Considering the proposed comments of the Expert Review Committee;

MoE is responsible for ensuring a fair public participation process by inviting representatives of relevant ministries or institutions, territorial authority, civil society, and project-affected persons to provide comments on the proposed project.

#### CHAPTER # REVISION OF EIA REPORT

#### ARTICLE #

The provision of comments in the form of approval or rejection, or the ordering to make adjustments or corrections on IEE or EIA shall be done by taking into consideration the advantages and disadvantages of environment, economy, society, and culture by examining the scope of the project, geographical location, potential impact, other special features of each project, and effectiveness of the implementation of management measures, and/or the protection of environmental quality and social impact mitigation in accordance with the level of the development of technology and science.

In case where MoE approves any IEE or EIA report, MoE shall issue an EIA Approval Letter and Certificate for the project by attaching with it the Environmental Protection Agreement.

In case where the MoE rejects an IEE or EIA report, the MoE shall provide the reasons for the decision.

In case where the MoE provide comments of ordering to make adjustments or corrections of the IEE or EIA report, the MoE shall provide reasons and clearly demonstrate the points that need to be adjusted or corrected.

#### ARTICLE #

Before the decision to grant an EIA Approval Letter and Certificate to development projects that

are located in the areas where indigenous people live, MoE, members of the Expert Review Committee and relevant stakeholders involved in the decision-making process must take strong heed and special consideration about the project in order to avoid negative impact on the culture, custom, tradition, livelihood, and the property of indigenous people.

**Commented [M63]:** Per NGO Forum. Follow guidelines of FPIC, UNDRIP, and international human rights standards and respect existing laws on conservation and safeguard principles, including following Cambodia's signatory standards under international agreements.

## CHAPTER # APPROVAL OR REJECTION OF EIA REPORT

### ARTICLE #

MoE shall send the decision on the rejection or the order to make adjustment and correction in writing as well as the reasons or condition and/or the points that need to be adjusted or corrected to the Project Proponent and consulting firm in order to prepare the EIA report.

MoE shall send the EIA Approval Letter and Certificate as well as the Environmental Protection Agreement to the Project Proponent and relevant competent ministries and institutions such as Approval Ministries or Institutions, Council for Development of Cambodia, Capital and Provincial Departments of Environment and relevant Commune and Sangkat Councils.

## CHAPTER # GRANTING OF EIA APPROVAL LETTER

### CHAPTER # PROHIBITION OF ACTIVITIES WITHOUT EIA APPROVAL LETTER

### ARTICLE #

Project Proponents shall not commence any construction activities or Project operations until after the EIA Approval Letter and Certificate has been issued for the Project. The Ministry of the Environment shall have the power to postpone all construction activities or Project operations that do not have an EIA Approval Letter and Certificate.

All Concession Agreements that are granted by the Royal Government of Cambodia at both national level and Capital and Provincial level shall have an official EIA Approval Letter and Certificate with an attachment of Environmental Protection Agreement (EPA).

### ARTICLE #

The EIA Approval Letter and Certificate shall be valid for the life cycle of the project. In case where the MoE finds that there are changes to Master Plan or that the IEE or EIA reports are not adequate or effective for the implementation of impact mitigation measures, the MoE has the rights to require the project proponent to re-prepare an EIA report and/or to update the existing EIA report in order to receive a new EIA Approval Letter and Certificate in accordance with conditions determined by MoE.

## CHAPTER # EXISTING PROJECTS

### ARTICLE 31

MoE in consultation with relevant Ministries or institutions shall prepare Guidelines based on project screening for the types of projects that have not conducted the EIA to require the Project Proponent to prepare an IEE or EIA report for existing projects or projects in operation.

The Guidelines shall be published within three (3) months after the MoE has made decision on these guidelines.

Project Proponents shall cooperate with consulting firms to complete their IEE or EIA reports and submit these documents to MoE for review and comments in a period determined by MoE.

MoE shall review, comment, and make a decision on these IEE or EIA reports in accordance with the provisions of the Code.

## CHAPTER # MATTERS FOR CONSIDERATION

### ARTICLE #

Protecting the rights of vulnerable persons, including women, children, disabled persons, and minority groups and indigenous peoples, in keeping with the principle of FPIC and through the EIA process, including public participation in the EIA process and the implementation measures that are an outcome of EIA approval.

## CHAPTER # SOCIAL IMPACT ASSESSMENT

[To be developed in detail]

## CHAPTER # HEALTH IMPACT ASSESSMENT

### ARTICLE #

All IEEs and EIAs must include a Health Impact Assessment (HIA) that includes:

- baseline data on health (including nutrition) in the project areas and of the affected populations;
- description of potential project impacts (e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease) due to construction,

**Commented [MB64]:** Projects that are planned or existing that have completed the EIA process and Government approval processes shall not require further assessment. All existing projects will be required to comply with the Code and be subject to the appropriate penalties if the project causes harm to the environment or society.

**Commented [M65]:** Per NGO Forum. Clarification for expansion of existing projects.

**Commented [M66]:** Per NGO Forum.

**Commented [TR67]:** There should be two components, biophysical assessment (land use, soil, water resources, air quality, ecological assessment, greenhouse gas emission and energy) and social-economic assessment (public infrastructure, noise and vibration, hazards, heritage, visual, social-economics)

**Commented [M68]:** Per NGO Forum.

**Commented [M69]:** Per NGO Forum.

- population influx and changes to the environment;
- the mitigation measures to offset, reduce or even eliminate negative impacts of the project and measures that will be introduced by the Project Proponent to preserve and maintain good health of the local communities and take measures for improvement where necessary; and
- the issues related to monitoring health conditions and managing remaining impacts in the short and long-term for the project.

Commented [M70]: Per NGO Forum.

#### ARTICLE #

In assessing the health impacts, Project Proponents must:

- propose a safety and health management plan as part of the HIA for the working environment, analysing relevant risks and specific classes of hazards in the proposed project areas, including physical, chemical, biological, and radiological hazards.
- identify and assess the risks to, and potential impacts (e.g., resettlement, food and water insecurity, nutrition, additional work burden, sexually transmitted disease) due on, the safety and health of affected communities during the design, construction, operation, and decommissioning of the project, and establish preventive measures and management plans for the impacts during these stages.

Commented [M71]: Per NGO Forum.

#### CHAPTER # TRANSBOUNDARY ENVIRONMENTAL

Commented [M72]: A comprehensive and robust definition of Environment will be defined.

A Project that has potentially significant trans-boundary environmental impacts is required to conduct a Trans-boundary Environmental Impact Assessment (TbEIA).

#### ARTICLE #

Procedures for conducting TbEIA including government institution jurisdictions.

#### CHAPTER # CUMULATIVE IMPACT ASSESSMENT

Commented [M73]: Per NGO Forum. Recommend referencing work on cumulative impact assessment by University of Queensland, CSRM.

#### ARTICLE #

- All EIAs must analyze and evaluate the cumulative impact caused by existing and future projects in the surroundings of the Project, which may trigger significant environmental or social impacts.
- In the cumulative impacts assessment report, the Project Proponent must evaluate the capacity of physical, biological and social economic resources to accommodate additional effects based on their own time and space parameters and project activities surrounding the project sites.



- Project Proponents must consider alternative mitigation measures to offset or avoid potential significant cumulative impacts

## **CHAPTER # ENVIRONMENTAL MANAGEMENT, ~~AND~~ MONITORING, AND AUDITING**

### **ARTICLE #**

The EIA Unit and Provincial/Capital Department of Environment are the monitoring authorities on Environmental Management Plans and following up on Environmental Management Plan implementation of Project Proponents by cooperation with the Ministry of Environment, relevant institutions, local authorities and stakeholders.

## **CHAPTER # PROVISION OF INFORMATION**

## **CHAPTER # REPORTING REQUIREMENTS**

### **ARTICLE #**

Each development project shall prepare an Environmental Monitoring Report of the project as follows:

- A Quarterly Report (every three months) covering all environmental management and monitoring results shall be submitted to the EIA Unit;
- Within three (3) months after the financial year the Project Proponent shall prepare and submit an annual environmental report, including the environmental auditor's opinions;
- Provide copies of the Project's annual environmental report to the public on request without charge;
- Provide an electronic copy of the quarterly reports and annual environmental report that will be placed on the publicly accessible web-site of MoE and by the Proponent on a publicly accessible web-site.

### **ARTICLE #**

Each development project with an EIA Approval Letter and Certificate shall submit a quarterly and semi-annual report to the EIA Unit concerning its environmental management and monitoring; Project Proponents have the obligation to promptly report a critical environmental problem to relevant and competent authorities and to the public to avoid negative impacts to the environment or society; Project Proponents shall provide information related to environmental management of the project to MoE in accordance with the request of MoE.

## **CHAPTER # FEES AND CHARGES**

**ARTICLE #**

The Project Proponent is liable for all expenses incurred in preparation of the Initial Environmental Examination (IEE) report or the Environmental Impact Assessment (EIA) report and for the expenses for project screening, for project scoping, for the public participation process, for the review and comment on the IEE or EIA report by MoE, for reviewing Environmental Monitoring Report, and for the work of the Expert Review Committee.

**ARTICLE #**

The Project Proponent is liable for the expenses of the preparation and implementation of the Environmental Management and Monitoring Plan (EMP) and costs to cover implementation and monitoring of measures on reduction of the impacts on environment and society as delineated in the EMP and SDP.

The Project Proponent shall have a deposit [reserved] budget or insurance budget for the management of environmental and social risks which shall be determined by the MoE.

**ARTICLE #**

A detailed budget of estimated costs for environmental impact mitigation measures that must be included in the EMP shall be borne by the Project Proponent.

The cost of making documents publically available, including web-site access, as stipulated in Article 40 of this law shall be borne by the Project Proponent.

All costs to adjust or improve the mitigation measures and project monitoring programme as stipulated in Article 43 of this law shall be borne by the Project Proponents.

All expenses for dispute resolution in both inside and outside of the court system as stipulated in Article 65 of this law are the responsibility of the Project Proponent.

Service fees and other charges shall be determined by an Inter-ministerial Prakas between the MoE and the Ministry of Economy and Finance.

**ARTICLE #**

When the Project Proponents submit application for review and comment on IEE or EIA report, MoE has the duty to collect fees and service charges as provided in an Inter-Ministerial Prakas between MoE and Ministry of Economy and Finance on Service Charges for reviewing EIA report.

#### ARTICLE #

The Project Proponent shall make payment of fees and service charges for reviewing Environmental Monitoring Report to MoE to enable MoE to carry out its duties to review monitoring reports, respond to requests for investigation of environmental complaints, and to carry out routine compliance monitoring during both construction and operation phases of the project.

#### ARTICLE #

~~An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.~~

#### ARTICLE #

~~The Project Proponent shall make payment of Environmental Endowment Fund based on the agreement between MoE and Project Proponent, on an annual basis until the end of business, based on the type and scale of development project.~~

### ~~Title 7~~ **TITLE 8 ENVIRONMENTAL AUDITS AND ENVIRONMENTAL MANAGEMENT REPORTING**

- This Title will outline the principles and requirements for environmental audits and for reporting requirements under the relevant provisions of the Environmental Code. An environmental audit will be a key mechanism to ensure that permit holders and those undertaking development projects are complying with the conditions of approval. This will include EIA, IEE and environmental protection agreements as well as any conditions attached to permits or licenses or ELC.
- The Title will also establish a PROPER system for self-report of pollution by companies and a color-coded registration for environmental compliance. Companies will be designated from Green and Blue (Beyond Compliance) to Black (Compliance) to Yellow and Red (Below Compliance)
- The aim of this Title is not to increase the regulatory burden on the holder of a license or approval but to ensure that environmental and social obligations are carried out in accordance with the approval conditions.

### **CHAPTER # ESTABLISHMENT OF SELF-REPORTING FOR ENVIRONMENTAL COMPLIANCE**

Commented [M74]: e.g., PRTR

**CHAPTER # OBLIGATION TO REPORT BREACHES OF ENVIRONMENTAL CODE**

**CHAPTER # ESTABLISHMENT OF SYSTEM OF ENVIRONMENTAL COMPLIANCE**

**CHAPTER # REGISTER OF APPROVALS, PERMITS, LICENSES AND  
MONITORING REPORTS**

**CHAPTER # UNIFIED REGISTER TO BE PUBLICALLY AVAILABLE AND EASILY  
ACCESSIBLE**

**CHAPTER # ENVIRONMENTAL AUDITS**

**Commented [M75]:** Per NGO Forum. Ensure mandatory audits.

**CHAPTER # APPOINTMENT AND QUALIFICATIONS OF ENVIRONMENTAL  
AUDITORS**

**CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL  
AUDITS**

**CHAPTER # PROJECTS AND ACTIVITIES REQUIRING ENVIRONMENTAL  
CERTIFICATION TO INTERNATIONAL STANDARDS**

**CHAPTER # MONITORING REPORTS TO BE REQUIRED FOR SPECIFIC PROJECT  
AND ACTIVITIES**

**Commented [M76]:** Per NGO Forum. Link to risk identification and mitigation plans.

**CHAPTER # MONITORING REPORTS REQUIRED UNDER EIA APPROVALS**

**CHAPTER # MONITORING REPORTS TO BE PUBLICALLY AVAILABLE**

**CHAPTER # RIGHTS AND RESPONSIBILITIES TRAINING**

**Commented [M77]:** Per NGO Forum. Propose “Responsible Business Conduct”. Will promote better policy coherence with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises

**BOOK 3 ENVIRONMENTAL MANAGEMENT AND  
SUSTAINABILITY MECHANISMS**

**TITLE 1 DISASTER RISK REDUCTION AND MANAGEMENT**

- The Title will provide the requirements for reducing disaster risk by proper planning and incorporating risk reduction strategies into natural resource management decisions.

**CHAPTER # DISASTER MANAGEMENT PLANNING**

**CHAPTER # INCORPORATION OF RISK-REDUCTION PLANNING**

Move Chapter to Book 7 Environmental Education and Awareness?

**CHAPTER # DEVELOPMENTS TO TAKE INTO ACCOUNT DISASTER  
MANAGEMENT PLANNING**

**CHAPTER # PLANNING FOR MAJOR POLLUTION INCIDENTS**

**CHAPTER # RESPONDING TO ENVIRONMENTAL DAMAGE**

**CHAPTER # DISASTER MANAGEMENT FOR PROTECTED AREAS AND  
HERITAGE LOCATIONS**

**CHAPTER # MANAGEMENT OF DISASTERS AT WASTE FACILITIES**

**CHAPTER # MANAGEMENT OF DISASTERS AT ENERGY PRODUCTION AND  
STORAGE FACILITIES**

**CHAPTER # MANAGEMENT OF DISASTERS AT CHEMICAL FACILITIES**

**CHAPTER # OBLIGATION TO REPORT POTENTIAL DISASTERS**

**TITLE 2 CLIMATE CHANGE ADAPTATION AND MITIGATION**

- This Title will outline how to mainstream Climate Change assessment into the management of natural resources in Cambodia. Adopting existing strategies to adapt to and mitigate the impacts of climate change in Cambodia, this Title will provide the details on how those matters should be taken into consideration during the EIA process and the natural resource management process.
- The Title will incorporate international climate change mechanisms such as REDD+ CDM and other climate change mechanisms into Cambodia law.
- This Title will outline how to reduce greenhouse gas emissions by Cambodia and the promotion of Green Growth.
- This Title will also link to Title 6 – Sustainable Energy and Book 8 Title 1 Book 8 Title 1 – Environmental Incentives.
- It will also address some key issues in relation to other relevant Titles, including building resilience to climate change through planning and construction standards (referencing Book 2 Book 2 Title 3 Book 2 Title 3 – Urban Land Use Planning and Title 4 Title 3 – Sustainable Cities)

**CHAPTER # OBLIGATION TO ADDRESS CLIMATE CHANGE**

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## CHAPTER # INCORPORATING CLIMATE CHANGE MITIGATION IN ALL NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS

### Chapter # Reducing Emission from Deforestation and Forest Degradation (REDD+)

- Using REDD+ as climate change mitigation measure (emission reduction)
- Compliant with international agreement (eg. Cancun safeguards)
- Develop spatial land use plans that help guide development of activities (e.g. agricultural development and infrastructure improvements), conservation areas and multiple use zones
- Develop national policies to help govern and regulate agribusiness (eg. standard practices for sustainable palm oil and rubber)
- Sustainable forest management
- Restoration
- Public private partnership for Conservation
- Cooperate social responsibility
- Source of funding

## CHAPTER # INCORPORATION OF CLIMATE CHANGE ADAPTATION IN ALL NATURAL RESOURCES AND ENVIRONMENTAL DECISIONS

### TITLE 3 **SUSTAINABLE CONSUMPTION AND PRODUCTION**

Commented [M78]: Per Z. Fadeeva.

- This Title will address the issues of resource use, inclusive manufacturing, consumption, product requirements, public procurement, etc.

### TITLE 4 **SUSTAINABLE CITIES**

- This Title will require that land use planning and management for urban areas be conducted to promote sustainable and resilient cities.
- It will ensure that planning takes into account long-term impacts on urban areas, including climate change, energy, water, population and economic development.
- It will also examine the management of trees along public roads and the development of people and nature friendly cities, including the promotion of renewable energy in urban areas.
- Establishment of special institution to promote capacity building and technical education on sustainable cities

## CHAPTER # DEVELOPMENT OF SUSTAINABLE URBAN CENTRES

### Green urban city

- All the proposed development in the cities (buildings, houses, factories) need to consider minimum environmental consideration. (eg. wider road, drainage system, green space for recreation, play ground ....)

## CHAPTER # MAKING A SUSTAINABLE CITY PLAN

### ARTICLE #

Measuring progress towards sustainability

Establishing priorities for sustainable cities development across scales (i.e. at the local, regional and national level) with cooperation between multiple ministries at the national and local levels.

### Article # City Zoning

### Article # Traffic management

### Article # Transportation management

#### Sustainability of transportation:

- The importation of vehicles shall consider the minimum environmental standards of emissions.
- The existing road shall improve by providing sufficient facilities for pedestrians (sidewalks, traffic lights etc).
- Construction of new road shall providing sufficient facilities for pedestrians (sidewalks, traffic lights etc).

## CHAPTER # ESTABLISHMENT OF RECYCLING PLANS FOR URBAN AREAS

## CHAPTER # PROMOTING ENERGY EFFICIENCY

### Mechanisms to support energy efficiency

## CHAPTER # SETTING OF ENERGY EFFICIENCY STANDARDS

## CHAPTER # SETTING OF STANDARDS FOR GREEN BUILDINGS

[Develop sustainable building policies](#)  
[Develop sustainable building practices](#)

#### **CHAPTER # INTERIM ADOPTION OF INTERNATIONAL STANDARDS**

#### **CHAPTER # CREATION OF SUSTAINABLE AND BETTER HOUSING**

##### **ARTICLE #**

Identifying and remedying threats to human and environmental health in existing housing stock

##### **ARTICLE #**

Implementing an environmentally sound, sustainable and affordable social housing programme

#### **CHAPTER # OPEN SPACE, PUBLIC PARKS AND GREEN SPACES**

[Promotion of ecological space within cities, given that increasing urbanization is contributing to the deterioration of environmental services.](#)

[City and town shall promote \*eco-villages\* to integrate urban and rural ways of life, and promote sustainable lifestyles through of ecological design, permaculture, ecological building, green production, alternative energy, community building practices, etc.](#)

#### **CHAPTER # ENSURING CLIMATE RESILIENCE IN URBAN AREAS**

[Chapter # financial mechanisms to support green investment](#)  
[Cities, and district level administrations shall allocate a financial budget for green space, recreation](#)

[Tax policy](#)

### **TITLE 5      SUSTAINABLE TOURISM AND ECO-TOURISM**

- This Title will create a framework for encouraging appropriate eco-tourism activities in Cambodia.
- Eco-tourism activities include small scale, community based tourism opportunities.
- This Title will also create a framework to promote sustainable tourism in general, including larger scale tourism with reduced environmental impact.



**CHAPTER # PROMOTION OF ECOTOURISM AND SUSTAINABLE TOURISM AS  
DEVELOPMENT PRIORITIES**

**CHAPTER # DESIGNATION OF SPECIAL ECOTOURISM AREAS**

**ARTICLE #**

Ecotourism in protected areas or wildlife reserves

**ARTICLE #**

Zoning for ecotourism

**CHAPTER # FINANCIAL INCENTIVES FOR ECOTOURISM OPERATIONS**

**CHAPTER # ECOTOURISM OPERATIONAL STANDARDS (COMMUNITY  
GUIDELINES, COMMUNITY MANAGEMENT, COMMUNITY FUND, ETC.)**

**ARTICLE #**

Standards for ecotourism benefits to the local economy

**ARTICLE #**

Protecting cultural heritage

**ARTICLE #**

Independent Certification of Ecotourism

**CHAPTER # MARKETING AND PROMOTION OF ECOTOURISM**

**ARTICLE #**

Regulating false claims in ecotourism

**CHAPTER # SUSTAINABLE TOURISM: DEVELOPING STANDARDS, GUIDELINES,  
AND APPLICATION FOR THE GENERAL TOURISM SECTOR**

**ARTICLE #**

Independent certification for sustainable tourism

## CHAPTER # CODE OF CONDUCT FOR ECO-TOURISM DEVELOPMENT

### TITLE 6 **SUSTAINABLE** ENERGY

- This Title will set goals and standards for the development of sustainable energy for Cambodia.
- This Title will address sustainable energy for all aspects of energy issues, including access, efficiency, and renewables.
- It will detail the mechanism to achieve the rapid development of energy sources in Cambodia, with a focus on alternative, carbon-free or low carbon energy sources, such as hydropower, wind energy, solar energy, biogas, geothermal, tidal energy and nuclear energy.
- It will also examine the development of oil and gas as energy sources in a manner that promotes sustainable development and transparency.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

Commented [M79]: Per STWG 3/5 Members.

Commented [M80]: Per Z. Fadeeva.

Commented [M81]: Per NGO Forum.

## CHAPTER # SUSTAINABLE ENERGY PLAN

### ARTICLE #

Procedures for developing a Sustainable Energy Plan

### ARTICLE #

Setting targets for percentage of renewable and non-renewable energy production sources

## CHAPTER # STANDARDS AND TECHNOLOGY FOR SUSTAINABLE ENERGY

### ARTICLE #

Standards for approval of proposed hydropower projects

Commented [M82]: Per NGO Forum. Limit large- and medium-scale hydropower with preference for small-scale projects.

### ARTICLE #

Issuing of permits for hydropower projects

**ARTICLE #**

Standards for management of hydropower projects

**Commented [M83]:** Per NGO Forum. Reference HSAF and HSAP.

**ARTICLE #**

Standards for approval of proposed wind and solar projects

**ARTICLE #**

Issuing of permits for wind and solar projects

**ARTICLE #**

Standards for management of wind and solar projects

**ARTICLE #**

Promoting the diffusion of sustainable energy technology

**CHAPTER # STANDARDS AND TECHNOLOGY FOR COAL-FIRED POWER  
PLANTS**

**Commented [M84]:** Per NGO Forum. Recommend Cambodia follow international trend of practices and standards that limit the use of coal.

**ARTICLE #**

Standards for approval of proposed coal-fired power plants

**ARTICLE #**

Issuing of permits for coal-fired power plants

**ARTICLE #**

Standards for management of coal-fired power plants

**CHAPTER # STANDARDS AND TECHNOLOGY FOR NATURAL GAS-FIRED  
POWER PLANTS**

**ARTICLE #**

Standards for approval of proposed natural gas-fired power plants

**ARTICLE #**

Issuing of permits for natural gas-fired power plants

**ARTICLE #**

Standards for management of natural gas-fired power plants

**CHAPTER # PROVISION OF CLEAN ENERGY FOR RURAL COMMUNITIES**

**ARTICLE #**

Extending the energy grid and promoting smaller-scale energy production.

Commented [M85]: Per NGO Forum.

**CHAPTER # DEVELOPMENT OF MICRO AND MINI-GRID SYSTEMS**

**TITLE 7 SUSTAINABLE EXTRACTIVE INDUSTRIES**

- This Title will examine the Laws relating to Mining in the provision of sustainable economic benefits to Cambodia.
- This will link to the Title on EIA, to promote efficient and effective extractive industry development in Cambodia.
- This title will include measures to ensure industry best practices, proper project management and decommissioning, including insurance, bond or fund for future costs.

Commented [M86]: Per STWG 3/5 Members.

Commented [M87]: Per NGO Forum. Review of translation needed per 6 April Workshop comments.

Frame Title within “Do No Harm” and rights-based, due diligence framework.

Link to newly established Extractive Industry Governance Framework Platform.

**CHAPTER # ADOPTION OF BEST PRACTICE IN EXTRACTIVE INDUSTRY**

This chapter will include, but is not limited to, best practices related to assessment of gender impacts, resettlement, FPIC, human rights impacts and due diligence (including access to remedy), meaningful stakeholder engagement (including access to information and participatory decision making, use of security personnel, waste management (tailings management, riverine waste disposal, water usage and treatment, corruption, bribery, facilitation payments, and extractives infrastructure (road, rail, ports, energy grids)).

Commented [M88]: NGO Forum. References for best practices in extractives provided in comment.

The mine and related development projects should give priority to conservation of biodiversity and wildlife, and even when granted should not affect habitat or wildlife negatively.

Commented [M89]: Per NGO Forum.

**ARTICLE #**

Extractive Industries Transparency Initiative (EITI) requirements and standards

Commented [M90]: Per NGO Forum. Cambodia is not an “EITI Candidate Country”.

**CHAPTER # ADDRESSING CUMULATIVE IMPACTS**

Commented [M91]: Per NGO Forum. Link to EIA section.

**CHAPTER # FINANCIAL AND ECONOMIC ARRANGEMENTS TO ENSURE  
PROPER SITE MANAGEMENT**

**CHAPTER # PROVISIONS AND FINANCING FOR CLOSURE (INCLUDING PLANS)  
AND REHABILITATION, REMEDIATION AND RESTORATION OF  
EXTRACTIVE INDUSTRY SITES**

Commented [M92]: Per NGO Forum. Including required insurance, bond or fund for decommissioning costs.

**CHAPTER # LICENSING AND PERMITTING SYSTEM FOLLOWING EIA  
APPROVAL**

[Article# Prohibited mining in protected areas, Indigenous Communal Land.](#)

[Article# require approval of full EIA before conducting any form of mining including sand, rock, minerals, metal, oil and gas.](#)

**CHAPTER # SAND MINING**

**CHAPTER # ROCK AND AGGREGATE MINING**

**CHAPTER # MINERALS**

**CHAPTER # METAL MINING**

**CHAPTER # OIL AND GAS**

**BOOK 4 SUSTAINABLE MANAGEMENT OF  
NATURAL RESOURCES AND ECOSYSTEMS**

Commented [M93]: Pper STWG 3/5. New Book.

**TITLE 1 COLLABORATIVE MANAGEMENT OF NATURAL  
RESOURCES**

- The Title would examine options for community use of natural resources, hunting, community fishing and use of land for sustainable community needs.

- To include a revision of current CF and CPA procedures. Address CFi and CBET (provisions for ecotourism under development) under a unified management framework.

Commented [M94]: Per Mang M. Recommend applying decentralization and deconcentration reform to speed up lengthy 11-step process for establishing Community Forestry as outlined in the 2006 Prakas on CF. Need translation.

Commented [M95]: Per Mang. M.

Commented [M96]: Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

- This title will contain or reference the outcome of an ongoing, concurrent process to

develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.

- This Title will include provisions as relates to the Title on Collaborative Management of Conservation Landscapes in the Book on Conservation and Protection of Biodiversity and Cultural Heritage (as relates to the ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources).

## **TITLE 2 SUSTAINABLE WATER RESOURCES MANAGEMENT**

- This Title will provide details of water management and water planning. Plans for water management should be prepared under the provisions of Book 2 Title 1 Book 2 Title 1 dealing with National, Regional and Local Management Plans.
- This will need to consider the benefit-sharing arrangements for the use of transboundary watercourses in accordance with international legal obligations.
- Waste water and water pollution will be dealt with in Book 6 Waste and Pollution Management and Sustainable Production.

### **CHAPTER # WHOLE-OF-CATCHMENT CONCERNS (INCLUDING RELATIONSHIPS BETWEEN UPPER AND LOWER RIVER REACHES AND BETWEEN DIFFERENT USERS)**

### **CHAPTER # IDENTIFYING AND QUANTIFYING (THROUGH MONITORING AND MAPPING) ALL SURFACE AND GROUND WATER SOURCES**

### **CHAPTER # IRRIGATION SYSTEM AND WATER SUPPLY FOR AGRICULTURAL PURPOSES**

### **CHAPTER # EROSION CONTROL (RIPARIAN AND WETLAND VEGETATION MANAGEMENT)**

### **CHAPTER # MAN-MADE WATERWAY**

### **CHAPTER # WATER RESERVOIRS FOR PUBLIC USE (REFERENCING URBAN PLANNING IN BOOK 2 TITLE 3 BOOK 2 TITLE 3)**

### **CHAPTER # GROUNDWATER MANAGEMENT**

**Commented [M97]:** Proposed revision to “co-management” by STWG 3/5 is “collaborative management.”

**Commented [M98]:** Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.

**Commented [M99]:** STWG 3/5 proposes the term “collaborative management” (easier to understand in Khmer and English; “co-management” is apparently already misunderstood).

**Commented [M100]:** Per STWG 3/5 Members.

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**Commented [M101]:** Per NGO Forum. Ensure irrigation systems do not capture rice field water.

**Commented [M102]:** Per NGO Forum. Including wetland rehabilitation and policies to preserve remaining wetlands.

Link to Protection of Plants, Important Habitats and Significant Ecosystems Title.

**Commented [M103]:** NGO Forum. Include community participation and regional planning for wells.

**ARTICLE #**

Establishing requirements for monitoring wells, with triggers for conservation measures if such wells fall below a critical level.

Commented [M104]: Per NGO Forum. Clear and precise definition required.

**CHAPTER # ALLOCATION AND TRADE OF ENTITLEMENTS TO USE WATER**

**ARTICLE #**

Groundwater

**ARTICLE #**

Rivers, streams and lakes

**CHAPTER # INTRODUCING MONITORING AND REPORTING SYSTEMS (IN  
REFERENCE TO BOOK 2 TITLE 8 ENVIRONMENTAL AUDITS AND  
ENVIRONMENTAL MANAGEMENT REPORTING)**

**ARTICLE #**

Mandatory reporting of normal emissions and effluents.

**ARTICLE #**

Mandatory reporting of sudden discharges during maintenance or accidents

**Title 2 TITLE 3 COASTAL ZONE MANAGEMENT**

- This Title will provide a planning framework for the use and management of the coastal zone.
- It will provide details for the management of tourism and economic development in the coastal zone. It will adopt strong interim controls and safeguards to protect the coastal zone from poor development.
- This will include existing areas receiving special treatment and a system for designating new areas for development, including existing and proposed new institutional management.

**CHAPTER 1. GENERAL PROVISIONS**

- 1) The Kingdom of Cambodia finds that there is a national interest in the effective management, beneficial use, protection, and development of the Coastal Zone.
- 2) The appropriate ministry shall have the authority to manage natural resources of all waters and lands, both emergent and submerged, in the Coastal Zone of the Kingdom of Cambodia, and to oversee and regulate all development or other activities affecting the waters, lands and associated natural resources of the Coastal Zone.
- 2) Consistent with the National Water Resources Policy for the Kingdom of Cambodia approved by Council of Ministers on 16 January 2004, the appropriate ministry shall:
  - (a) Take full account of and minimize the potential impacts to Coastal Waters by managing natural resources and human activity in the coastal watershed, consisting of the river basins that flow directly to the Gulf of Thailand.
  - (b) Manage natural resources and human activity in the Coastal Zone in a fully integrated way, in order to avoid or minimize unintended impacts to Coastal Waters.
  - (c) Actively and comprehensively manage all land-based and shoreline sources of solid, liquid and airborne environmental contaminants that may enter Coastal Waters.
- 3) All activity, development, construction, or other type of projects which have an impact on natural resources in the Coastal Zone shall be subject to an EIA.

## CHAPTER 2: COASTAL SUBZONES

- 1) The Coastal Zone shall be considered to consist of three subzones:
  - (a) Coastal Waters – Those waters extending seaward 5 km. from the shoreline, including the associated submerged lands.
  - (b) Coastal Lands – Those emergent lands extending inland from the shoreline for a distance of 5 km, including the intertidal zone.
  - (c) Coastal Watershed – The entirety of the combined watersheds draining to the marine waters of Cambodia.
- 2) The appropriate ministry shall develop regulations appropriate to each subzone in order to manage proposed future development and associated natural resources impacts.



### CHAPTER 3. COASTAL ZONE MANAGEMENT MANDATES

Pursuant to this authority, the appropriate ministry shall:

1) Consistent with the responsibilities listed in Article 5 of the Royal Decree on The Establishment of a National Committee on Coastal Zone Management and Development of Cambodia *[The status of this committee needs to be considered]*, undertake the following roles and responsibilities:

- (a) Prepare policies, strategic plans, master plans, action plans, programmes, and various projects pertaining to coastal management and development.
- (b) Produce necessary regulation and guidance to ensure the transparent, equitable, and sustainable management of the Coastal Zone.
- (c) Review and take any necessary action in regard to any passive activities affecting the environment and natural resources of the Coastal Zone.
- (d) Review and evaluate every project proposed for development and implementation in the Coastal Zone to ensure compliance with guidelines for Coastal Zone development issued by the Royal Government.
- (e) Participate in checking and providing comments to competent institutions on investment proposals that may impact the Coastal Zone.
- (f) Review, monitor, and mediate all activities undertaken, or planned to be undertaken, by ministries, institutions, sub-national administrations, national and international organisations, non-government organisations, civil societies, and private sectors that may have impacts in the Coastal Zone so as to ensure that their activities are coordinated in a smooth, effective, and sustainable fashion.
- (g) Provide guidance on laws and regulations governing Coastal Zone development to the sub-national administration, the private sector, and all other relevant stakeholders.
- (h) Submit a yearly report on Coastal Zone management activities for submission to the Royal Government.

2) Produce and openly distribute maps of the Coastal Zone and its subzones, so that all parties, both public and private, may clearly understand the areas in which special Coastal Zone regulations apply.

**Commented [M105]:** Link to process and system for access to and distribution of other environmental information, e.g., environmental information data repository.

3) Ensure that all proposed developments in the Coastal Waters, Coastal Lands, and Coastal Watershed are consistent with the applicable zoning restrictions applying to these lands and waters. Development projects that are found to be inconsistent with such zoning shall not be allowed.

4) Consistent with the current Law on Fisheries, NS/RKM/506/11, ensure that coral reefs, sea grass and mangroves are designated Coastal Zone aquatic resources of special value, and are accorded protected status, and updated maps of the location and extent of these resources shall be prepared based on the existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014.

5) Ensure that any activity, construction, or other type of project that results in loss of coral reef, sea grass or mangroves shall be prohibited except under special permit from the appropriate ministry. In issuing such a permit, the following criteria must be applied:

(a) It must be demonstrated that there is no practical alternative site for the proposed activity, construction, or type of project that would avoid the loss of coral reef, sea grass or mangroves.

(b) If a certain degree of loss is unavoidable due to the requirements of the activity, construction, or other type of project, then best management practices must be specified in the permit issued by the appropriate ministry that will serve to minimize the total loss of coral reef, sea grass or mangroves. Failure to follow these best management practices shall be considered a permit violation, and the permittee subject to a fine set by the appropriate ministry.

(c) If an unavoidable loss of coral reef, sea grass, or mangroves is permitted, then the permittee must enter into an agreement with the appropriate ministry to ensure that an area of the same ecosystem type, and of same or greater quality, be set aside in permanent protected status as a mitigation offset. Because the benefit stream from protection of the mitigation area is probabilistic, a function of the year by year likelihood the habitat would be lost if not protected and not certain to be lost otherwise, a ratio of three times shall be applied on an areal basis. Such mitigation offsets may be added to existing protected areas in order to satisfy this requirement.

Commented [M106]: Per M. Barash.

Commented [M107]: Per M. Barash. New text and mitigation ratio.

6) Produce updated maps of Future Inundation Hazard Areas for the coastal lands of Cambodia, based on existing maps presented by the National Committee for the Management and Development of the Coastal Area in their Report of Shoreline Assessment in 2014. Such Future Inundation Hazard Areas shall consist of all areas of the Cambodian coastal lands that are projected to become flooded by a sea level rise of 1 m above the level of the current shoreline.

7) Ensure that development of roads, resorts, industrial facilities and other major construction or

infrastructure shall not be allowed in Future Inundation Hazard Areas unless it can be demonstrated to the appropriate ministry that such developments are specifically designed to withstand such future inundation. Construction of homes, landfills, and power plants shall not be allowed in such zones.

8) Regulate the discharge of dredged and fill material into the waters of the coastal watershed through a permitting system. Applicants for such permits must demonstrate that they have taken all reasonable steps to avoid and minimize impacts to streams, wetlands, and marine waters within the Coastal Zone.

9) Evaluate the effects of current and proposed hydropower development projects on the natural resources of the Coastal Zone, and provide recommendations for minimizing or mitigating such impacts.

#### **CHAPTER 4. COASTAL ZONE MANAGEMENT DISCRETIONARY AUTHORITIES**

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Develop watershed management plans for each major river basin in the Coastal Watershed, including at a minimum the Kampot, Pongrol, Areng, Tatai, and Koh Pao river basins. Such plans shall contain:

- (a) A description and characterization of the watershed.
  - (b) A strategy to control sedimentation and pollution within the watershed.
  - (c) Proposed management measures.
  - (d) Monitoring and evaluation protocols to measure the success of the sedimentation and pollution controls.
- 2) Assist in education and development of human resources to properly address Coastal Zone management and development.

#### **CHAPTER # PLANNING FOR CLIMATE CHANGE IN COASTAL ZONE MANAGEMENT**

#### **CHAPTER # ROLES AND RESPONSIBILITIES OF MINISTRIES**

#### **CHAPTER # ROLES OF CITIZEN AND COMMUNITIES**

**CHAPTER # REQUIREMENTS FOR PUBLIC CONSULTATION**

**CHAPTER # PROMOTION OF SUSTAINABLE DEVELOPMENT IN THE COASTAL ZONE**

**~~Title 3~~ TITLE 4 SUSTAINABLE LAND MANAGEMENT**

Commented [M108]: Per STWG 3/5 Members.

- This Title will review the role and functions of Economic Land Concessions and the implementation of projects on ELCs.
- This title will also include selected revisions of the current Cambodian Land Management Framework.
- This title will establish a framework for soil protection and management

**CHAPTER # PROCEDURES FOR GRANTING, MONITORING AND TERMINATING ELCS**

**CHAPTER # MANAGEMENT OF ELCS, INCLUDING MANAGEMENT PLANS, TRANSPARENCY, AND RELATION TO SUSTAINABLE TIMBER PRODUCTION AND BIODIVERSITY RESTORATION**

**CHAPTER # – REVISIONS OF THE CURRENT CAMBODIAN LAND MANAGEMENT FRAMEWORK.**

**ARTICLE #**

Reviewing land cadastral system and making changes as needed (considering problems of transference of title, mistaken title, etc.).

**ARTICLE #**

Procedures for expedited land titling.

**ARTICLE #**

Increasing land security among the poor, including streamlining and clarification of indigenous peoples' communal land rights and possession rights.

**ARTICLE #**

Consistent land tenure approaches for Community Protected Areas, Community Forests and Co-management areas.

## ARTICLE #

Formalizing and regulating informal settlements.

### CHAPTER # – SOIL PROTECTION AND MANAGEMENT

- This Chapter will set out the procedures for developing a national policy of soil protection and management.
- Soil is generally a forgotten element of environmental law. Where water resource, air or biodiversity benefit from a status of protection, soil issues are split into different branches of the law, regarding different activities. Therefore, land degradation and land restoration mechanisms are not built according to a standard of environmental quality, but according to the uses planned by different stakeholders. This chapter will provide a proper soil status in environmental law.
- It will include provisions on the use of fertilizers, pesticides, herbicides and other agricultural chemicals.
- It will also include provisions to create a programme to monitor soil health.

Commented [M109]: Per STWG 3/5 Members. Revise Title to Chapter for Soil Protection and Management within Title for Land Management.

Commented [M110]: Per M. Descrousseaux.

## ARTICLE 1 SUBJECT-MATTER AND SCOPE

This Chapter establishes a framework for the protection of soil and the preservation of the capacity of soil to perform any of the following environmental, economic, social and cultural functions:

- (a) Biomass production, including in agriculture and forestry;
- (b) Storing, filtering and transforming nutrients, substances and water;
- (c) Biodiversity pool, such as habitats, species and genes;
- (d) Physical and cultural environment for humans and human activities;
- (e) Source of raw materials;
- (f) Acting as carbon pool;
- (g) Archive of geological and archeological heritage.

To that end, it lays down measures for the prevention of soil degradation processes, both occurring naturally and caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. Such measures include the mitigation of the effects of those processes.

and the restoration and remediation of degraded soils to a level of functionality consistent at least with the current and approved future use.

## **ARTICLE 2**

Soil is a common heritage, and its protection is in the public interest.

## **ARTICLE 3**

Land planning policies must take into account the scarcity of the soil and integrate soil functions and services in order to ensure the appropriate and economic use of the land and its properly ordered settlement.

## **ARTICLE 4**

Obligations to Prevent Hazards:

(1) Any person who is by his action affecting the soil shall act in such a manner that harmful soil changes do not occur.

(2) The property owner and the occupant of a real property shall be obligated to take measures to prevent harmful soil changes originating from their property.

(3) The party who caused a harmful soil change or a contaminated site, and his universal successor, as well as the relevant property owner and the occupant of the relevant real property, shall be obligated to remediate the soil and contaminated sites, and any water pollution caused by harmful soil changes or contaminated sites, in such a manner that no hazards, considerable disadvantages or considerable nuisances for individuals or the general public occur in the long term. In cases of burdens from pollutants, in addition to decontamination measures also securing measures are to be taken into consideration, that permanently prevent spread of pollutants. Where such measures are not possible or cannot be reasonably required, other protection and restriction measures shall be carried out. Persons who, for reasons of commercial law or company law, are required to answer for a legal entity that owns a real property that is encumbered with harmful soil changes to the soil or site contamination, and persons who give up ownership of such properties, is also obliged to carry out remediation.

(4) As part of fulfilment of obligations relative to the soil and to contaminated sites, pursuant to paragraphs (1) through (3), the permissible use of the piece of land under planning law, and the resulting protection requirements, shall be taken into account, as far as this is compatible with the protection of the soil functions. If relevant determinations under planning law are lacking, the nature of the relevant area, taking into account its expected development, shall determine the

requirements for protection. The requirements to be fulfilled in connection with rehabilitation of bodies of water shall be determined by law pertaining to water.

(5) If harmful soil changes or contaminated sites have occurred after (to be determined), pollutants shall be eliminated, where this is a reasonable requirement with respect to the previous soil pollution. This shall not apply to a party who, at the time the pollution was caused, expected that such impacts to the soil would not occur because he had fulfilled the applicable legal requirements, and whose good faith is worthy of protection, taking the circumstances of the relevant individual case into account.

(6) The former owner of a real property is obligated to carry out remediation if he has transferred his property after (to be determined), and if he was aware of, or should have been aware of the relevant harmful soil change or site contamination. This shall not apply to a party who, when purchasing the real property, confided that such harmful soil changes or contaminated sites would not be present, and whose confidence is worthy of protection, taking the circumstances of the relevant individual case into account.

## ~~Title 4~~ **TITLE 5 SUSTAINABLE FORESTRY**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable timber management.

### **CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FORESTRY SECTOR; OBJECTIVES AND LIMITATIONS OF SUSTAINABLE TIMBER MANAGEMENT**

### **CHAPTER # DEVELOPMENT OF SUSTAINABLE FORESTRY MANAGEMENT PLANS**

### **CHAPTER # PROHIBITION OF THE CUTTING, REMOVAL, TRANSPORT, EXPORT AND USE OF TIMBER WITHOUT A PERMIT GRANTED IN ACCORDANCE WITH THE CODE**

### **CHAPTER # ASSESSMENT OF APPLICATIONS FOR PERMITS TO HARVEST TIMBER OR EXPORT OF TIMBER**

### **CHAPTER # PROHIBITION OF REMOVAL OF TIMBER ON ECONOMIC LAND CONCESSIONS WITHOUT THE PROPER PERMIT**

### **CHAPTER # PERMIT TO CUT OR REMOVE TIMBER ONLY TO BE GRANTED FOLLOWING ENVIRONMENTAL ASSESSMENT OF THE ACTIVITY**

**CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-TIMBER FOREST PRODUCTS IN FOREST PRODUCTION ZONES;  
INCLUDING INTERNATIONAL CERTIFICATION MECHANISMS**

**CHAPTER # SUSTAINABLE HARVESTING OF TIMBER, FUEL WOOD AND NON-TIMBER FOREST PRODUCTS FROM COMMUNITY FORESTS,  
COMMUNITY CO-MANAGEMENT AREAS  
AND INDIGENOUS COMMUNAL TITLED LANDS**

**CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND  
OVERSIGHT OF SUSTAINABLE TIMBER MANAGEMENT OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED HABITAT OR ECOSYSTEMS**

**~~Title 5~~ TITLE 6 SUSTAINABLE MARINE FISHERIES**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable marine fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on marine fishery landings, regulate fishing gear and other aspects of marine fishing.

Commented [M111]: Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

**CHAPTER 1 GENERAL PROVISIONS**

The Kingdom of Cambodia claims and will exercise sovereign rights and exclusive fishery management authority over all fish and other marine fishery resources within its Exclusive Economic Zone.

The appropriate ministry shall have the authority to oversee, regulate and enforce laws relating to all types of fishing, both commercial and non-commercial, for marine fishery resources in the Exclusive Economic Zone of the Kingdom of Cambodia, including intertidal zones, also referred to collectively as the Marine Fishery Domain.

The conservation and management measures undertaken by the appropriate ministry shall be based on the best scientific evidence, and shall prevent overfishing while achieving on a continuing basis the optimum yield for any given fishery stock or stock complex. To the extent possible, individual fishery stocks shall be managed as a single unit throughout their entire range in the Marine Fishery Domain of Cambodia, rather than as individual stocks within individual provinces.

**CHAPTER 2 MARINE FISHERIES MANDATES**



Pursuant to this authority, the appropriate ministry shall:

1) Require a license for all fishing activities in the Marine Fishery Domain, consistent with Article 32 of the Law on Fisheries, NS/RKM/506/11. This license shall include an annual fee in order to help support the fishery research and management activities of the appropriate ministry. The amount of the annual fee shall be determined by the appropriate ministry. Fishing without obtaining such a license shall result in a notice of violation and fine.

Commented [M112]: Per NGO Forum. Subsistence vs. commercial?

2) Require that all motorized fishing vessels with motors greater than 5 horsepower, if used in whole or in part for fishing purposes in the Marine Fishery Domain, be registered with the appropriate ministry. This registration shall include an annual fee. The amount of the annual fee shall be determined by the appropriate ministry. Failure to register such a vessel shall result in a notice of violation and fine. For vessels operating in the Marine Fishery Domain, this provision shall replace the registration requirement in Article 33 of the Law on Fisheries, NS/RKM/506/11.

3) Require that data on marine fishery landings be collected from all entities or individuals who purchase marine fishery resources harvested in the Marine Fishery Domain. This data collection shall take the form of a monthly report to the appropriate ministry detailing the individual types of marine fishery resources purchased (preferably identified to the level of species), the number of pieces of each type purchased, the total pounds of each type purchased, the sources from which the fishery resources were purchased, including those sources' license numbers, and the port or ports of landing for each type of purchase. This report shall be filed on a form provided by the appropriate ministry. Failure to file this report within 30 days of the end of each month shall result in a notice of violation and fine of not less than US\$100. Failure to file such a report for three consecutive months shall result in a notice of violation and fine of not less than US\$500. Failure to file such a report for more than three months shall result in a notice of violation and revocation of the company's or individual's business license. For the Marine Fishery Domain, this provision shall replace the daily logbook requirement in Articles 34 and 45 of the Law on Fisheries, NS/RKM/506/11, with Article 45 being hereby repealed.

4) Issue an updated and revised list of all fishing gear types prohibited for sale, possession, or use in the Marine Fishery Domain, consistent with gears already banned as per Articles 20 and 21 of the Law on Fisheries, NS/RKM/506/11. In addition to the banned gears already listed in Articles 20 and 21, use of trawl gears and take of fish by spear while using SCUBA shall both also be prohibited in the Marine Fishery Domain. Any types of fishing gear not included on the prohibited list produced by the appropriate ministry shall be presumed to be allowed unless specifically designated otherwise.

5) In cooperation with the Ministry of Foreign Affairs, establish a system by which foreign fishing

vessels may purchase fishing rights to harvest marine resources in the Exclusive Economic Zone of the Kingdom of Cambodia. The amount of the annual fee for obtaining such fishing rights shall be determined by the appropriate ministry. Continued retention of such fishing rights by any foreign fishing vessel shall be contingent upon the maintenance of a daily logbook detailing the number of daily gear sets, and the weight and type of daily catch, with the logbook open to examination by the appropriate ministry upon request; and the filing of a monthly catch report with the appropriate ministry detailing the individual types of marine fishery resources harvested (preferably identified to the level of species), the number of the total pounds of each type harvested, and the port or ports of landing for the catch. Foreign fishing vessels purchasing fishing rights in the EEZ of the Kingdom of Cambodia must also comply with the following terms and conditions:

- (a) The owner and operator of any foreign fishing vessel will abide by all laws of the Kingdom of Cambodia;
  - (b) Any officer authorized to enforce the laws of the Kingdom of Cambodia shall be permitted to board, search and inspect any foreign fishing vessel at any time, and to make arrests, and seizures whenever such officer has reasonable cause to believe, as a result of such search or inspection, that the vessel or any person upon it has violated the laws of the Kingdom of Cambodia;
  - (c) The owner or operator of the foreign fishing vessel shall not, in any year, harvest an amount of fish or other marine life which exceeds any limits on harvest that may be set by the appropriate ministry of the Kingdom of Cambodia.
- 6) Designate and delineate marine zones in which various types of fishing activities are allowed, specially managed, or banned. Such zoning shall include a coastal waters zone extending from the shoreline to 5 km offshore, which shall supersede the definition of a nearshore zone extending from the shoreline to 20 m depth. Community Fishing Areas may be established within this nearshore zone, consistent with the Sub-Decree on Community Fisheries Management. Such zoning shall also include an exclusion zone in the inshore waters of the Marine Fishery Domain for vessels using large-scale fishing gears as defined in Article 31 of the Law on Fisheries, NS/RKM/506/11, such that gears of this type may not be used in areas lying within 25 km of the shoreline. Such an exclusion zone shall also apply uniformly to foreign fishing vessels of any size which have purchased annual fishing rights in the Exclusive Economic Zone of the Kingdom of Cambodia.
- 7) In relation to highly migratory fishery stocks, cooperate directly or through appropriate international organisations, such as the South East Asian Fisheries Development Centre, with those nations involved in fisheries harvesting such species with a view to ensuring conservation and to promote the achievement of optimum sustainable yield of such species throughout their ranges,

both with and beyond the EEZ of the Kingdom of Cambodia.

8) Issue an updated and revised list of all activities prohibited in the Marine Fishery Domain, consistent with activities already prohibited as per Article 52 of the Law on Fisheries, NS/RKM/506/11. In addition to the prohibited activities already listed in Article 52, the harvest and landing of sharks or shark products (such as shark fins), as well as the harvest and landing of sea turtles or sea turtle products (such as shells or portions thereof) shall be specifically prohibited.

9) Issue an updated and revised list of all activities that may be undertaken in the Marine Fishery Domain under a permit from the appropriate ministry, consistent with those listed in Article 23 of the Law on Fisheries, NS/RKM/506/11.

10) Ensure that fishery management in the Marine Fishery Domain is based upon the best available scientific information, and undertake fishery research that adds to this base of scientific knowledge.

11) Undertake a programme to produce updated maps of the distributions of species harvested and the location and extent of key marine fishery resources in the Marine Fishery Domain, with special reference to coral reefs, seagrass beds, and mangroves.

12) Monitor and issue an annual summary of changes to marine fishery resources, with special reference to coral reefs, seagrass beds, and mangroves, and analysing links to climate change and other driving factors.

13) Regulate aquaculture in the Marine Fishery Domain consistent with the provisions in Articles 53-58 of the Law on Fisheries, NS/RKM/506/11.

14) Regulate the landing, transport, and international trans-shipment of marine fishery resources harvested in the Exclusive Economic Zone of the Kingdom of Cambodia, consistent with the provisions in Articles 64-69 of the Law on Fisheries, NS/RKM/506/11.

15) Regulate the import into Cambodia of marine fishery resources harvested in the waters of a foreign nation, and require importers to certify that such resources have been harvested in accordance with the fishery laws prevailing in their countries of origin.

16) Undertake measures to combat illegal, unreported, and unregulated fishing, including market-based measures to prevent the trade or importation of fish or other marine life caught by vessels identified as having engaged in such unauthorized fishing;

17) Develop a National Fishery Management Plan as per Article 15 of the Law on Fisheries, NS/RKM/506/11. This plan shall be reviewed and amended as necessary every 5 years.

18) Undertake enforcement actions against those entities or individuals who violate fishery laws in the Marine Fishery Domain, as per Articles 72-85 of the Law on Fisheries, NS/RKM/506/11.

19) Assess penalties against those entities or individuals found guilty of violating fishery laws in the Marine Fishery Domain, as per Articles 86-107 of the Law on Fisheries, NS/RKM/506/11.

### CHAPTER 3- MARINE FISHERIES DISCRETIONARY AUTHORITIES

Pursuant to this authority, the appropriate ministry may at its sole discretion:

1) Utilize the following conservation and management measures in order to ensure sustainability of marine fishery resources in the Marine Fishery Domain, depending on which method is most appropriate to the species and circumstances involved:

(a) Set daily individual fisher bag limits for any species of marine life, or for the combined catch from any stock complex consisting of multiple species;

(b) Set minimum or maximum size limits for any species of marine life, below or above which harvest is not permitted;

(c) Set a total allowable catch for any given species of fish or marine life, or for any defined fishery stock or stock complex, during the course of a year, or any other period of time;

(d) Create limited entry systems in relation to a harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(e) Allocate non-transferable individual fishing quotas over a given period of time for any particular marine fishery resource, stock or stock complex;

(f) Implement seasonal closures for any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(g) Implement permanent or temporary area closures for the harvest of any particular marine fishery resource, stock or stock complex, or in relation to a particular geographic area;

(h) Implement restrictions on the type, size and amount of gear used to harvest any particular marine fishery resource, or their use in any particular geographic area.

2) Implement spatially-based management by designating various types of Marine Managed Areas in the Marine Fishery Domain, including:

(a) Marine National Park (MNP) – Such areas shall fall under strict protected status, with all entry and activities controlled by a permit from the appropriate ministry. Such areas may be established consistent with the Protected Areas Law, NS/RKM/0208/007, and with Article 19 of the Law on Fisheries, NS/RKM/506/11, such that no fishing of any type shall be allowed, no entry for navigation shall be allowed without a permit except by the appropriate ministry's enforcement agents or within strictly defined transit corridors, and no new settlements shall be allowed within 2 km of the boundaries of such areas. Such MNP areas may have subzones, including those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

(b) Marine Life Conservation Area (MLCA) – Such areas may be established consistent with Articles 18, 19 and 26-29 of the Law on Fisheries, NS/RKM/506/11, and shall be used to protect marine resources of particular importance to fishery recruitment, including but not limited to mangrove, seagrass and coral reef. Fishing may be prohibited in such areas, whereas freedom of navigation is allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

(c) Fishery Management Area (FMA) – Such areas shall be used to implement management measures for designated fishery stocks or stock complexes. Fishing shall be allowed, although there may be harvest restrictions or prohibition of take imposed for certain species in need of special management to ensure long-term sustainability. Freedom of navigation shall be allowed. Day entry for non-extractive tourism purposes shall be allowed under permit from the appropriate ministry. Such MLCA areas shall not contain subzones, except for those established for non-commercial community subsistence fishing purposes consistent with the Sub-Decree on Community Fisheries Management.

3) Implement community-based sub-zoning, for non-commercial subsistence fishery purposes only, within Marine Reserves or Marine Life Conservation Areas as described above. Such community-based subzones shall have restrictions on the types of fishing gears allowed for use. Such gear restrictions shall be determined by the appropriate ministry, which may restrict allowable gear types to pole-and-line, handline, cast net, and fish traps.

4) Set limits on the number, size and type of vessels that may participate in any given fishery, or

that may enter designated marine zones or marine managed areas, so as to adequately control fishing effort and ensure sustainability of harvest for any given stock or stock complex.

5) Based on the best available scientific information, create Fishery Management Plans for individual fisheries. Such plans shall be deemed sufficient to justify any management measures applied within any given fishery, and should contain at a minimum:

(a) A description of the fishery in question, including the number of vessels involved, the type of quantity of fishing gear used, the species of marine life harvested, and the geographic extent of the fishery;

(b) An estimate of optimum sustainable yield from the fishery and its probable future condition, including a summary of the information used in making this determination;

(c) A description of the conservation and management measures that can be best applied to the fishery to prevent overfishing while achieving, on a continuing basis, the estimated optimum yield.

6) Enact measures to limit fishery bycatch of non-target species such as seabirds, marine mammals and sea turtles.

7) Create special licensing, vessel registration and catch reporting provisions for sport charter fishing vessels, with daily limits on catch of individual species, and daily special license fees for fishers. Such fees may be set higher at higher levels for citizens of foreign countries in comparison to those charged to citizens of the Kingdom of Cambodia.

8) Issue permits for marine fisheries research, and for the collection and export of specimens related to such research.

#### **CHAPTER # AQUACULTURE**

#### **CHAPTER # TENURE OF FISHERIES**

#### **CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS**

#### **CHAPTER # COMMUNITY FISHERIES**

#### **CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS WITHOUT A PERMIT**

#### **CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE**

**GRANTED IF SUSTAINABLE**

**CHAPTER # CITIZEN ROLES IN MONITORING AND OVERSIGHT OF  
SUSTAINABLE FISHERIES MANAGEMENT OPERATIONS**

**CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITAT OR AQUATIC  
ECOSYSTEMS**

**~~Title 6~~ TITLE 7 SUSTAINABLE FRESHWATER FISHERIES AND  
AQUACULTURE**

- As part of the planning framework, this Title will allow for the designation of areas with specific legal status and protection to allow for sustainable freshwater fisheries management.
- This title will also establish responsibilities of the relevant ministry to issue licenses, receive data on freshwater fishery landings, and regulate all aspects of freshwater fisheries and aquaculture.

**CHAPTER # ESTABLISHMENT OF A SUSTAINABLE FISHERIES INDUSTRY**

**CHAPTER # PROVISION FOR CAPTURE FISHERIES AND AQUACULTURE AND  
FISHERIES PROTECTION AREAS**

**CHAPTER # PROTECTION OF FISHERIES AND AQUATIC ECOSYSTEMS**

**CHAPTER # TENURE OF FISHERIES AND AQUACULTURE OPERATIONS**

**CHAPTER # IDENTIFICATION OF AQUATIC ORGANISMS**

**CHAPTER # PROHIBITION ON COMMERCIAL FISHING THAT IS NOT  
SUSTAINABLE**

**CHAPTER # ASSESSMENT OF APPLICATIONS FOR COMMERCIAL FISHING**

**CHAPTER # COMMUNITY FISHERIES**

**CHAPTER # PROHIBITION OF EXPORT OF FISH OR AQUATIC ORGANISMS  
WITHOUT A PERMIT**

**CHAPTER # PERMIT TO EXPORT FISH OR AQUATIC ORGANISMS ONLY TO BE  
GRANTED IF SUSTAINABLE**

Commented [M113]: Per STWG 3/5 Members. Proposed to combine marine and freshwater fisheries into one Title, if suitable.

CHAPTER # SUSTAINABLE MANAGEMENT OF FISHERIES AND FISH BREEDING  
AREAS

CHAPTER # GOVERNMENT AND CITIZEN ROLES IN MONITORING AND  
OVERSIGHT OF SUSTAINABLE FISHERIES MANAGEMENT  
OPERATIONS

CHAPTER # RESTORATION OF DAMAGED FISHERIES HABITATS OR AQUATIC  
ECOSYSTEMS

CHAPTER # MANAGEMENT OF ACTIVITIES THAT IMPACT FISHERIES AND  
AQUATIC ECOSYSTEMS

CHAPTER # ESTABLISHMENT OF FRESHWATER FISHERIES RESERVES

CHAPTER # ESTABLISHING REGULATIONS FOR AQUACULTURE OPERATIONS  
INCLUDING PERMITTING, MONITORING AND ENFORCEMENT

**BOOK 5 CONSERVATION AND PROTECTION OF  
BIODIVERSITY AND CULTURAL HERITAGE**

- This Book will examine the conservation, protection, and management of biodiversity, and include different Titles on conservation landscapes/corridors; protected areas; wildlife; plants, habitat, and ecosystems; and cultural heritage.
- Specific Titles or Chapters could address key priority areas including Tonle Sap Lake, the Mekong River, and the Sesan River.

**TITLE 1 COLLABORATIVE MANAGEMENT OF CONSERVATION  
LANDSCAPES**

- This title will contain the outcome of an ongoing, concurrent process to develop provisions for collaborative management (co-management) of protected areas and natural resources, which will include the establishment of Collaborative Management as a multi-stakeholder conservation tool and will outline the tenure, scope and duration of Co-Management and the mechanisms and elements of Co-Management.
- This Title will link to Title on Collaborative Management of Natural Resources in Book on Sustainable Management of Natural Resources and Ecosystems.

Commented [M114]: Per STWG 3/5. New Book.

Commented [M115]: Per NGO Forum.

Commented [M116]: Per STWG 3/5 Members. New Title.

Commented [M117]: Per STWG 3/5 Members. Revised Title heading ("community management" implies management of communities).

Commented [M118]: Proposed revision to "co-management" by STWG 3/5 is "collaborative management."

Commented [M119]: Some sections under Community-Based NRM Title in the Sustainable Management of NR and Ecosystems may more appropriately be included in this Title.

Commented [M120]: Will modify current tenure duration limits in Community Forests and Community Protected Areas and modify the 2001 Land Law limits on leasing of state public land.

Per Teng R.: Indigenous Collective Land titling must also be acknowledged and taken into consideration in the development of the Collaborative Management provisions.



## **TITLE 2** **PROTECTED AREAS MANAGEMENT**

### **CHAPTER 1: GENERAL PROVISIONS**

### **CHAPTER 2: MINISTRY OF ENVIRONMENT/RESPONSIBLE INSTITUTIONS**

### **CHAPTER 3: ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS**

### **CHAPTER 4: ZONING OF PROTECTED AREAS**

### **CHAPTER 5: PROTECTED AREAS MANAGEMENT PLANS**

### **CHAPTER 6: ACCESS AND USER RIGHTS OF LOCAL COMMUNITIES AND INDIGENOUS ETHNIC MINORITY COMMUNITIES**

### **CHAPTER 7: PROHIBITED ACTIVITIES IN PROTECTED AREAS**

### **CHAPTER 8: PERMITS AND AUTHORITIES**

### **CHAPTER 9: ENFORCEMENT AND PROTECTION**

### **CHAPTER 10: MONITORING AND EVALUATION OF EFFECTIVENESS**

### **CHAPTER 11: STAFFING OF PROTECTED AREAS**

### **CHAPTER 12: PROTECTED AREAS BUDGETS AND FINANCING**

### **CHAPTER 13: PROCEDURES TO RESOLVE OFFENCES**

### **CHAPTER 14: OFFENCES AND LEGAL PENALTIES**

### **CHAPTER 15: IMPLEMENTATION OF COURT VERDICT**

### **CHAPTER 16: FINAL PROVISIONS**

## **DEFINITIONS**

### **CHAPTER # ESTABLISHMENT OF FRESHWATER PRODUCTION ZONES**

### **CHAPTER # ESTABLISHMENT OF MARINE RESERVES**

## **TITLE 3** **WILDLIFE PROTECTION, CONSERVATION AND**

**Commented [M121]:** Per STWG 3/5 Protected Areas group. New Title and Chapters on protected areas management. This proposed structure follows and adds to the structure of the existing PA Law.

**Commented [M122]:** To refer to co-management (collaborative management) legal instrument here/ responsibilities of other stakeholders in PA management.

**Commented [M123]:** STWG 3/5 recommends that the number and name of zones for Co-Management (Collaborative Management) Protection Zones remains the same as the current zones for Protected Areas. Co-management Zones are likely to cover many Protected Areas and two separate zoning systems with similar names could be confusing to understand and apply for all stakeholders.

**Commented [M124]:** Per NGO Forum. Projects must not be implemented inside already designated conservation areas. 'Zero Tolerance'

**Commented [M125]:** This will include reference to the title on wildlife/species protection.

**Commented [M126]:** Permitting process for all controlled activities/access inside Pas.

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## **MANAGEMENT**

### **CHAPTER # ADOPTING AN ECOSYSTEMS APPROACH TO BIODIVERSITY MANAGEMENT AND ENDANGERED SPECIES PROTECTION**

### **CHAPTER # BIOREGIONAL PLANNING FOR BIODIVERSITY CONSERVATION**

#### **CHAPTER 1: GENERAL PROVISIONS**

#### **CHAPTER 2: RESPONSIBLE INSTITUTIONS**

#### **CHAPTER 3: CLASSIFICATION OF WILDLIFE SPECIES**

#### **CHAPTER 4: PROHIBITIONS ON HUNTING**

#### **CHAPTER 5: SPECIAL EXCEPTIONS ON HUNTING OF WILD ANIMALS**

#### **CHAPTER 6: GRANTING OF PERMITS FOR SPECIAL PURPOSES (INCLUDING FOR SCIENTIFIC AND EDUCATIONAL PURPOSES)**

#### **CHAPTER 7: SUSPENSION OR CANCELLATION OF PERMITS**

#### **CHAPTER 8. PROHIBITION OF TRADE (DOMESTIC AND INTERNATIONAL), TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES, ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS**

#### **CHAPTER 9: ADHERENCE TO OTHER INTERNATIONAL CONVENTIONS AND AGREEMENTS**

#### **CHAPTER 10: MANAGEMENT OF CONFISCATED WILDLIFE**

#### **CHAPTER 11: MANAGEMENT OF CAPTIVE BREEDING, WILDLIFE RESCUE CENTRES AND ZOOLOGICAL INSTITUTIONS**

#### **CHAPTER 12: MANAGEMENT OF WILDLIFE FARMS\*\*\***

#### **CHAPTER 13: SPECIES MANAGEMENT AND RECOVERY PLANS (INCLUDES IDENTIFYING KEY THREATENING PROCESSES AND DEVELOPING THREAT ABATEMENT PLANS AND RECOVERY PLANS)**

#### **CHAPTER XX: MANAGEMENT OF INVASIVE SPECIES**

#### **CHAPTER 14: PROCEDURES TO RESOLVE OFFENCES**

Commented [M127]: Per STWG 3/5 Members. New Title heading.

Commented [M128]: To include CITES, international and regional resolutions, mechanisms for inter-agency and international collaboration on wildlife trafficking.

**CHAPTER 15: OFFENCES AND LEGAL PENALTIES**

**CHAPTER 16: IMPLEMENTATION OF COURT VERDICT**

**CHAPTER 17: FINAL PROVISIONS**

\*\*\*A submission has been received from some combined NGOs on the policy of Wildlife (or Wild Animal Farming) in Cambodia. The discussion paper raises a number of significant issues and concerns about the possibility of introducing the farming of wild animals in Cambodia. Consideration is being given to the matters raised by the submission.

**CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE  
OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS**

(Definition of Genetically Modified Organisms to be included in Code Definition Section)

**TITLE 4      PROTECTION OF PLANTS, IMPORTANT HABITATS  
AND SIGNIFICANT ECOSYSTEMS**

- This title will address the protection of plant species, important habitats for both plants and wildlife, and significant ecosystems in Cambodia. The structure will likely be similar to the structure for the Title for Wildlife Protection, Conservation and Management, but will need to include additional chapters.

**CHAPTER # PROTECTION OF PLANTS AND PLANT COMMUNITIES**

**CHAPTER # PROTECTION OF NATIVE PLANT AND WILDLIFE HABITAT AND  
IMPORTANT ECOLOGICAL COMMUNITIES (INCLUDING “CRITICAL  
HABITAT” FOR ENDANGERED PLANT AND ANIMAL SPECIES)**

**CHAPTER # WETLANDS CLASSIFICATION, MANAGEMENT AND  
CONSERVATION**

**CHAPTER # PROHIBITION ON DAMAGING OR DESTROYING NATIVE  
VEGETATION AND FOREST PROTECTED AREAS**

**CHAPTER # RESTORATION OF DAMAGED ECOSYSTEMS**

**CHAPTER # MANAGEMENT OF INVASIVE SPECIES**

**CHAPTER # PROHIBITION OF, OR MANAGEMENT AND APPROVALS FOR, USE  
OF GENETICALLY MODIFIED ORGANISMS, INCLUDING SEEDS**

Commented [M129]: Per STWG 3/5 Protected Areas Group. Proposed headings/structure.

Commented [M130]: Per STWG 3/5 Members. New Title.

**(DEFINITION OF GENETICALLY MODIFIED ORGANISMS TO BE  
INCLUDED IN DEFINITION SECTION)**

**TITLE 5 CULTURAL AND NATURAL HERITAGE  
CONSERVATION**

- This Title will examine the identification, protection and management of cultural and natural heritage. It will consider the need to protect both tangible and intangible items of cultural heritage.
- This Title establishes the Heritage Council of Cambodia with representatives from relevant Ministries, NGO and private sector. The Heritage Council will develop policies to protect Colonial and modern Cambodian heritage as well as Angkor and Pre-Angkor heritage. The Heritage Council will have the task to set up and maintain the Heritage Register for Cambodia. This Heritage Register will be a list of places, objects, buildings and other items that are to be protected or preserved. An interim list for the Heritage Register will be prepared to protect these items until a detailed assessment can be undertaken to assess the heritage value.
- This Title will regulate the activities of heritage site establishment to ensure the protection of the rights of citizens living in those areas.
- This Title will look at the operation of the APSARA Authority and related legislation to ensure a consistent approach to the protection and management of natural, cultural and built heritage, including both tangible and intangible heritage.
- Ministry of Culture and Fine Arts and other authorities related to heritage protection and management should retain a strong role in heritage protection but this should include consultation and liaison with other Ministries, including Ministry of the Environment and the Minister for Land Use Planning.
- This would examine both World Heritage and Ramsar listed areas, as well as local and national heritage areas, with special attention to ethnic minorities and indigenous people.
- It will regulate key activities in heritage areas, including tourism, research, archaeological digs and any other development activity. Also note new chapter on rescue archaeology and salvage archaeological surveys
- Other protection mechanisms will include anti-trafficking provisions, protections against intentional or accidental damage or demolition of known or unknown cultural or natural

Commented [M131]: Per STWG 3/5 Members.

Commented [M132]: Per NGO Forum.

Commented [M133]: Per STWG 4.

Commented [M134]: Per NGO Forum.

heritage, restoration and repair of damaged heritage, and financial incentives for heritage protection.

## **CHAPTER 1 – GENERAL PROVISIONS**

### **ARTICLE 1 – OBJECTIVE**

This provision has the following objectives:

- a) To preserve, protect, and manage natural resource and to conserve historic and cultural heritage.
- b) To preserve, protect cultural identity of the nation which is the workmanship of our forefathers (intellectual property of national identity).
- c) To preserve the beauty and protect the historical identity of the capital, province, urban area, ancient site and shrine (worship place).
- d) To preserve and conserve biodiversity and ecosystem.
- e) To create the balance of nature and society.
- f) To promote the development of tourism.
- g) To create the collaboration between the Ministry of Environment and relevant institutions as well as National and International Organizations and development partners.
- h) To improve the livelihood, tradition, culture and custom of indigenous community.
- i) To create funds to preserve and protect cultural and natural heritage.

### **ARTICLE 2 – SCOPE**

This provision has the scope of application throughout the Kingdom of Cambodia over both state land and private land.

### **ARTICLE 3**

Definition of cultural heritage.

### **ARTICLE 4**

Definition of built heritage.

## **ARTICLE**

Definition of natural heritage.

## **ARTICLE 6**

Definition of intangible heritage.

## **ARTICLE 7**

Adoption of UNESCO Guidelines.

## **ARTICLE 8**

Obligation to protect the national heritage of Cambodia.

# **CHAPTER 2 – CREATION OF THE HERITAGE COUNCIL OF CAMBODIA**

## **ARTICLE 1**

The Royal Government shall create the Heritage Council of Cambodia.

## **ARTICLE 2**

Purpose of the Heritage Council of Cambodia.

## **ARTICLE 3**

Membership of the Heritage Council of Cambodia.

## **ARTICLE 4**

Duties of the Heritage Council of Cambodia.

# **CHAPTER 3 – INVENTORY AND CLASSIFICATION**

## **ARTICLE 1**

Establishment of a Heritage Register for Cambodia.

## **ARTICLE 2**

Listing on the Heritage Register for Cambodia.

**ARTICLE 3**

Categories to be listed on the Heritage Register for Cambodia.

**ARTICLE 4**

Interim listing on the Heritage Register for Cambodia.

**ARTICLE 5**

Emergency listing on the Heritage Register for Cambodia.

**ARTICLE 6**

Legal protection granted to items listed on Heritage Register for Cambodia.

**ARTICLE 7**

Procedure for updating the Heritage Register for Cambodia.

**CHAPTER 4 – APPOINTMENT OF HERITAGE PROTECTION OFFICERS**

**ARTICLE 1**

Each Province and regional government shall appoint a Heritage Protection officer.

**ARTICLE 2**

Duties of HPO.

**ARTICLE 3**

Qualifications of HPO.

**ARTICLE 4**

HPO may work with other HPO in other Provinces.

**ARTICLE 5**

The HPO must be consulted prior to any action that may damage or harm an item or place or area on the Heritage Register for Cambodia.

## **CHAPTER 5 – ZONING OF HERITAGE PROTECTION AREAS**

### **ARTICLE 1**

Plans and zoning maps may include the following provisions for the following heritage protection areas:

- a) Historical parks
- b) Cultural landscape
- c) Cultural village
- d) Site museum
- e) Ancient sites
- f) Urban Heritage Zones

### **ARTICLE 2**

The zones for heritage protection areas will require the preparation of a report prior to any approval for altering or demolition within those areas.

## **CHAPTER 6 – CRITERIA**

### **ARTICLE 1**

The following shall be considered as "cultural heritage":

- a) Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
- b) Groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- c) Sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.



## **ARTICLE 2**

The following shall be considered as "natural heritage":

- a) Natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
- b) Geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- c) Natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

## **ARTICLE 3**

Determination of cultural property heritage can be made by:

- a) Determining the number of years, the age of the property, or based on its era for example French Colonization Era and Sangkim Reas Niyum Era.
- b) A number of workmanship is not so old but it is of a special value which cannot be found elsewhere.
- c) A new innovation which is valuable to the society.
- d) Cultural property which is of a special value for the nation.
- e) A movement of architecture which reflect national identity.
- ⌘f) An architectural workmanship which influence the next generations.

## **CHAPTER 7 – INVENTORY AND CLASSIFICATION**

### **ARTICLE 1**

Competent Institutions shall prepare cultural property inventory.

### **ARTICLE 2**

Cultural Property Inventory shall be updated every five years.

1. Obligation of competent institutions
2. Obligation of owners of cultural property
  - a) Sell to the State;
  - b) Prohibition to any damage to the outside beauty;
  - c) Do not have the right to build any new or additional construction)
3. Preservation and usage of cultural property inventory
4. Budget used for the work on cultural property inventory

### **ARTICLE 3**

The state may pay a portion of the cost for repairing private building (built in Sangkum Reas Niyum Era).

### **ARTICLE 4**

The owners of the building must submit request for support to repair the building from the state.

### **ARTICLE 5**

The state shall provide technical experts to help repair the building.

## **CHAPTER 8 PREVENTIVE AND SALVAGE EXCAVATION**

### **ARTICLE 1**

Discovery of heritage items during demolition, construction or other activities

### **ARTICLE 2**

Work must halt to protect the heritage item

### **ARTICLE 3**

Obligation to notify Heritage Council and HPO

### **ARTICLE 4**

Determination of heritage significance

**ARTICLE 5**

Permission required before destruction of heritage item

**ARTICLE 6**

Activities to salvage the heritage item

**ARTICLE 7**

Obligation to record and photograph heritage item

**CHAPTER 9 IDENTIFICATION AND DESIGNATION OF CULTURAL AND  
NATURAL HERITAGE SITES**

**ARTICLE 1**

The Heritage Council may recommend that a site for designation as a heritage site

**ARTICLE 2**

The Heritage Council may require preparation of a management plan

**ARTICLE 3**

Preparation of a management plan

**ARTICLE 4**

Implementation of a management plan

**ARTICLE 5**

Failure to comply with the management plan

**CHAPTER 10 DAMAGE AND CONSERVATION STATUS CLASSIFICATIONS**

**CHAPTER 11 SPECIAL CONSIDERATIONS IN EIA | HERITAGE SITES**

Commented [M135]: Per STWG 4.

**ARTICLE 1**

All projects requiring EIA in a heritage protection zone must make an assessment of the impact of the project on the heritage values

#### **ARTICLE 2**

All projects having an impact or potential impact on an item of heritage or a item listed on the Heritage Register must have a permit before any work can be done that may harm the item.

#### **ARTICLE 3**

Procedures to grant a permit to be determined by the Heritage Council.

#### **ARTICLE 4**

It is prohibited to damage or destroy or harm an item on the Heritage Register without a permit.

### **CHAPTER 12 PROTECTION FOR HERITAGE SITES FROM ACTIVITIES NOT COVERED BY EIA**

#### **ARTICLE 1**

Any construction permit or approval cannot be granted until a permit has been granted by the Heritage Council or the HPO

#### **ARTICLE 2**

No permit can be granted until the Heritage Council or HPO has assessed the heritage value of the item.

### **CHAPTER 13 MANAGEMENT PLANS FOR SITES**

#### **ARTICLE 1**

The Minister may require for a Heritage Management Plan to be prepared for a cultural and natural heritage site listed on the National Inventory

#### **ARTICLE 2**

The Heritage Management Plan shall be developed in consultation with the local community and interested stakeholders.

#### **ARTICLE 3**

The Heritage Management Plan shall also establish protected zones and core zones for heritage management of the site.

#### ARTICLE 4

Ensuring sustainable use of cultural and natural heritage sites

### CHAPTER 14 ORDER TO HALT CONSTRUCTION OR CLEARING IF A HERITAGE SITE IS THREATENED OR ENDANGERED

#### ARTICLE 1

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if a heritage site is threatened or endangered.

#### ARTICLE 2

The relevant Minister, the Heritage Council or an HPO may all issue an emergency order to halt work, construction or clearing if an item on the Heritage Register is threatened or endangered.

#### ARTICLE 3

The order to halt will last for 14 days and may be extended for a further 14 days.

#### ARTICLE 4

Any person or legal entity who does not follow the order to halt work commits an offence.

### CHAPTER 15 - IMPACT OF PROTECTED SITE ON COMMUNITIES

### CHAPTER 16 ILLEGAL TRAFFICKING OF ARTEFACTS

#### ARTICLE 1

Illegal trafficking defined

#### ARTICLE 2

Mechanisms to prevent illegal trafficking

### CHAPTER 17 EDUCATION AND PUBLIC AWARENESS OF CULTURAL AND NATURAL HERITAGE

## CHAPTER 18 INCENTIVES FOR CONSERVATION OF CULTURAL AND NATURAL HERITAGE

## CHAPTER 19 FUNDING MECHANISMS FOR NATURAL AND CULTURAL HERITAGE SITES

### ARTICLE 1

Entrance fees

### ARTICLE 2

Public-private partnerships

## **BOOK 6 WASTE AND POLLUTION MANAGEMENT AND SUSTAINABLE PRODUCTION**

- This book will include provisions relating to the General Obligations for Pollution Control, including the prohibition of polluting activities. There would then be a lawful exception to the prohibition of these polluting activities. This would enable a permit to be granted to a legal entity or person for certain emissions or activities. However the legal entity or person would have to prove that they had a lawfully granted permit and that the emissions or activities were undertaken in accordance with the permit. If the legal entity or person could not show these two things then they would have committed an offence under the Environmental Code.
- The Book will cover all aspects of pollution control and sustainable production.
- This Book will address contaminated land.
- The Book will re-examine the provisions of the Sub-Decree on Solid Waste Management 36 ANRK.BK 1999. It will update the relevant provisions about solid waste and hazardous waste management. It will also update and incorporate the provisions dealing with the Sub-Decree on Water Pollution 27 ANRK.BK 1999.
- This Book will address hazardous waste and chemicals, including agricultural, industrial, and extractive industries use or manufacture of hazardous waste or chemicals.
- This Book will include environmental controls on agricultural practices, including fertilizer, pesticide and herbicide use.
- Fees and charges will be provided in accordance with Book 8.

**Commented [M136]:** Per STWG 2: New section heading and content structure.

This draft has included recommendations from Submissions 42, 43, 44, 63, the inputs from STWG dated 7 July 2016, comments from the National Consultation Workshop.

**Commented [M137]:** Per NGO Forum.

- Reporting and monitoring requirements, including public disclosure, will be dealt with in Book 9.
- Procedures for investigation on breaches and offences will be dealt with in Book 9. The aim is that investigations and proceedings for all waste management and pollution offences will be the same as for other offences and breaches of the Environmental Code.

## **TITLE 1      GENERAL OBLIGATIONS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION**

1. Prohibition on pollution of air
2. Prohibition on the pollution of water
3. Prohibition on the pollution the soil
4. Prohibition on the transport, treatment and disposal of waste
5. Prohibition on chemical substances
6. Lawful exception to the prohibition with lawful permit
7. Commitment of the Royal Government to Sustainable Production
8. All activities must consider the best practice for sustainable production
- 4.9. All activities must consider the best practices for pollution and waste minimization

## **TITLE 2      STANDARDS FOR POLLUTION CONTROL AND SUSTAINABLE PRODUCTION**

1. The limit of public air quality standards
2. The maximum standard limited for the authorized of hazardous substance in the air
3. The maximum standard for the noxious substances discharge from the fixed source in the atmosphere
4. The standard level of emission from mobile sources
5. The maximum standard of the sound level permitted to vehicle on the road
6. The maximum standard of sound level permitted in the public and residence area
7. The standard level for the sound control in the area of the workshop and industrial factory
8. The standard of the toxic level permitted to contain for the fuel and burning substance
9. The standard level for air quality in the building

4.10. The vibration standard level

### **TITLE 3 HAZARDOUS SUBSTANCES MANAGEMENT**

1. Hazardous waste determination, classification and labelling
2. Hazardous waste collection, packaging, storage, recycling and treatment
3. Disposal of hazardous waste (incineration, destruction, and landfill)
4. Monitoring and inspection of hazardous waste
5. Operational requirements for all hazardous waste facilities
6. Import and export of hazardous waste
7. Transitional provision
8. Administrative requirements (Registration, license, shipments, analytical methods, etc.)
9. Management of specific hazardous wastes (waste asbestos, oil, paint, etc.) application of international conventions on hazardous waste
10. Standard for classification of hazardous waste
11. Standard for disposal of hazardous waste

4.12. Penalty

### **TITLE 4 MANAGEMENT OF HAZARDOUS CHEMICAL SUBSTANCE TO ENVIRONMENT**

1. Definition
2. Institutional Responsibility
3. Prohibition on Hazardous Substances
4. Research, Registration and Information Disclosure of Hazardous Substances
5. Inventory, Classification and Labelling of Hazardous Substances
6. Production, Distribution, Storage, Transportation, Usage and Disposal



- [7. Import and Export](#)
- [8. Monitoring and Inspection of Hazardous Substances Safety Assessment](#)
- [9. Accident Prevention, Preparedness and Responses](#)
- [10. Application of International Convention on Hazardous substances](#)
- [11. POPs Convention](#)
- [12. Minamata Convention](#)
- [13. International Agreements](#)
- [14. Penalty](#)

## **CHAPTER # MANAGEMENT OF CHEMICAL SUBSTANCES**

### **GENERAL PROVISIONS**

Editorial note: The use of the terms “chemical substance,” “chemical product,” and “chemical” in the following articles needs to be analysed and rationalised.

#### **ARTICLE 1**

This Law has the following objectives:

1. To promote effective management and safe use of hazardous chemical substances and hazardous chemical products in Cambodia;
2. To ensure proper registration, classification and labelling of chemical substances and chemical products in order to prevent misuse and to promote safe handling in the work place;
3. To enhance public awareness and access to information on safety and mitigation of risks throughout chemical life cycle, including production, storage, transportation, use and disposal;
4. To set up appropriate institutional coordination mechanism and information system for effective management and control of hazardous substances and hazardous chemical products in all stages of chemical life cycle;
5. To ensure an operational national system to incorporate cleaner production solutions in all

**Commented [M138]:** Per NGO Forum. Link to sections on planning for and management of extractive industries.

**Commented [MB139]:** From Draft legislation on the management of chemical substances.

manufacturing and service sectors, as well as in households.

(2)

## **ARTICLE 2**

This law has the goal of protecting the social infrastructure, human life, animals and environment from risks and hazards caused by misuse and mishandling of hazardous chemical substances and hazardous chemical products throughout chemical life cycle;

## **ARTICLE 3**

This law covers all hazardous chemical substances or hazardous chemical products and applies to all organisations or individuals that produce, transport, purchase, sell, use, store, release or discard these chemical substances and their chemical derivatives at different stages of their life cycles.

This law does not apply to radioactive substances, pharmaceuticals, cosmetics, food additives, food products and household appliances or toys that are governed by separate law and regulations.

## **ARTICLE 4**

The definitions of the main technical terms related to hazardous chemicals are provided in annex 1.

# **CHAPTER 2 INSTITUTIONAL RESPONSIBILITY**

## **ARTICLE 5**

The Ministry of Environment is responsible for administration and implementation of this law in cooperation with relevant ministries and institutions, and in harmonization with existing laws and regulations related to the management of chemicals and chemical wastes in Cambodia.

## **ARTICLE 6**

The Royal Government of Cambodia shall set up appropriate mechanisms for effective management and control of hazardous chemicals through its life cycle, especially for information sharing, inspection, classification, and hazard communication and risk assessment of registered and new hazardous chemicals circulating in Cambodia.

## **ARTICLE 7**

The Ministry of Environment shall coordinate implementation of international treaties or conventions relevant to hazardous chemical substances.

#### **ARTICLE 8**

No person shall undertake the following activities:

- (a) The introduction or delivery of any misbranded hazardous substance or banned hazardous substance.
- (b) The alteration, destruction, or removal of the whole or any part of the label of any hazardous substance during shipment or sale (whether or not the first sale).
- (c) The receipt of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

#### **ARTICLE 9**

No person can manufacture, use and distribute persistent organic pollutants (POP) totally banned by Stockholm Convention as listed in the annex 2 of this Law. This list shall be updated according to the revised decision of COP under the Stockholm Convention to which the Royal Government of Cambodia is a party.

#### **ARTICLE 10**

Any misbranded hazardous chemical substance or hazardous chemical product or banned hazardous substance or hazardous chemical product shall be subject to confiscation and seizure.

#### **ARTICLE 11**

No person shall manufacture, possess, handle, store, transport, import, export, distribute or use a hazardous chemical substance or hazardous chemical product that is not registered under Sub-decree dated October 2009 on “Management of Classification and Labeling of Chemicals”.

#### **ARTICLE 12**

No person shall store, import, export or distribute a hazardous chemical that is not packaged in accordance with the regulations and the conditions of registration.

#### **ARTICLE 13**

No person shall package or advertise a hazardous chemical in a way that is false, misleading or

likely to create an erroneous impression regarding its character, value, quantity, composition, safety or registration.

#### **ARTICLE 14**

No person is allowed to use chemical substances such as acid, gasoline, or toxic chemicals that can cause corrosion, burn, oxidation, injury and destruction of human organs implicating health and human life, except in accordance with international safety standards. In the case of chemical reactions, burns or oxidation causing damage to human or environmental health, responsible legal entities or natural persons shall pay a fine and compensation for the damages.

### **CHAPTER 4 REGISTRATION AND INFORMATION DISCLOSURE**

#### **ARTICLE 15**

Organisations and individuals shall have the duty to hold valid official registration of any hazardous chemical substances and hazardous chemical products intended for manufacture, distribution, sale and use in Cambodia.

#### **ARTICLE 16**

An application for registration shall be submitted to the respective agencies with at least a minimum information on the manufacturing company, name of chemicals, hazard classification, amount, purpose of import or use, safety data sheets, hazard statement, potential risks to human health and address of delivery.

#### **ARTICLE 17**

Information on hazardous chemicals shall be reviewed and endorsed by the Ministry of Environment before submission to the respective ministry for approval. The Ministry of Environment in cooperation with respective agencies may conduct additional tests and consultation to verify the correctness of information provided.

#### **ARTICLE 18**

The relevant ministries having the mandate to approve registration shall provide information on all hazardous chemical substances and products to the Ministry of Environment for inventory, monitoring, risk assessment and inspection purposes.

#### **ARTICLE 19**

Following official registration, organisation or individual shall prepare appropriate action plan for prevention, emergency response, mitigation, monitoring and risk management for hazardous chemical substances. He or she shall act in good faith to provide accurate information on hazardous chemical substances to the responsible agencies when requested.

## CHAPTER 5 CLASSIFICATION AND LABELLING

### ARTICLE 20

Classification and labelling of hazardous chemical substances shall follow regulations specified by the Sub-decree No 180 dated 20 October 2009 on Management of Classification and Labeling of Chemicals.

### ARTICLE 21

Hazard criteria for physical hazards, health hazards and environmental hazards shall be specified by an inter-ministerial task force with members designated from line agencies and universities following the Globally Harmonized System for Classification and Labeling (GHS). Role and functions of this inter-ministerial task force shall be specified by a sub-decree.

### ARTICLE 22

Organisations or individuals involved in packaging, distribution, transportation, and sale of hazardous chemical substances or products shall put correct labelling on hazard substances and chemical products following regulations specified in the Sub-decree No 180 dated 20 October 2009 before distribution, transportation or sale.

### ARTICLE 23

Organisations or individuals shall publish brochures or newsletters on safety data sheet, hazards prevention and mitigation, and health risks for all hazardous substances intended for distribution and sale in Cambodia.

## CHAPTER 6 TRANSPORTATION

### ARTICLE 24

An organisation or individual that transports hazardous chemicals shall abide by the provisions on transportation of hazardous chemical substances or products as prescribed in this Law and other relevant laws.

Transport operators and transport owners shall prepare staff health and safety plans and response plans for substance specific hazardous materials incident response plans in order to:

- (a) Identify and take necessary measures to minimize potential incidents and remedy consequences if they take place, including training all staff involved in transportation in safety measures and response plans, and
- (b) Identify and notify the nearest local authorities and concerned ministries about the incident if an incident occurs en route – either on road, inland waterway, railway, air or sea transport.

Transport operators and transport owners shall ensure that any vehicle used in the transport of hazardous chemical substances or products is suitable for the transport of that substance or product and that the vehicle is visibly marked with the appropriate hazard warning marks and symbols.

#### **ARTICLE 25**

The Ministry of Environment shall coordinate with the Ministry of Public Works and Transport, concerned ministries and competent agencies to formulate additional technical regulations on transportation of hazardous chemical substances or hazardous chemical products.

### **CHAPTER 7 USE AND DISPOSAL**

#### **ARTICLE 26**

All Cambodian people have the rights to use hazardous chemicals according to regulations stipulated by this law and shall follow technical specifications, labeled description and safety instructions of any hazardous substance.

#### **ARTICLE 27**

Organisation or individual that uses hazardous substances for manufacturing or production of goods and products shall be responsible for compensation or rehabilitation of the social infrastructure, human health, animal health and the environment damage caused by chemical hazards and accidents for which they have been deemed responsible.

#### **ARTICLE 28**

No person can burn and dispose of any part or whole of chemical substances or chemical waste into the environment, including water, soil and air without the approval of the Ministry of Environment.

Disposal of any part of hazardous chemical and its package shall follow regulations and guidelines specified by the sub-decree No 36 ANRK.BK dated 27 April 1999 on Solid Waste Management and the Sub-decree No 27 ANRK.BK dated 06 April 1999.

Additional guidelines on disposal of hazardous chemical substances and chemical wastes shall be specified by a Prakas of the Ministry of Environment.

#### ARTICLE 29

Organisation or individual using hazardous chemicals for scientific research shall have the following duty:

- Use of hazardous chemical substances following regulations stipulated by this Law;
- Laboratory shall have sufficient equipment for safe storage and handling of hazardous chemical substances and personal protective equipment for workers;
- Hazardous substances shall have correct labelling according to the regulations specified by the Sub-decree dated October 2009;
- The Laboratory shall have an appropriate filing systems and records of hazardous chemical substances being used;
- Disposal of hazardous substance or chemical wastes shall follow regulations specified under Article 25 of this Law.
- Identifying and minimizing any potential hazards which may be caused by the use and disposal of hazardous substance or chemical wastes through setting up effective mechanisms to minimize risk and mitigate effects of any hazard which may occur.

#### ARTICLE 30

No person shall use hazardous chemical substances in food products, cosmetics, and toys that can cause direct health hazards to human beings.

### CHAPTER 8 CHEMICAL INDUSTRY

#### ARTICLE 31

Organisation or individual engaged in production of chemical substances shall have technical capacity for environmental and social safeguarding as shown below:

- Workshops, storehouse and technological equipment;
- Safety equipment and devices, equipment and devices for prevention and fighting of fire, explosions, lightning, chemical leakages or dispersal and other chemical incidents;
- Labour protection equipment and devices;
- Environmental protection equipment and devices,
- Waste disposal and treatment systems;
- Prevention and response plan, including posting visible hazard pictogram and hazard communication;

#### ARTICLE 32

Organisations and individuals engaged in production of chemical substances shall have professional staff with qualifications relevant to the scope, type, and scale of the chemical-related activity along with thorough knowledge about technologies and chemical safety plans and measures.

#### ARTICLE 33

Organisations or individuals are encouraged to review manufacturing processes that can produce chemical substances or products involving less greenhouse gases emission, less energy consumption, and minimal hazard and toxicity to the environment and human.

#### ARTICLE 34

Organisations or individuals engaged in production of chemical substances or products shall have proper registration of the substances and manufacturing permits issued by relevant responsible ministry or authority.

#### ARTICLE 35

In case of production of hazardous chemicals or hazardous chemical products, organisation or individual shall provide annual report on manufacturing processes, the amount of hazardous ingredients, intended use, point of delivery, waste disposal and treatment systems, and safety plan and measures to the respective ministries and the Ministry of Environment. The format of reports shall be developed by responsible Ministry in cooperation with the Ministry of Environment.



## CHAPTER 9 PREVENTION AND RESPONSE

### ARTICLE 36

Organisations or individuals shall have the duty to:

- Strictly follow technical specification, labelling and safety instruction defined by each hazardous substance;
- Have prevention and emergency response measures (first aid, evacuation plan, fire elimination equipment) including personal protective equipment for workers at the work place;
- Organize training on safe use and safe handling of hazardous substances, including a safe-drill toward the occurrence of hazard to human health and/or the environment;
- Set up a chemical emergency response.

### ARTICLE #

In case of accidents caused by hazardous chemical substances, organisation or individual shall cease immediately the activities in question and immediately inform the relevant authorities and the Ministry of Environment. Adequate action shall be taken according to the prevention and emergency response plan aiming for reducing hazards and damage to human health, environment and the property.

Any organisation or individual directly involved in the accident shall immediately inform any local members of the public who may be affected by the accident of the exact risks posed to the public's health and property by the accident and advise the public on measures to mitigate those risks.

### ARTICLE #

A Hazard Chemical Insurance Mechanism shall be set up by a financing mechanism for prevention, response and compensation of hazards or accidents associated with hazard substances. The regulations and operation of this insurance shall be specified by a Sub-decree.

## CHAPTER 10 PUBLIC AWARENESS

### ARTICLE #

Organisation or individual involved in distribution, sale and use of hazardous chemical substances shall provide all information related to safety data sheets, hazard communication, prevention and

mitigation measures to the responsible ministries, the users and the public.

#### **CHAPTER # -- DIRECTIVE FOR PRTR**

*(To be included in titles on Hazardous Waste Management and Hazardous Substances Management)*

1. Interpretation (definition: pollutant, transfer, release, register, etc.)
2. Design and structure (materials list, form and environmental media release)
3. Reporting by generator/facilities (schedule for submission information/report...)
4. Estimation standard for emission release (to air, water, land, etc.)
5. Quality assurance and assessment
6. Access to information (public participation, awareness, raising)
7. Confidentiality
8. Penalty
9. Prosecution of offense

#### **TITLE 5 WATER POLLUTION CONTROL**

1. Responsible institutions
2. Measures to prevent water pollution
3. Permission of liquid waste discharge
4. Water pollution source control
5. Monitoring and evaluation of public water pollution
6. Sewage System and Sewage Treatment System management

Improving rural sewage treatment  
Improving urban sewage treatment  
Improving coastal sewage treatment  
Seasonal adaptations in sewage treatment

Separation of storm water drainage and sewage infrastructure  
Understanding and supporting the role of wetlands in waste filtration and preserving wetlands  
Promoting and regulating private septic tanks  
Mandatory reporting of normal discharge, effluents and sudden discharge.

7. Responsible institutions

8. Responsibilities of site owner

9. General measure to sewage management

10. Provision of sewage system management and sewage treatment system management services

11. Natural storing basin and Sewage Treatment System management

12. Penalty

2-13. Water pollution offenses

**TITLE 6 MARINE POLLUTION CONTROL**

*(This title should be included in water pollution/coastal zone management/separate section?)*

1. Application of MARPOL and Conventions

2. Prevention of pollution by oil & oily water

3. Discharging oil into State waters from a ship

4. Causing discharge of oil into State waters from a ship

5. Control of pollution by noxious liquid substances in bulk

6. Offences relating to carrying uncategorized noxious liquid substances

7. Offences relating to discharge of noxious liquid substances

8. Cleaning of tanks of ships

9. Prevention of pollution by harmful substances carried by sea in packaged form

- [10. Offences relating to carriage](#)
- [11. Offences relating to jettisoning](#)
- [12. Pollution by sewage from ships](#)
- [13. Offences relating to discharge of sewage](#)
- [14. Pollution by garbage from ships](#)
- [15. Offences relating to discharge of garbage](#)
- [16. Prevention of air pollution from ships](#)
- [17. Offences relating to release of smoke](#)
- [18. Prevention of disposal of hazardous waste from ships](#)
- [19. Application of the Base Convention to ships](#)

## **4-19. TITLE 7 AIR POLLUTION, NOISE AND VIBRATION CONTROL**

- This Title will revise and incorporate the Control of Air Pollution and Noise Disturbance 42 ANRK 2000.

### **Section 1 Air Pollution Source Control**

- [1. Indoor air pollution](#)
- [2. The flow of toxic air from mobile sources](#)
- [3. The flow of toxic air from fixed sources \(Air pollution from immobile source\)](#)
- [4. The air pollution in buildings](#)
- [5. The technology to reduce and prevent air pollution](#)
- [6. The control of air pollution](#)
- [7. The request for approval of a permit](#)
- [8. The monitoring of atmosphere quality](#)
- [9. The procedure of inspections](#)

10. The transboundary air pollution

**Section 2 Noise and Vibration Control**

1. Noise emission from mobile source
2. Noise emission from immobile source
3. Noise emission in workplaces/inside buildings
4. The sound emitted from mobile source
5. The sound emitted from fixed source
6. The voice in the workplace
7. The technology of sound deduction
8. The monitoring of sound diffusion
9. The request for approval
10. The vibrant causing
11. The monitoring of vibration levels
12. The technology for vibrant reduction
13. The request for approval of a permit

**Section 3 Controlling and Monitoring of Atmospheric Quality**

**~~Section 1~~Section 4 Measures to Prevent and Reduce Air Pollution, Noise and Vibration**

**TITLE 8 OZONE LAYER PROTECTION**

1. Importing and exporting of ozone depleting substances control
2. Exportation and usage of ozone depleting substances control
3. Cleaning up, recycling and destructing of ozone depleting substances control
4. Cooling substances and tools control

5. Program to eliminate ozone depleting substances control

6. Monitoring, controlling and managing of ozone depleting substances control

4.7. Formality of registration and license application

**Title 9 TITLE 9 HOUSEHOLD SOLID WASTE MANAGEMENT**

Radiological and biological waste

Electronic waste

Identifying and promoting alternatives to landfills

Landfills including monitoring and reporting requirements

Waste incinerators including monitoring and reporting requirements

Industrial waste reduction through regulations, financial incentives and other mechanisms.

Reducing the use of plastic bags

Identification, management and rehabilitation and remediation of contaminated land

Commented [N141]: To be harmonised with prakas under development.

1. Management plan and responsible jurisdiction

a. Urban/household waste is waste from houses, public administrative buildings, service and business locations, clinics, hospital, markets, super markets, commercial centers, gardens, public areas, tourism sites, a septic tank, all of which excludes hazardous waste.

b. Labeling of waste (Shall be included in the below chapter that states about hazardous waste in details)

c. Regulation of waste management facilities, including rubbish dumps (shall states in details from the establishment, collection, transport, 3R, resources exploitation, treatment, compost production, biogas incinerators until the final disposal, export, and import of non-toxic rubbish or solid waste for the future)

d. Standards for classification of waste

e. Management of waste incinerators (details about incinerator standard and technique, incinerator operation and limit standard of ash discharge from burning)

2. Provisions for management:

a. Effectiveness of management:

i. Separation, packaging, and disposal at the source:

- ii. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable
    - iii. The setting of rules and conditions of proper packaging
    - iv. The setting of rules and conditions of disposal at the source in order not to affect aesthetic value, order, traffic, transport, ...
    - v. The setting of time of solid waste discharge awaiting to be collected
    - vi. What are obligations of waste producers?
  - b. Provisional disposal location (joint): The setting of rules and conditions on selecting location for managing, time for receiving , and transporting of waste and rules for controlling that location
  - c. Collection and transport
    - i. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
    - ii. The setting of rules and conditions of transport, loading
    - iii. Collection and transport divided based on waste types
    - iv. Obligations of companies providing services of collection and transport
    - v. Obligations of competent institutions on collection and transport task (monitor, check, instruct, and recommend service companies)
  - d. Reduce, reuse, and recycle (3R) Compost production
    - i. The setting of rules to courage the practice of 3R: provide support and encourage investors and 3R activities
    - ii. Obligations of competent institutions in 3R activities
    - iii. Obligations of citizens in 3R activities
  - e. Resources exploitation from rubbish, solid waste (Biogas incinerator): The setting of methodology of exploiting biogases from organic waste

f. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment

g. The final disposal:

i. Measures to reduce at maximum waste poured into the dump site

ii. Measures to control the final disposal with safety

iii. Construction, operation, and maintenance when shutting the dump site

iv. Waste incinerator sets technical standard for construction and operation of waste burning

h. Obligations and participation of relevant institutions and private sectors on solid waste management

i. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions

j. Education and knowledge enhancement for the public relating to solid waste management

k. Penalty provisions on committing offenses

## **TITLE 10 INDUSTRIAL SOLID WASTE MANAGEMENT**

1. Sources: Industrial solid waste is waste from factories, enterprises, handicrafts (from production), sewage system treatment, agricultural sector, all of which excludes hazardous waste.

2. Effectiveness of management:

a. Separation, packaging, and disposal at the source:

i. The setting of rules and conditions of separating rubbish, solid waste according to types organic wastes- recyclable and non-recyclable

ii. The setting of rules and conditions of proper packaging

iii. The preparation of location or place to dispose waste based on types and with safety.



- iv. The setting of rules and conditions of disposal in order not to affect people's health and the environment
  - v. What are the obligations of waste producers? cleaning premise outside and around factories
- 3. Collection and transport
  - vi. The setting of rules and conditions of methodology of collecting, means, program of collecting, regulatory of collecting, proper collecting
  - vii. The setting of rules and conditions of transport, loading
  - viii. Collection and transport divided based on waste types
- 4. Solid waste treatment: The setting of methodology, conditions of rubbish, solid waste treatment
- 5. The final disposal:
  - ix. Measures to reduce at maximum waste poured into the dump site
  - x. Measures to control the final disposal with safety
  - xi. Construction, operation, and maintenance when shutting the dump site
  - xiii. Waste incinerator sets technical standard for construction and operation of waste burning
- 6. Obligations and participation of relevant institutions and private sectors on solid waste management
- 7. Obligations and participation of users on rubbish, solid waste management (including user pay principles) to monitor and report on the implementation of companies offering services to competent institutions
- 8. Education and knowledge enhancement for the public relating to solid waste management
- 9. Penalty provisions on committing offenses
- 3. Solid waste management department, MoE requested that there shall be a separation of provisions on non-toxic solid waste and toxic waste, so that it is easy to check and practice when the law comes into force.
- 4. 4Rs principle – Reject, Reduce, Reuse and Recycle
  - a. Promoting waste avoidance and reduction
  - b. Encouraging and facilitating recycling (including regulating recycling businesses)

c. Roles and responsibilities of government, private sector and citizens in recycling, waste reduction, and waste management

5. Management of plastic bags and plastic packaging materials use reduction

6. Measures on disposal

## **TITLE 11 ENVIRONMENTAL POLLUTION CHECK AND INSPECTION**

- Role of Environmental Pollution Inspectors: Articles 1, 2, 3 and 4
- Notification of Complaints and Inspections: Article 5 and 6
- Recommendations for Future Actions: Articles 7, 8, 9, 10 and 11

### **ARTICLE 1**

1. Environmental pollution inspection officers appointed by the proclamation of the minister of environment ministry shall have following duties:
2. Daily check source of pollution and polluting activities
3. Inspect environmental pollution
4. Suppress environmental pollution offenses
5. Fulfil other duties assigned by the minister of environment ministry.

### **ARTICLE 2**

An environmental pollution inspection officer is rehabilitated as a police of justice for checking environmental pollution offenses stated in this code, in accordance with criminal procedure code of kingdom of Cambodia.

The formality and procedure of rehabilitation for pollution inspection officers are determined by joint proclamation of the minister of justice ministry and the minister of environment ministry.

### **ARTICLE 3**

Environmental pollution inspection officers shall have uniforms, labelling, and ranking signs determined by sub-degree.

During the operation of implementing this law, an environmental pollution inspection officer shall have mission command letter and wear a uniform, labelling, and ranking sign as stated in the first paragraph above.

#### ARTICLE 4

On duties to daily check pollution source and pollution activities, environmental pollution inspection officers shall have the following rights:

1. Check controlling means and facilities and treatment of waste and pollutants from pollution source in consistence with provisions and procedure of this law.
2. Monitor and control activities relating to discharge of waste and pollutants from pollution source.
3. Guide, at the controlled scene, owners or pollution controllers to change or correct their waste and pollution discharge.
4. Take photo of and bring a waste or pollutant sample which is a subject to be checked to make an analysis for verification and assessment.
5. Require people who are owners or pollution controllers provide information and disclose documents, records, permission letters, and documents relevant to waste or pollutants.
6. Take measure to temporarily stop serious pollution activities found while checking and implementing inspection procedure or procedure to suppress environmental pollution offences continuously.

#### ARTICLE 5

In case there is a notification or a complaint on environmental pollution case or a serious pollution offence which harms public health or destroy property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on inspection work immediately.

On duties to inspect environmental pollution cases, environmental pollution inspection officers shall have the following rights:

1. Search for reasons and a person who causes environmental pollution.
2. Bring a waste or pollutant sample which is a subject to be checked to make an analysis for

verification and assessment.

3. Collect and seize any object relating to environmental pollution cases.
4. Take provisional measure on any activity or means relating environmental pollution cases found during the inspection and implementation of procedure to suppress environmental pollution offenses continuously.

The procedure of inspection on an environmental case is set by a proclamation of the minister of environment minister.

#### ARTICLE 6

In case of a flagrant environmental pollution offense which is harmful to the environment, public health, or damage property, environment ministry and municipal, provincial environment department in cooperation with competent ministries, institutions, and sub-national administration shall take a lead on environmental pollution offense suppression work immediately.

On duties to suppress an environmental pollution offense, environmental pollution inspection officers shall have the following rights:

1. Take provisional action on any activity contributing to an environmental pollution offence.
2. Check, observe causes of an environmental pollution offence.
3. Bring and analyse a pollutant sample, an environmental sample, or a relevant sample which is polluted for verification, assessment, and assertion.
4. Limit and evaluate scope of impact.
5. Collect evidences for making a complaint in consistence with law procedure.
6. Take immediate action to eliminate environmental pollution.

#### ARTICLE 7

Case filing of an environmental pollution offense shall follow the criminal procedure code of Kingdom of Cambodia.

Application form for taking minutes of an environmental pollution offense shall be determined by join proclamation of the minister of justice ministry and the minister of environment ministry.

#### ARTICLE 8

Cost on an environmental pollution elimination operation is an offender responsibility. In case that identity of the offender is not known, all cost is the state responsibility.

#### ARTICLE 9

In case of an environmental pollution offense which affects or harms the environment or damage public property, environment ministry shall make a complaint to demand damages for destruction or damages for environmental quality restoration from the offender.

An impact scope assessment shall be made by environment ministry and have assessment participation from line competent ministries, institutions based on a proposal of the minister of environment ministry.

#### ARTICLE 10

Competent ministries, institutions, sub-national administration, and the public shall have good and active cooperation in participating in inspecting or suppressing an environmental offence based on a proposal of environment ministry or municipal, provincial environment department.

#### ARTICLE 11

Any person who is not satisfied with any measure taken by environmental pollution inspection officers as stated in this law, except for a decision on transitional punishment, may file a complaint to the minister of environment ministry within thirty (30) days after receiving decision.

The minister of environment ministry shall decide on the complaint and make a written response to complaint owner within forty (40) days after receiving the complaint.

In case that a person who is the complaint owner is still not happy with the decision of minister of environment ministry, that person has right to file a lawsuit to court based upon the court procedure.

### ~~Book 6~~ **BOOK 7 ENVIRONMENTAL EDUCATION AND AWARENESS**

Commented [M142]: Per STWG 7. New Book.

- Environmental Education (EE) has been defined as the process of helping people, through formal and non-formal/informal education, to acquire understanding, skills and values that will enable them to participate as active and informed citizens in the development of an

ecologically sustainable and socially-just society. (ASEAN 2014-2018).

- Education for Sustainable Development (ESD), training and awareness are seen as processes for developing values, understanding and skills consistent with environmentally sustainable and socially just society and assisting citizen participation in effective public participation and decision making. ESD balances human and economic and environmental development.
- “Education, including formal education, public awareness and training should be recognized as a process by which human beings and societies can reach their fullest potential. Education is critical for promoting sustainable development and improving the capacity of the people to address environment and development issues. While basic education provides the underpinning for any environmental and development education, the latter needs to be incorporated as an essential part of learning. Both formal and non-formal education are indispensable to changing people's attitudes so that they have the capacity to assess and address their sustainable development concerns. It is also critical for achieving environmental and ethical awareness, values and attitudes, skills and behaviour consistent with sustainable development and for effective public participation in decision-making. To be effective, environment and development education should deal with the dynamics of both the physical/biological and socio-economic environment and human (which may include spiritual) development, should be integrated in all disciplines, and should employ formal and non-formal methods and effective means of communication. “ (Agenda 21 1992 United Nations Conference on Environment and Development)

## **TITLE 1      GENERAL PROVISIONS**

The Kingdom of Cambodia considers that it is in the national interest to align the development objectives of the Kingdom with Environmental Education (EE) and knowledge development [reference National Green Growth Strategy and other relevant documents indicating commitment for national sustainable development].

Further, the Kingdom of Cambodia considers that education, public awareness and access to information are critical for achieving all objectives of the Environmental Code.

The Kingdom of Cambodia considers EE as a mechanism for implementing the Principle of Intergenerational Equity.

The appropriate Ministries and authorities shall have the authority to design, implementation and enforcement of curricula.

Consistent with [insert legal documents here], the appropriate Ministries shall:

- a) Strengthen capacity of educational system and relevant processes to address environmental and development challenges of the Kingdom of Cambodia;
- b) Encourage sustainable development;
- c) Increase scientific and intellectual innovation;
- d) Assure provisions for continuous development of professional skills and knowledge of environment and sustainable development for all sectors including in education, industry, private sector, agriculture, transport and public administration, media, civil society organizations;
- e) Assure inclusion of knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into education;
- f) Assure inclusion of latest achievement of science and technology into education and development;
- g) Assure that relevant EE content, methods and materials are provided for the trainings and learning;
- h) Assure variety of opportunities to engage in learning processes at the levels of communities, professional associations, interest groups;
- i) Ensure regulatory, policy and operational frameworks for the integration of EE an ESD into education at all levels.

The overall objective of the actions is to empower Cambodia citizens, through environmental education and public participation, to contribute to cleaner and more socially just society, and, ultimately, to environmentally sustainable development, through support in developing values, attitudes and skills and capable to ensure sustainable development of the country and the region.

## **TITLE 2      POLICY MAKING**

Development provisions that affect environment and health of Cambodian citizens shall be accompanied by supporting provisions of the Ministry of Education Youth and Sport as well as other relevant ministries and authorities (inter-ministerial collaboration that aligns, at the policy level, development and education/training);

Relevant ministries shall include principles and provisions of EE and ESD into any sectoral and cross-sectoral policy and decision making processes affecting national and sub-national development; such provisions shall be accompanied by plans to develop and deliver necessary competencies into such development.

### **TITLE 3      TRAINING**

Relevant Ministries should include knowledge and skills relevant for the environmental protection, resource efficiency and associated issues into professional qualifications and certificates.

Relevant Ministries create provisions to include relevant EE content, appropriate methods and materials are provided for the trainings and other learning processes.

Training should be provided to include environmental topics.

Relevant Ministries are responsible for creating training materials supporting educational processes aiming at addressing environmental challenges.

Relevant ministries and authorities should create variety of learning opportunities addressing environmental issues at the levels of communities, professional associations, and interest groups.

### **TITLE 4      AWARENESS**

Relevant ministries and authorities shall assure that key groups of stakeholders of development processes are informed about environmental implications of these processes and potential remediation

Relevant ministries and authorities facilitate engagement of key stakeholders through main information channels including through media, festivals, and events, as appropriate and specified by Title 3 Public Participation and Title 4 Access to Information.

### **TITLE 5      FORMAL EDUCATION SYSTEM**

Relevant ministries and authorities shall:

- a) Assure Inclusion of requirements for environmental and sustainability knowledge into qualification criteria (certification and re-certification) for professions
- b) For the EE/ESD to be effective for supporting human and national development, its themes



shall be integrated into all levels of education (general education, tertiary education, professional and vocational trainings), across relevant subject (mainstreaming) as well as to form specific programmes and courses (specialized educational processes).

- c) Assurance that areas of EE/ESD knowledge reflect development priorities and latest achievements of science and technology.
- d) Assure development of guidelines for integration of the EE/ESD into curricular of students and educators (in-service and pre- service).
- e) Educational materials – pedagogic, didactic, methodological publications as well as textbooks and other relevant resources shall be developed to support teaching and learning processes related to environment and other associated aspects of sustainable development:
  - Ensure development and production of printed and electronic (including Internet-based) materials, video, audio and other materials for primary, secondary and vocational schools.
  - Ensure development and production of printed, electronic and other materials for higher education institutions.
  - Stimulate production of pedagogic, didactic and methodological materials supporting EE and ESD at higher education institutions.
  - Ensure development of information and learning materials for media on environmental protection, sustainable resource use and other associated issues.
  - Support informational portal that will provide access to resources related to environment and sustainable development relevant for the Kingdom of Cambodia.
  - Create an internet portal to give easy access to information and resources on sustainability, including on teaching and learning.
- f) Ensure support for the development of environmental management systems at schools, institutions of higher education and other learning organizations.
- g) Stimulate and support integration of EE and ESD principles and approaches into education and training environment (whole-institution approach).
- h) Facilitate and support different approaches in education including an interdisciplinary and transdisciplinary approach, ways of including EE into different subjects, programmes and

learning processes, draws on local context.

## **TITLE 6 COMPETENCES AND CAPABILITY OF EDUCATORS, TRAINERS, AND CHANGE AGENTS**

To improving competences of educators, change facilitators, leaders and decision makers in formal and non-formal education to support knowledge development towards greener and more sustainable society, the relevant ministries and authorities shall:

- a) Assure that competences of educators that support education towards more sustainable development are defined as well as qualification criteria for educators in formal educational system;
- b) Assure development of programmes for training pre-service and training and retraining in-service educators as well as development of required educational materials.

Relevant ministries and authorities shall promote environmental and sustainability ideas at all levels of education and in all educational processes by:

- a) Assuring development and support of national network on EE and ESD competencies, methodologies and approaches.
- b) Supporting and promoting results of research into EE and ESD including its content, teaching and learning methods, ways of integrating it into programmes and other educational activities, including methods of assessment.

## **TITLE 7 RESEARCH AND INNOVATION**

Relevant ministries and authorities:

- a) Should develop a process that implementation of in-service teacher training programmes based on latest scientific knowledge related to environment and sustainable development.
- b) Should support development and implementation of programmes that bring together education and research and aim at solutions for environmental challenges.
- c) Should regularly update educational and training materials ensuring based on the latest scientific knowledge.
- d) Should facilitate support for relevant research and education by providing resources for research as well as opportunities for studies and exchange.

Relevant ministries and authorities should align knowledge on environmental protection and sustainable resource use with development of knowledge and expertise in other areas of sustainable development (link to SDGs) by:

- a) Assuring collaboration between traditional knowledge holders and scientific knowledge
- b) Supporting cross-sectoral collaboration, stimulate interaction between science (natural and social), technology development and business, development of appropriate technologies with a smaller negative impact on the environment.
- c) Support transdisciplinary research and innovation.
- d) Developing action research programmes that aim at addressing solutions/innovations for environmental and sustainability challenges; should prioritize research that brings together the different dimensions of SD, as well as focuses on issues of local sustainable development.

## **3 ~~Title 3~~ TITLE 8 REGULATION AND OPERATIONAL FRAMEWORK**

The Government should have provisions for regulatory, financial and organizational support of EE and research by:

- a) Assure provisions on sharing responsibilities – stakeholders are invited in defining priorities for various sectors; government carries ultimate responsibility.
- b) Should create mechanism for education coordination and training on the environment and development including provisions for creation of the (Inter-agencies Committee on EE).
- c) Should use economic and organizational instruments to increase in international scientific and educational exchanges, international programmes for research and technology development.
- d) Should create informational resource for support of environmental education.
- e) Assure provisions on research that demonstrates effective ways of working with EE and ESD
- f) Assure provisions on monitoring.
- g) Assure provisions for funding – to assess costs for implementation of provisions (EE Strategy?) and secure necessary funding.

h) Assure funds for supporting environmental research.

The Government of the Kingdom of Cambodia is to have in place EE national action plan with provisions for its implementation.

## **BOOK 7 BOOK 8 ENVIRONMENTAL INCENTIVES,** **FEES, TAXES AND FUNDING**

- This Book will set out the mechanism by which the responsible Ministries will be able to charge fees.
- This Book will include clear provisions to ensure that all fees and taxes that are levied and received and all economic instruments that are established such as environmental funds will be managed in accordance with international standards on accountability and transparency.

### **TITLE 1 ENVIRONMENTAL INCENTIVES**

#### **CHAPTER # ECONOMIC INCENTIVES FOR GREEN INVESTMENT AND** **SUSTAINABLE FINANCING IN THE BANKING SECTOR**

#### **CHAPTER # SPECIAL INCENTIVES FOR PUBLIC/PRIVATE PARTNERSHIPS**

#### **CHAPTER# FINANCIAL INCENTIVES AND TAXATION MEASURES TO REDUCE** **DEFORESTATION AND PROMOTE BIODIVERSITY AND NATURAL** **RESOURCE CONSERVATION, GREEN URBAN INFRASTRUCTURE, ECO-** **TOURISM AND SUSTAINABLE TOURISM, COMMUNITY-BASED** **NATURAL RESOURCE MANAGEMENT, SUSTAINABLE LOW CARBON** **ENERGY PRODUCTION, SUSTAINABLE FORESTRY, AND SUSTAINABLE** **FISHERIES**

#### **CHAPTER # ECO-LABELLING**

##### **ARTICLE #**

Financing for eco-labelling

##### **ARTICLE #**

Independent Certification for eco-labelling of products and services

**ARTICLE #**

Incentives to switch to more efficient consumer appliances and the phasing out of inefficient devices

ARTICLE #

Government conditions and procedures for eco-labelling products. e.g. product produced by CF, CPAs or CFI, Indigenous People etc.

Article #

Government tax exclusions for eco-labelled products within the country and on export of these items. e.g. flat rate of 1% tax for all eco-labelled products

Article #

Concessions by the Royal Government of Cambodia, on transport of eco-labelled within the country and export.

Article #

Description and registration of social enterprise that assist in conservation of biodiversity and forests.

Article #

Tax exemptions for entities that are registered as Social Enterprise improving Conservation

**TITLE 2 VALUATION OF RESOURCES AND ECOSYSTEMS  
SERVICES**

**CHAPTER # SCOPE AND PROCEDURES FOR VALUATION OF RESOURCES AND  
ECOSYSTEM SERVICES, INCLUDING NATURAL CAPITAL ASSESSMENT**

**CHAPTER # PAYMENT FOR ECOSYSTEM SERVICES**

**TITLE 3 ENVIRONMENTAL TAXES, FEES AND OTHER FUNDING  
OPTIONS AND FUND MANAGEMENT**

- A submission has been received that highlights that Cambodia does not have a Trust Fund Law that would assist in developing funding arrangements to finance the protection of protected areas and protected forests. Consideration should be given to enabling Trusts to be created.

**CHAPTER # ENVIRONMENTAL TAXATION**

**CHAPTER # FEES PAYABLE FOR SERVICES PROVIDED BY MINISTRY**

**CHAPTER # OTHER FEES**

**CHAPTER # OTHER FUNDING OPTIONS (E.G., FUNDING OPTIONS FOR FOREST CONSERVATION)**

Commented [M143]: Funding Options for Forest Conservation under development.

**CHAPTER # BENEFIT SHARING AGREEMENTS**

Commented [M144]: Per NGO Forum.

**CHAPTER # ESTABLISHMENT OF THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND; GOALS OF THE FUND**

**CHAPTER # ESTABLISHMENT OF OTHER FUNDS**

(e.g., community initiative funds)

**CHAPTER # SOURCES OF REVENUE ~~TO FOR~~ THE ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND AND OTHER FUNDS**

**ARTICLE #**

The Project Proponent shall make payment of a minimum of 1 percent of the project costs to the Environmental and Social Fund of MoE. An Environmental and Social Fund shall be created by the Ministry of Environment to provide finance for the restoration of environment, conservation of biodiversity and social development in and around the area where the project is located.

**ARTICLE #**

The Project Proponent shall make payment of Environmental Endowment Fund based on the agreement between MoE and Project Proponent, on an annual basis until the end of business, based on the type and scale of development project.

Commented [BR145]: These two articles are moved from the EIA title, and presented here in the form in which they existed in the final version of the draft EIA Law.

NOTE:

Discussion is currently underway regarding the different types of funds that are required in order to 1) ensure proper project performance 2) guarantee any needed environmental restoration at project conclusion, and 3) to provide sufficient contribution to overall environment and conservation activities.

Discussion is also underway regarding the amounts of fees that Project Proponents will be required to provide to these respective funds.

**CHAPTER # TRANSPARENCY AND GOVERNANCE PROCEDURES FOR FUNDS**

**CHAPTER # AUDITING OF FUNDS**

**CHAPTER # CRITERIA FOR GRANT-MAKING AND DISBURSEMENT FROM THE**

ENVIRONMENT, CONSERVATION AND SOCIAL DEVELOPMENT FUND

CHAPTER # ENVIRONMENTAL LIABILITY INSURANCE MECHANISMS FOR  
PAYMENTS BY POLLUTERS OR FOR ENVIRONMENTAL DAMAGE (E.G.  
BOND, ENVIRONMENT AND SOCIAL FUND)

**BOOK 9 ENVIRONMENTAL OFFENSES,  
ENFORCEMENT AND REMEDIES**

~~Title 3~~ **TITLE 1 INVESTIGATION, ENFORCEMENT AND ACCESS TO  
REMEDIES**

- This Title will deal with the powers of the relevant Ministries to investigate the environmental offences outlined in Book 9 ~~QTitle 2~~.
- It will make provision to allow for citizens and organisations to follow dispute resolutions procedures and bring proceedings to the relevant review body. These provisions will also identify mechanisms for citizens and organisations to bring general complaints and other proceedings.
- This Title will also examine the use of relevant dispute resolution procedures and grievance mechanisms, including Environmental Courts and Tribunals (ECTs), to deal with environmental and natural resources development decisions. This Title will examine options for the Ministry of Environment to establish an Environmental Tribunal to re-examine environment and natural resource management decisions made under the Environmental Code.
- This Title will also look at other options such as Administrative Tribunals and an Ombudsman or Environmental Commissioner, to review problems and concerns relating to environmental and natural resources decisions. These would be established to be accessible to the community and open and transparent. For example, one matter would be the use of municipal planning tribunals to resolve conflict between planning and land use decisions in the urban context.
- Legal entity and local-level dispute resolution and grievance mechanisms.
- The mechanisms in this Title will be consistent with international recognized criteria, including legitimate, accessible, predictable, equitable, rights-based, and transparent.

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CHAPTER # ENVIRONMENTAL COMPLAINTS

**CHAPTER # PROCEDURES FOR RESOLUTION OF ENVIRONMENTAL  
COMPLAINTS**

**SECTION 1 GENERAL PROVISIONS**

**ARTICLE #**

Objective

**ARTICLE #**

Scope of Code Application

**ARTICLE #**

General Principle

**ARTICLE #**

Type of Environmental Dispute Resolution

a) Ombudsman or Environmental Commissioner

b) Administrative Tribunal

c) Court

d) Out of Court / Mediation

**ARTICLE #**

Establishing Enforcement Priorities

**CHAPTER # ESTABLISHMENT OF OMBUDSMAN OR ENVIRONMENT  
COMMISSIONER**

**ARTICLE #**

Role of the Ombudsman or Environment Commissioner.

**CHAPTER # ESTABLISHMENT OF ENVIRONMENTAL ADMINISTRATIVE  
TRIBUNAL**



**ARTICLE #**

All citizens may bring complaints before the Administrative Tribunal for breaches of the Environmental Code.

**ARTICLE #**

Rights of review of environmental and natural resources decisions.

**ARTICLE #**

NGOs may assist citizens and communities to bring matters to the Administrative Tribunal.

**ARTICLE #**

Obligation of Administrative Tribunal to hear and determine matters quickly and fairly.

**SECTION 3 RESOLUTION OF ENVIRONMENTAL DISPUTE THROUGH THE  
COURT**

**SECTION 2 TYPE OF ENVIRONMENTAL COMPLAINT**

**ARTICLE #**

Civil Complaints

**ARTICLE #**

Criminal Complaint

**ARTICLE #**

Complaint against Administrative Decision of the Government or Governmental Authorities

**ARTICLE #**

Relation of Civil and Criminal Complaint

**SECTION 1 PARTIES OF ENVIRONMENTAL COMPLAINT**

**ARTICLE #**

Directly Affected Parties

**ARTICLE #**

Participation of Relevant NGOs in Environmental Complaint

**ARTICLE #**

The Governmental authorities in the Environmental Complaint

**ARTICLE #**

Rights of Affected Parties

**ARTICLE #**

Decision of Court

**ARTICLE #**

Appeal to Decision of Lower Court to Higher Court

**SECTION 4 COMPLAINT AGAINST TO DECISION OF ADMINISTRATION OF  
GOVERNMENTAL AUTHORITIES**

**ARTICLE #**

Right of Affected Natural Person/Legal Entities

**ARTICLE #**

Time Limitation of Issuance of Decision on the Complaint

**ARTICLE #**

Appeal to Decision of Higher Administration Institute

**SECTION 2 OUT OF COURT RESOLUTION OF ENVIRONMENTAL DISPUTE**

**ARTICLE #**

Objective

**ARTICLE #**

Appointment of Mediator/Arbitrator

**ARTICLE #**

Obligation of Government to Create the Environmental Arbitration Institute

**ARTICLE #**

Appeal to the Decision of Arbitrator to the Court

**CHAPTER # MONITORING, COMPLIANCE AND CITIZENS RIGHTS TO BRING  
PROCEEDINGS**

**SECTION 1 GENERAL**

- a) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against any natural or legal person who violates or fails to comply with the provisions of this Code and its implementing regulations [by emitting restricted substances into the environment, harming protected species, habitats or ecosystems, beginning work without a license on construction or extraction projects that require a license, or any other act that is clearly in violation of this Code].
- b) For the purposes of enforcing the provisions of this Code or its implementing rules and regulations, any Cambodian citizen, Cambodian-registered entity, or member of Cambodian civil society may file a written complaint against a Minister or Ministry charged with a nondiscretionary duty in this Code to enforce any of the Code's provisions or to create regulations, where the Minister or Ministry has failed to discharge that duty within a reasonable time.
- c) Any plaintiff pursuing an action under Section 1 shall do so for the public good and does not need to be directly impacted.
- d) Any plaintiff pursuing an action under this Section 1 shall do so for the public good and must not receive economic benefit.
- e) An action under this Section 1 shall not affect the rights of any Cambodian citizen.

Cambodian-registered entity or member of Cambodian civil society in an action for personal injury or damage due to the same conduct that is the subject of a Section 1 complaint.

#### **SECTION 2 NOTICE**

- a) Before any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursues any action under Section 1, they must give notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.
- a)b) A Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing any action under Section 1 must also give notice to
- i) the relevant Ministry; and
  - ii) the administration of the District in which the violation or failure to comply has occurred.
- c) No action may be commenced under Section 1
- i) within 30 working days of notice provided under Subsection 2(a) and (b); or
  - ii) if the relevant Ministry or District has commenced and is diligently prosecuting a civil action in Court to require compliance with the Code provision in question.
- d) Notwithstanding Subsections 2(a), 2(b), and 2(c), where the violation of the Code represents a public health or environmental emergency, any Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society pursuing action under Section 1 may commence any action under Section 1 immediately after giving notice to the relevant natural or legal person, Minister or Ministry of the plan to pursue such an action, and the violation or failure which is to be the subject of such an action.

#### **SECTION 3 VENUE**

- a) An entity filing a written complaint under Subsection 1(a) must do so with the Administrative Tribunal, in compliance with Section 2 and the procedures for the Administrative Tribunal.
- b) An entity filing a written complaint under Subsection 1(b) may do so with
- i) The Administrative Tribunal, in compliance with Section 2 and the procedures for the

Administrative Tribunal; or

- ii) The Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.
- c) Notwithstanding Subsections 3(a) and 3(b), where the violation of a provision of the Code represents a public health or environmental emergency, an entity filing any complaint under Section 1 must do so with the Court of First Instance, in accordance with Section 2 and the Code of Civil Procedures.

**SECTION 4 PROCEDURE**

- a) An entity filing any written complaint under Section 1 with the Administrative Tribunal must comply with the procedures for the Administrative Tribunal.
- b) Notwithstanding the procedures for the Administrative Tribunal, the Administrative Tribunal must give notice to the public of its acceptance of the action within ten working days of its acceptance.
- c) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Administrative Tribunal to participate in the complaint under Subsection 1(a) within thirty working days of the announcement under Subsection 4(b).
- d) An entity filing a written complaint under Subsection 1(b) of this Code shall do so in compliance with the Code of Civil Procedures.
- e) Notwithstanding the Code of Civil Procedures, the Court shall give notice to the public of its acceptance of an action under Subsection 1(b) within ten working days of its acceptance.
- f) Any other Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society may apply to the Court to participate in the complaint under Section III of the Code of Civil Procedures.

**SECTION 5 REMEDY, AWARDS AND CIVIL PENALTIES**

- a) The Administrative Tribunal, in issuing any final order in any action brought under Subsection 1(a), may require the natural or legal person to perform its duty under the Code.
- b) The Administrative Tribunal in issuing any final order in any action brought under Subsection 1(a), may have recourse to any appropriate civil penalties.
- c) The Court, in issuing any final order in an action brought under Subsection 1(b) may

require the Minister or Ministry to perform its nondiscretionary duty.

d) The Administrative Tribunal or the Court, upon motion of the complainant, may issue a provisional disposition establishing a provisional status.

e) The Administrative Tribunal or the Court, in issuing any final order in any action brought under Section 1, may issue an injunction requiring the defendant to stop all illegal activity and to pay for the costs of remedying all of the environmental damage or human injuries resulting from violations of the Code.

Ⓜf) The administrative tribunal or Court, in issuing any final order in any action brought under Section 1, may require a defendant found to have violated the Environmental Code to pay

i) a successful plaintiff's costs of litigation (including reasonable attorney and expert witness fees) to the plaintiff; and/or

ii) any fee established by law as a consequence of violating the Code into a special fund for licensing, the costs of the Minister or Ministry as defendant in an action under Subsection 1(b), and other services; and/or

iii) any civil penalty to be paid into the fund specified in Subsection 5(f)(ii).

g) The administrative tribunal or Court, in issuing an order under Subsection 5(f)(iii), shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in Subsection 5(f)(iii), be used in beneficial mitigation projects which are consistent with this Code and enhance the protection of the environment.

h) The award of costs of litigation to a plaintiff must not be considered an economic benefit to the plaintiff.

#### **SECTION 6 PLAINTIFF'S COSTS**

a) The Court shall exempt an action under Section 1 from the payment of filing fees until either the complaint is proven to be without merit or a final order is issued, in which case such fees shall be included as part of a successful plaintiff's costs of litigation under Subsection 4(d)(ii).

#### **SECTION 7 TIME**

a) Claims raised under Section 1 shall be resolved within one year of filing.

#### **SECTION 8 STRATEGIC LITIGATION TO DETER PUBLIC PARTICIPATION**

**(SLDPP)**

- a) Where a counter-suit is filed or administrative action undertaken against a Cambodian citizen, Cambodian-registered entity or member of Cambodian civil society who has filed an action under Section 1 or has given notice under Section 2, the court or administrative decision-maker must make a determination in not less than thirty working days from the commencement of the counter-suit or action on whether said counter-suit or action is intended to harass, vex, exert undue pressure, or stifle the resources of the entity filing under Section 1 or the entity giving notice under Section 2. If the court or administrative decision-maker makes such a determination supported by evidence, the Court shall dismiss the counter-action or administrative action and award attorney's fees and double damages to the SLDPP defendant.
- b) Subsection 7(a) also applies where a court action is filed or an administrative action undertaken against a government official or entity acting in their official capacity, provided that the court or administrative decision-maker has made a determination based on evidence that the government official or entity was acting in the course of enforcing this Code, and that there was no abuse of authority.

**CHAPTER # COMMUNITY DRIVEN OPERATIONAL GRIEVANCE MECHANISMS**

**CHAPTER # JUDICIAL POLICE OFFICERS**

**ARTICLE #**

Role and Obligation of Judicial Police Officers

**ARTICLE #**

Procedure of Qualification of Judicial Police Officers

**ARTICLE #**

Territory of Judicial Police Officers

**ARTICLE #**

Investigation of Environmental Crime of Judicial Police Officers

**ARTICLE #**

Obligation of Relevant Authorities in Co-Operation to Environmental Crime Investigation

**ARTICLE #**

Procedure of Environmental Complaint Compilation

**CHAPTER # ESTABLISHMENT OF ROYAL ACADEMY OF RANGER  
PROFESSIONALS**

**ENVIRONMENTAL OFFENCES AND REMEDIES (PENALTIES)**

- This Title will outline the Environmental Offences that will be subject to possible action under the Civil Code or Criminal Code.
- It will provide an outline for determining which breaches of the Code should be subject to criminal prosecution.
- The Title will identify specific offences and failures to comply with relevant provisions of the Code.
- It will provide options for penalties from fines to imprisonment and remediation orders. It will be based on the work done on the draft EIA Law.

**CHAPTER # BREACH OF ANY PROVISION OF THE ENVIRONMENTAL CODE**

**CHAPTER # PENALTY PROVISIONS**

**CHAPTER # ENVIRONMENTAL IMPACT ASSESSMENT OFFENSES**

**CHAPTER # AIR POLLUTION OFFENSES**

**CHAPTER # CLASSIFICATION OF OFFENSES**

**CHAPTER # TABLE OF PENALTIES FOR OFFENSES**

**CHAPTER # APPLICATION OF CRIMINAL CODE TO ENVIRONMENTAL  
OFFENSES**

**CHAPTER # APPLICATION OF CIVIL PENALTIES FOR ENVIRONMENTAL  
OFFENSES**

**TITLE 2      RESTORATION AND COMPENSATION FOR INJURIES  
                 TO NATURAL, CULTURAL, HISTORIC AND  
                 ARCHAEOLOGICAL RESOURCES**



- This Title will provide relevant information about compensation and restoration orders, if a breach of the Code has led to environmental harm or harm to human health.

## **CHAPTER 1 GENERAL PROVISIONS AND OBJECTIVES**

### **ARTICLE 1**

There is a national interest in restoring and compensating for injuries to resources of Cambodia.

### **ARTICLE 2**

Application of the polluter pays principle requires that any person found responsible for any injury to any resources of Cambodia shall be required to restore all such injuries, and or otherwise compensate for all losses resulting therefrom.

### **ARTICLE 3**

Timely restoration and just compensation critical to long term well-being of the people of Cambodia.

## **CHAPTER 2 LIABILITY PROVISIONS**

### **ARTICLE 4**

Liability.

### **ARTICLE 5**

Liability in rem (directed towards property).

### **ARTICLE 6**

Liability of corporate officials.

### **ARTICLE 7**

Joint and several liability.

### **ARTICLE 8**

Right to seek contribution from other potentially liable persons.

### **CHAPTER 3 DEFENCES AND EXCEPTIONS TO DEFENCES**

#### **ARTICLE 9**

Defences.

#### **ARTICLE 10**

Exceptions to defences.

### **CHAPTER 4 – ENVIRONMENTAL COMPENSATION**

#### **ARTICLE 11**

Measure of environmental compensation.

### **CHAPTER 5 – PARTIES CLAIMANT**

#### **ARTICLE 12**

Parties who can make claims for Environmental Compensation.

### **CHAPTER 5 – RESTORATION PLANNING COUNCIL AND COMPENSATION EVALUATION PROCESS**

#### **ARTICLE 13**

Restoration Planning Council.

#### **ARTICLE 14**

Duties and authority of the Council

#### **ARTICLE 15**

Restoration Compensation Evaluation.

### **CHAPTER 6 – RESTORATION CONSULTATION AND RESOLUTION**

#### **ARTICLE 16**

Restoration consultation process.

**CHAPTER 7 – SETTLEMENT REQUIREMENTS AND JUDICIAL STANDARD OF  
REVIEW**

**ARTICLE 17**

Administrative and judicial resolutions.

**ARTICLE 18**

Judicial standard of review of a restoration compensation claim.

**CHAPTER 8 – ADMINISTRATIVE ORDER AUTHORITY**

**ARTICLE 19**

Authority of the Minister of the Environment to order support of Restoration Compensation Evaluation, and Restoration Council activities.

**ARTICLE 20**

Authority of the Minister of the Environment to order emergency restoration.

**CHAPTER 9 – AUTHORITY OF THE MINISTER OF THE ENVIRONMENT TO  
RECOVER COSTS OF RESTORATION**

**ARTICLE 21**

Notwithstanding any other provision of this Code, the Minister of the Environment may undertake the necessary restoration of injuries to resources of Cambodia and may recover those costs and expenses in the manner provided under the Civil Code of Cambodia.

Chapter 10 – Management and Use of Recovered Funds

**ARTICLE 22**

Monies recovered as payment towards or reimbursement of the costs and expenses of Restoration Compensation Evaluation and Restoration Council activities shall be paid directly to the party incurring, or who will be incurring, said costs and expenses, and shall be used for that purpose only.

**ARTICLE 23**

Monies recovered for the implementation of restoration shall be held in a special account.

(Restoration Implementation Fund).

#### **ARTICLE 24**

Authorization for release of funds.

#### **ARTICLE 25**

Fund Manager shall be personally responsible for maintaining the Restoration Implementation Fund and insuring that all transactions are properly recorded and made available for viewing online.

### **CHAPTER 11 – SCOPE OF TITLE AND RELATIONSHIP OF OTHER ACTIONS**

### **CHAPTER 12 – STATUTE OF LIMITATIONS**

#### **ARTICLE 26**

Statute of limitation for right to claim for environmental compensation.

### **Book 8 BOOK 10 TRANSITIONAL PROVISIONS**

- This Book will provide details of the transitional provisions required to allow the Code to become effective in the shortest period of time.
- It will provide details of how existing protected areas and relevant reserves will be maintained, based on the principles of the Environmental Code, until they have been reviewed and assessed in accordance with the provisions of the Code.
- The development of the Environmental Code should not be used to allow continued environmental destruction during the period that new management plans are being developed.
- This Book will provide details of the laws and sub-decrees that will be repealed.
- This Book will clarify how the Environmental Code will amend the various existing natural resources laws and laws relating to environmental protection and natural resource management.

### **Book 9 BOOK 11 FINAL PROVISIONS**



# SUSTAINABLE FINANCE MECHANISMS FOR CONSERVATION OF FORESTS AND PROTECTED AREAS IN CAMBODIA

PREPARED BY THE CAMBODIA FORESTRY ADMINISTRATION,  
MINISTRY OF AGRICULTURE, FORESTRY AND FISHERIES WITH  
SUPPORT FROM THE WILDLIFE CONSERVATION SOCIETY



## FINANCE OPTIONS ASSESSMENT REPORT



# **SUSTAINABLE FINANCE MECHANISMS FOR CONSERVATION OF FORESTS AND PROTECTED AREAS IN CAMBODIA**

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**FINANCE OPTIONS ASSESSMENT REPORT**







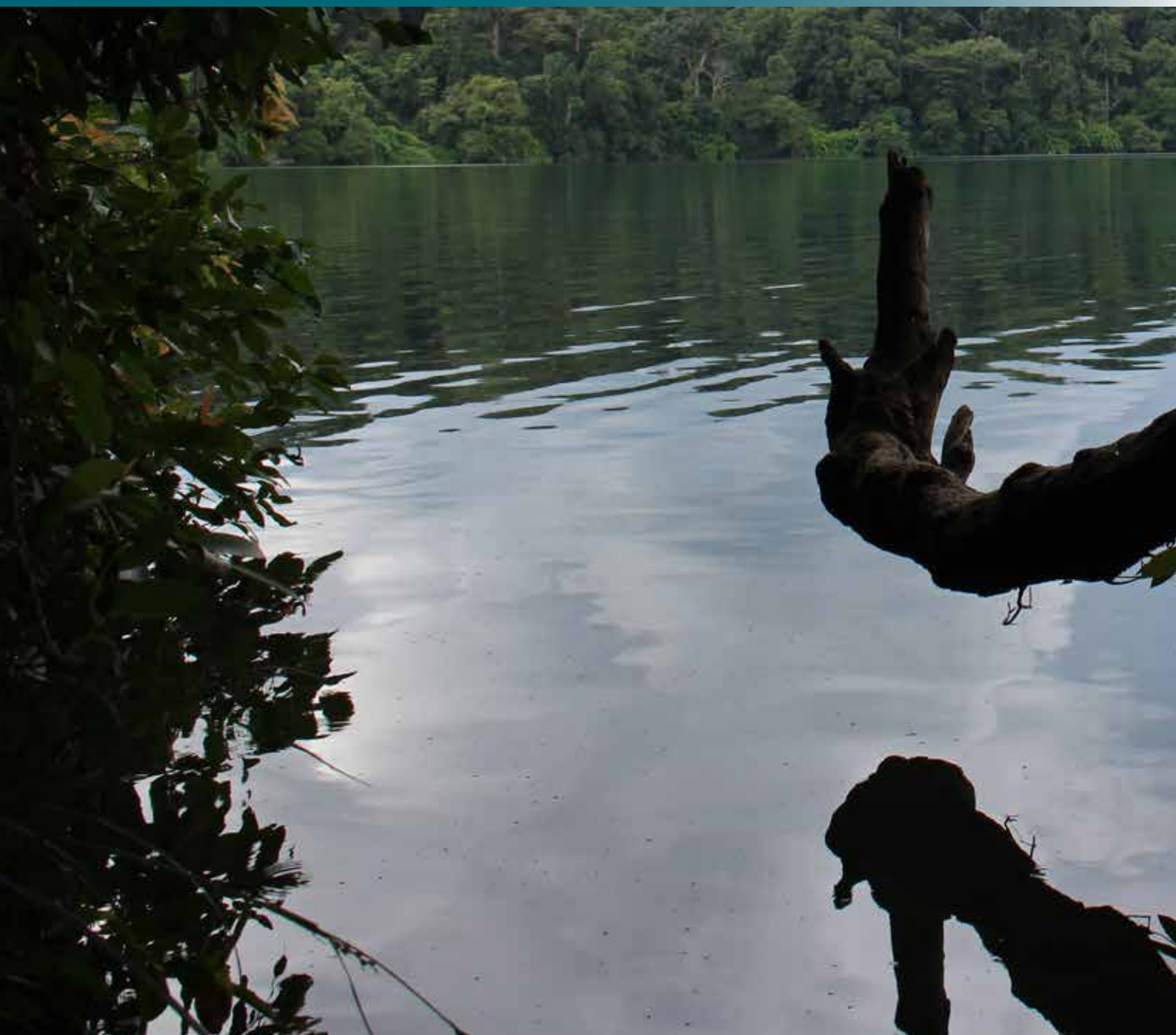


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# Foreword

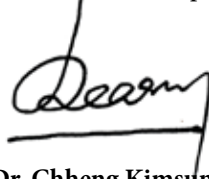
The Royal Government of Cambodia's National Forestry Program (NFP) for 2010-2029 has set six program areas for priority implementation, one of which is the development of sustainable financing mechanisms to support the management and administration of protected forests and other areas. Current levels of financial support, from government and donor budgets, are significantly below that needed to ensure successful implementation of the NFP. At the moment, there are very few policies or regulations that enable collection of revenues from the forestry sector, and the revenues that are collected are remitted to the national treasury, rather than allocated directly to support the implementation of the NFP. Private sector engagement in sustainable forest management is also very low. Consequently, Cambodia relies heavily on support from development partners, especially bilateral and multilateral donors and large NGOs, to fund the NFP. However, continued investments by donors and NGOs is not by itself a sustainable source of funding. As a result, the development of a long-term financial plan to secure sustainable financing for the forestry sector is essential in order to safeguard existing on-the ground achievements, and ensure the long-term integrity of standing forests.

The Technical Working Group on Forestry Reform (TWG-FR) is the government-donor coordination mechanism for the forestry sector. In 2014, it formed a Sustainable Forest Financing Sub-Group which is co-chaired by the Forestry Administration and Wildlife Conservation Society (WCS). The sub-group is comprised of representative from Forestry Administration, Ministry of Environment, Ministry of Economic and Finance, development partners, national and international NGOs and the private sector. It is tasked to lead a policy process and develop ideas for long-term forest financing mechanisms. The assessment of finance options for Cambodia's forests presented here was initiated to provide technical information that can be used by stakeholders to guide the development of a strategy to secure the funds necessary to pay for the full costs incurred to sustain the forests in Cambodia.

This report includes a concise description of the theory and intent of various financial mechanisms and an overview of how they are typically applied in practice in a country of similar social and environmental conditions to Cambodia. It also provides an overview of legal and policy considerations that may affect the adoption of the financial mechanism in Cambodia, and a description of any prior experience with the financial mechanism in Cambodia.

I would like to take this opportunity to acknowledge the work of the Sustainable Forest Financing Sub-Group, especially WCS who have prepared this assessment report. By acknowledging its comprehensive analysis and financial options for Cambodia's forests, I would also like to offer my thanks to all colleagues of the TWG-FR who have contributed to provide inputs for this report.

Phnom Penh, 07 April 2016



**Dr. Chheng Kimsun**  
Delegate of the Royal Government  
Head of the Forestry Administration  
Ministry of Agriculture, Forestry and Fisheries

# Acknowledgement

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# Executive Summary

The Cambodia Forestry Administration (FA) of the Ministry of Agriculture, Forestry and Fisheries (MAFF), and the Ministry of Environment (MoE) have led actions taken since the 1990s to establish new protected areas and secure protected forests in ecologically important landscapes. These actions have resulted in the stabilization, and, in some cases, recovery of populations of some threatened species. However, these accomplishments require on-going funding to insure payments for recurrent and new costs. Continued investments by donors and NGOs into the same landscapes may provide some of this funding, but is not expected to represent by itself a sustainable source for these funds. As a result, the development of a long-term financial plan to secure fund is essential in order to safeguard existing on-the-ground achievements, and ensure the long-term integrity of standing forests.

Cambodia can reduce the risks to its protected forests and enhance overall protection measures by diversifying the financing mechanisms used to produce the funds required for recurrent management costs. The principal task for Cambodia will be to ensure that funding for protected forests is not exclusively dependent on government budget allocations and external donor support, and that funding sources are sufficiently varied to allow conservation and sustainable management programs to continue even during market downturns (e.g., if, for example, tourism-based revenues decline or demand decreases for specific forest products). More effective revenue collection and cost reduction mechanisms are also important financing strategies to achieve financial sustainability.

The following report is intended to provide technical information that can be used by stakeholders in Cambodia to guide the development of a strategy to secure the funds necessary to pay for the full costs incurred to sustain the protected forests of Cambodia. The approach used here follows the lead provided by several other national conservation finance strategies being developed or applied worldwide, particularly the assessments developed for Mozambique and Belize.

The assessment of finance options for Cambodia's protection forests examined all mechanisms that were determined to be technically achievable by the Forestry Administration and its associates. The options considered were reviewed, verified, and prioritized at a consultative meeting held on Monday 26th May, 2014 at the Sunway Hotel in Phnom Penh, Cambodia, and attended by a total of 60 participants including representatives from the Royal Government of Cambodia (Forestry Administration, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy and Finance), NGOs and Development Partners, Private Sector, and Civil Society Organizations. The consultative meeting provided input on the context, framework, and approach to be taken in developing the forest financing options assessment, and share international experiences with regards to forest financing mechanisms.

The participants in the consultative meeting identified eight possible finance mechanisms to include in the assessment, including each of the following:

- Taxes, fees, and fines levied on the legal trade in forest and non-timber forest (NTFPs) products;
- Public-private partnerships, including leases, concession fees, and direct payment or profit sharing ventures in which revenues from products and services sold are directed to a trust or other fund established for the explicit purpose of forest conservation, with primary attention given to possible income generated from Economic Land Concessions;
- Donor funding;
- Payment for Environmental Services (PES), including payment for tourism, water and watershed services, and carbon and climate revenues;
- Debt relief ('Debt-for-nature swaps');
- Loans, bonds, and sustainable investment funds, including impact investments, allocated to forestry development and conservation;
- Biodiversity and Forestry offsets and compensation agreements with industry;
- Establishing a forest conservation trust fund, with revenues generated from multiple sources;

The assessment of each mechanism includes the following information:

- A concise description of the theory and intent of the mechanism;
- An overview of how the financial mechanism is typically applied in practice;
- An example of how the financial mechanisms has been applied in a country of similar social and environmental conditions, and a summary of any results to date;
- An overview of legal and policy considerations that may affect the adoption of the financial mechanism in Cambodia
- A description of any prior experience with the financial mechanism in Cambodia.

The review of the potential financial instruments included in this assessment report suggests that each may hold some potential for contributing to the financial resources needed to manage Cambodia's protection forests and secure their ecological integrity for future generations.

Further action on the forest finance assessment must occur in the context of existing and anticipated institutional policy. For the next five years, 2014-2018, the policy priorities for the RGC in terms of sustainable management of natural resources will focus on four areas.

1. Further managing forest and wildlife resources in a sustainable and equitable manner, in accordance with the "National Forest Programme 2010-2029";
2. Further strengthening of the management and conservation of fishery resources in a sustainable manner in line with the "Strategic Planning Framework for Fisheries Sector 2010-2019" and the "Declaration on the National Policy for Fisheries Sector";
3. Intensifying the implementation of measures to ensure ecosystem sustainability in the agricultural sector, particularly to protect soil productivity, and surface and underground water quality and supply;
4. Strengthening stakeholder cooperation under the framework of the "National Policy on Green Development" and the "National Strategic Plan on Green Development 2013-2030" through the development of regulatory frameworks and mechanisms.

Ultimately, it is expected that the Forestry Administration will work together with other appropriate government agencies to design and implement a comprehensive strategy that includes several of the financial instruments described here. However, the development of this strategy will still require the following information:

- A more thorough assessment of the legal framework available or required to support the use of each instrument to support the procurement of funds to support government actions to manage public protection forests;
- An up to date market analysis to determine the approximate amount of income that may be accessible to the FA through use of each financial instrument, including a review of Cambodia's competitive advantage for each instrument to be pursued;
- A prioritization of the most promising financial instruments based on the results from the market analysis;
- A determination of the most effective management framework that can best support the administration and disbursement of any funds raised, including the feasibility of public-private partnerships in the form of trust funds or para-statal organizations;
- A business plan to create a 3-5 year roadmap for financial success. The business plan will define the immediate and long-term objectives of the Forestry Administration and the specific financial needs the plan will fulfill; a summary of the market analysis; an action plan to guide the implementation and fulfillment of the finance strategy; and an operations and management plan to describe the administration and use of funds.

It is recommended that TWG-FA now establish a work plan to carry out each of these steps. The results from this work will help provide more precise answers to each of the following concerns:

- The "Mission" and "Vision" of the proposed finance strategy;
- The approximate amount of funding required to ensure long-term conservation of Cambodia's protection forest resources;
- The expected outputs and outcomes from the funding
- Identification of the institutional structure and responsibilities of the management authority
- Determination of the disbursement and accounting procedures for all leveraged funds.

The work plan should also establish the respective stakeholder roles and responsibilities in the design and implementation of a comprehensive Cambodia forest finance strategy. In turn, the completed strategy should determine the funding requirements necessary to achieve long-term forest management goals in Cambodia; the institutional and policy framework necessary to implement the strategy; and implementation, monitoring, and reporting procedures.







# 1. Introduction to Cambodia's Forest Finance Feasibility Study

Cambodia lies within one of the world's most significant biodiversity hotspots, and also one of the most threatened. Significant conservation investments have been made by external donors and the Cambodian government since the 1990s to establish new protected areas and secure protected forests in ecologically important landscapes. These actions have resulted in the stabilization, and, in some cases, the recovery of populations of some threatened species.

The Forestry Administration (FA) of the Ministry of Agriculture, Forestry and Fisheries (MAFF), and the Ministry of Environment (MoE) have led this work, with technical and financial support from donors and international non-government organizations (NGOs), including the Wildlife Conservation Society (WCS), Conservation International (CI), World Wide Fund for Nature (WWF), Birdlife International, and Flora and Fauna International (FFI). Independent external reviews of many of these programs, such as the evaluation report from the United Nations Development Program (UNDP) – Global Environment Facility (GEF) project entitled “Establishing Conservation Areas through Landscape Management,” have emphasized the significant on-the-ground results that have been achieved in terms of forest areas placed under protection or improved management. However, these accomplishments require on-going funding to insure payments for recurrent and new costs. Continued investments by donors and NGO into the same landscapes may provide some of this funding. However, donor and NGO contributions are finite in scope and cannot serve as a sustainable financing source. As a result, the development of a long-term financial plan to secure fund through market-based mechanisms is essential in order to safeguard existing on-the-ground achievements, and ensure the long-term integrity of standing forests.

These financial pressures continue in parallel with on-going social and ecological pressures. As mentioned above, the forested landscapes in Cambodia are under significant and increasing levels of threat. Cambodia now has one of the world's highest rates of deforestation, driven by large-scale forest clearance for agriculture and in-migration to frontier regions. Deforestation rates increased significantly following changes in forest management policies in the mid-2000s that provided a basis to expropriate forestlands for agriculture, and the new Protected Areas Law in 2008 that permitted the de-gazettement of protected areas for economic development. Since 2008 more than 10% of Cambodia's protected area network has been allocated to investment firms. Assignment of large-scale concessions to corporations also removes options for local people to use land and resources for livelihoods and new enterprises. Securing the finances to sustain forest landscapes in Cambodia thus becomes important for the needs of local people and biodiversity.

Five particularly pervasive financial constraints to effective protected forest management are evident:

1. There is insufficient funding at the present time to cover core site-level costs and coordinate national-level forest management activities;
2. Funding is distributed unevenly across the protected forest network;
3. Staff costs dominate public budgets;
4. Protected forests rely on a very narrow funding base and limited range of financial sources;
5. Protected forests operate according to a short-term financial planning horizon.

Cambodia can reduce the risks to its protected forests and enhance overall protection measures by diversifying the financing mechanisms used to produce the funds required for recurrent management costs. The principal task for Cambodia will be to ensure that funding for protected forests continues to include, but is not fully dependent on government budget allocations and external donor support, and that funding sources are sufficiently varied to allow conservation and sustainable management programs to continue even during market downturns (e.g., if, for example, tourism-based revenues decline due to terrorism or natural disaster). More effective revenue collection and cost reduction are also important financing strategies to achieve financial sustainability.

The following report is not intended to serve as a finance strategy document. Instead, this assessment provides background information and options that can be used to support the development of a long-term finance strategy for Cambodia's protected forests. Preparation of this long-term forest finance strategy is expected to be a follow-on activity to the results provided in this report. Ultimately, the assessment is intended to provide technical information that can be used by stakeholders in Cambodia to guide the development of a strategy to secure the funds necessary to pay for the full costs incurred to sustain the protected forests of Cambodia.

The approach used here follows the lead provided by several other national conservation finance strategies being developed or applied worldwide. Mozambique and Belize are two countries that have recently completed similar conservation finance strategies, and each provides an appropriate model for Cambodia's forests. The Cambodia forest financing assessment has also relied on the important work and resources available through the Conservation Finance Alliance (<http://conservationfinance.org/>). Members of the Alliance at the global level include most of the development partners working in Cambodia, including donor agencies (AFD, EC, GIZ, KfW, UNDP, and USAID, among others) and NGOs (FFI, IUCN, Pact, WCS, and WWF). The organizations and experts in the Alliance have supported other countries to develop strategies for sustainable financing, including Mozambique.





## 1.1 Policy Framework for Innovative Forest Financing in Cambodia

The National Forest Programme (NFP), approved by the Royal Government of Cambodia in 2010, sets out the strategic framework for the forestry sector over the period 2010–2029, to be implemented by the Forestry Administration (FA). The NFP prioritizes six programmatic areas that will receive emphasis over the next two decades in order to achieve these objectives. One of the six programmatic areas is the development of sustainable financing mechanisms, including innovative mechanisms, such as conservation concessions or offsets. In addition, the recent National Strategic Development Plan for 2014–2018 similarly encourages the pursuit of sustainable finance measures to support forest conservation in Cambodia.

The implementation of the NFP Programme's sustainable finance objective has thus far focused on REDD+ (Reducing Emissions from Deforestation and forest Degradation) pilot projects and the National REDD+ Readiness Programme. The present report recognizes the importance of continuing this REDD+ work, and references other information sources that can ensure that this work is included in a broader forest finance strategy for Cambodia. The present report will include information on REDD+ opportunities while also highlighting the potential benefits from other innovative financing approaches. Some examples of these other, innovative approaches include:

- Development of Payments for Environmental Services (PES) mechanisms by WCS with the Forestry Administration and MoE in Preah Vihear province;
- Community-based ecotourism development by the Wildlife Alliance, WCS, and WWF; and
- The Community-based Production Forestry (CBPF) pilot led by FA/WCS in the Seima Protection Forest, and similar activities undertaken by the Regional Community Forestry Training Center funded by UNDP.

These initiatives have succeeded in generating significant revenue for conservation and local development at the village level. Scientific research conducted by WCS staff, which has been published in leading academic journals, has demonstrated that these models can protect biodiversity and ecosystem services and alleviate local poverty. However, the amount of funding provided by these village-level projects is not sufficient to fulfill the existing forest management financial targets. As a result, the present recommendations review options from a mix of potential revenue sources. Each section of this report provides an overview of a potential revenue source and evaluates its feasibility under existing conditions in Cambodia. The eventual Cambodia protected forest finance strategy will most likely achieve its greatest results through a combination of several of these potential sources implemented in a coordinated and unified process as a Cambodia Forest Fund.

Further, any funding mechanisms put into practice must be managed in a transparent way with clear oversight and engagement of development partners and potential investors. This is important if any fund is to ensure confidence from investors and contributors. Specifically, a comprehensive sustainable finance strategy for protected forests in Cambodia will require the establishment of a fund management system that is (a) consistent with national law, (b) has sufficient input by government, and (c) is structured to ensure transparency and effective management by financial experts.

# 2 Objectives of the Sustainable Finance Mechanisms for Conservation of Cambodia Protection Forests

On 28 February 2013 the Technical Working Group on Forestry Reform (TWG-FR) formed an informal taskforce to address the issues and needs of sustainable finance for Cambodia forests. The TWG-FR is the government-donor coordination mechanism for the forestry sector, chaired by the Director-General of the Forestry Administration (FA) and the European Union (EU). The TWG-FR determined that the taskforce is to be facilitated by the Deputy Director-General of the FA and WCS.

The assessment is designed to support the Forestry Administration (FA) of the Royal Government of Cambodia to develop an options assessment of innovative forest financing modalities for Cambodia's protection forests, and to understand and communicate the results of this assessment to key stakeholders. The assessment carried out the following 3 activities:

**Activity 1:** Consultations on appropriate innovative financing mechanisms. The FA has created an informal taskforce, chaired by the Deputy Director-General of the FA and WCS, and includes representatives from the FA, donors, and NGOs. This group will consider different innovative financing options, analyze ongoing initiatives, and identify priority modalities for further research. Particular effort has been made to engage the private sector in these discussions, including the European Chamber of Commerce in Cambodia.

**Activity 2 :** Development of the options assessment on forest financing modalities of Cambodia's Protection Forests. The assessment team has reviewed and identified a range of mechanisms that may provide opportunities for Cambodia to generate the revenues necessary to support long-term conservation of its protected forests. The assessment of each mechanism includes a summary of the theory by which the mechanism operates and generates revenue. The assessment also includes at least one example of how the mechanism has been used to generate revenues in Cambodia or in another country facing similar social and ecological challenges. Finally, the assessment examines existing policy and laws in Cambodia to identify possible constraints or opportunities that may facilitate the adoption of the finance mechanisms.

**Activity 3 :** Communication of the results to the Forestry Administration (FA) and interested stakeholders. The results of this study will be communicated to the FA and development partners through a national-level workshop, with results summarized and distributed to appropriate interests. The workshop will be held under the authority of the TWG-FR. The experts who contributed to the results included in the study will facilitate the workshop, the objectives of which are to:

1. Provide initial training to the Government on the various types of innovative forest financing mechanisms, and how they have been used in other countries.
2. Explore which mechanisms might be relevant for Cambodia, and select the ones that should be considered in more detail.

Research for the options assessment as conducted over a four-month period from June – September 2014, and included an extensive literature review and consultation with key stakeholders in Cambodia and outside of the country. The literature review for the assessment consisted of a review of recent guides and case studies on protected area financing; existing documents on sustainable financing and PES; and, conservation area business plans. The options considered were reviewed, verified, and prioritized at a consultative meeting held on Monday 26th May, 2014 at the Sunway Hotel in Phnom Penh, Cambodia, and attended by a total of 60 participants including representatives from the Royal Government of Cambodia (Forestry Administration, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy and Finance), NGOs and Development Partners, Private Sector, and Civil Society Organizations. The consultative meeting provided input on the context, framework, and approach to be taken in developing the forest financing options assessment, and share international experiences with regards to forest financing mechanisms.

The report is presented in three parts: Section 3 provides a review of possible financing mechanisms; Section 4 summarizes the overall findings and recommendations; and, Section 5 outlines the steps needed to prepare an action plan for the development of a long-term sustainable financing plan for Cambodia's protected forests.





# 3. Review of Financing Mechanisms

The assessment of finance options for Cambodia's protection forests examined all mechanisms that were determined to be technically achievable by the Forestry Administration and its associates, including the Ministry of the Environment. The finance mechanisms reviewed in the assessment include each of the following:

- Taxes, fees, and fines levied on the legal trade in forest and non-timber forest (NTFPs) products;
- Public-private partnerships, in which revenues from products and services sold are directed to a trust or other fund established for the explicit purpose of forest conservation, with primary attention given to possible income generated from Economic Land Concessions;
- Donor funding;
- Payment for Environmental Services (PES), including payment for tourism, water and watershed services, and carbon and climate revenues;
- Debt relief ('Debt-for-nature swaps');
- Loans, bonds, and sustainable investment funds, including impact investments, allocated to forestry development and conservation;
- Biodiversity and Forestry offsets and compensation agreements with industry;
- Forest conservation trust fund, with revenues generated from multiple sources;

The assessment of each mechanism includes the following information:

- A concise description of the theory and intent of the mechanism;
- An overview of how the financial mechanism is typically applied in practice;
- An example of how the financial mechanisms has been applied in a country of similar social and environmental conditions, and a summary of any results to date;
- An overview of legal and policy considerations that may affect the adoption of the financial mechanism in Cambodia
- A description of any prior experience with the financial mechanism in Cambodia.

Section 4 of the assessment concludes with suggestions for steps to be taken to develop an action plan that can support the development and implementation of a forest finance strategy.

## 3.1 Government Budget Support – Public Taxes, Fees, Fines, and other direct allocations from Government

Government revenue allocations are an important source of support for protected areas. A portion of the fees collected from public taxes, fines, and other payments from concessions and businesses using Cambodia's natural resources is typically reassigned to support costs for management of protection forests. Despite the importance of this finance mechanism, direct government budget support is often inadequate to meet all forest management costs, with financing gaps typically met by revenues from external donor assistance. However, new sources of public finance may be accessible through additional public taxes, fees or fines derived from natural resources exploitation or use, and other sources of public finance, such as debt relief. Effective financial management and revenue retention regulations, including revenue sharing with local communities, are also critical to ensure public support for protected forests.



### 3.1.1 How Does This Mechanism Work?

Taxes, fees and fines related to natural resource use are charged in sectors such as petroleum, mining, hydropower and other energy production, fisheries, forestry, land, water supply, and tourism. A percentage of the fees, taxes and fines for environmental licensing and environmental impact assessment (EIA) can also be assigned to a government or independently managed fund designated for forest conservation uses. It is important to ensure that the fees and taxes levied for the use of Cambodia's natural resources are charged at rates that reflect fair market value for the service and product being delivered. For example, the fee for leasing an ecotourism site in the Northern Plains of Cambodia should fully account for the cost of creating, maintaining, and managing these areas. Fee structures should include "willingness to pay" surveys that are further linked with market surveys to determine a fair market rate for each service offered to private businesses for the use of Cambodia's natural resources.

**Using Government Fees to Finance Conservation:** Government budget allocations are typically done on an annual basis, and protected forests typically are funded through a centralized revenue system. Thus revenues from taxes, fees or other charges within a specific protected forest are not retained at the local level, but are delivered to a central agency or the national Treasury. Protected forests typically receive only a small portion of these collected fees through one annual allocation. This can create significant difficulties for local managers who may not have reserves in place during times of new growth or need. Also, the separation of budget allocations from earnings reduces any incentives for protected forest managers to generate more revenue, and creates little responsibility or accountability for them to do so. The financial autonomy of protected forests can be enhanced by increasing the opportunity to generate and retain funds locally (Emerson, et al. 2006).

It is also essential to evaluate the way in which financial allocations from government budget support are distributed. In some cases the vast majority of funds are assigned to recurrent costs, and principally human resource costs. However, this usually occurs at the expense of essential investment needs in infrastructure, maintenance and new growth. For example, salaries for forest guards may be secure, but those same guards will have no funding available to cover transportation, community meeting, or facility maintenance costs. Providing competitive salaries for staff is unquestionably essential. However, these personnel must also have the resources and capital they need to carry out the management functions expected to ensure long-term sustainability of the forest ecosystems. Thus funds must also be in place to cover the costs of building maintenance and essential new construction, vehicle purchases and maintenance, community consultations, and social and environmental fieldwork.

Most protected forests operate on an annual budget cycle. Yet cash flow requirements for conservation finance rarely conform neatly to an annual budget or project calendar. Similarly, donor-funded projects may involve very irregular or delayed transfers of funds. When combined with uncertainty about the level of funding that can be expected in the future, this means that it is often difficult to match cash availability to actual needs, or to undertake long-term planning and investment (Emerson et al., 2006).

### 3.1.2 Institutional and Policy Factors in Cambodia

The Royal Government of Cambodia (RGC) has evolved a 'Rectangular Strategy' (RS), which has been the hallmark of development since about 2004. The National Strategic Development Plan (NSDP) for 2006-2010 carried forward the agenda laid out in the first RS, and the NSDP Update 2009-2013 on the RS Phase II. The NSDP 2014-2018 carries forward the agenda laid out in RS Phase III, and it was enacted in September 2013. The NSDP 2014-2018 states that the national budget revenue collection target should increase revenues by an average of 0.5 percent (half of one percent) of the GDP per year in order to achieve one of Cambodia's development priorities – environmental sustainability. Thus the target was 13.2% of GDP in 2011 and rose to approximately 14.9 in 2013, and 15.4% in 2014. At the end of the plan, the minimum expectation is to target budget revenue at 16.9% of the GDP, although the goal should be closer to 18% as stated in Step 2 of the Public Financial Management Reform Program.

In order to generate revenues for environmental sustainability, the RGC will continue formulating and increasing the effectiveness of enforcement of laws (and legal letters) related to non-tax revenue mobilization and enforcement of contracts (or agreement on state property management), especially Economic Land Concession Contracts, public property-leasing, petroleum and mine concessions, and other concessions.

The RGC has in place many laws, regulations, and policies that enable relevant ministries to collect revenues for natural resources conservation from environmental taxes, fines, fees, and/or royalties (see Annex 4 for the complete list of enabling legal provisions under Cambodian law). As stipulated in Article 51 of the Law on Forestry, FA shall collect both a Wildlife Conservation Fee and Wildlife Royalty. The exact amount of Fee and Royalty shall be determined by Joint-Prakas between MAFF, and MEF. The Law on Forestry also specifies that: (i) any individual or legal entity harvesting



Forest Products and By-products for commercial purposes within the Permanent Forest Reserve shall pay royalties and premiums to the national budget through FA (Article 52); (ii) anyone with legal possession of a permit to harvest Forest Products and By-products shall pay all applicable royalties and premiums prior to transferring or selling any of these rights to a third party (Article 56); and (iii) any individual who has committed a forestry offense harming the forest ecosystem shall be liable for payment in order to restore or repair the forest ecosystem to its original condition (Article 94).

In addition, Article 32 of Law on Mineral Resource Management and Exploitation states that the rate of royalty on the value of mineral resources, methods of royalty payment to the State, and incentives for competent officials as provided in Article 23, shall be determined by Inter-Ministerial Prakas. Taxes, duties, tax on shares, tax on personal share, provision, method of expenditure, tax payment procedure, accounting and financial principles and practices, definitions of losses, exemption and incentives of investment in mineral sector shall comply with laws in force.

Finally, according to Article 53, punishment for natural resource offences within protected areas include imprisonment, fines by court procedures, transaction fines, confiscation of evidence, payment of restoration damages, warning, termination or suspension of agreements or permits. Decisions to suspend or terminate agreements or permits shall be the responsibility of the Minister of Environment. Decisions to impose transaction fines, to pay restoration damages and to issue warnings shall be the responsibility of the Nature Conservation and Protection Administration.

### 3.1.3 Prior Experience with this Finance Mechanism in Cambodia

FA has been collecting royalties from timber products, fines and premiums for many years. For example, as stated in the National Forest Programme, the royalties for timber collected between 1999 and 2009 was calculated at USD 56.5 million. In 2008, the royalties to FA from 36,785 m<sup>3</sup> of round logs totaled approximately USD 2.5 million, while fines and premiums collected by FA was estimated at approximately USD 600,000. The revenues from forests have been derived from the sale of logs and timber as a sub-unit of the total value of the forests. Therefore, it should be noted that some of the significant services and incomes provided by forests that could add to the total amount of fines, fees and royalties from forests have not been estimated. Those include:

- The value of NTFPs such as fuel-wood, charcoal, medical plants, furniture processing, and wildlife;
- Employment resulting from timber harvesting in the primary sector, in particular the considerable downstream processing;
- Significant increases in value-added through the chain of wood processing;
- Payments for environmental services; and,
- Revenues from eco-tourism.

FA will focus from the present time through 2029 on the RGC's ability to contribute to the financing of forest conservation by pushing for the reallocation of funds from the national budget, the contribution from royalties and fines collected, as well as any export duties on timber and non-timber forest products.

In the next 10-20 years, some of the approaches that FA will pursue to raise revenues for sustainable forest management will include:

- Collecting royalties from logging in the intact evergreen areas;
- Royalties and legal fees from logging in community forest areas and concessions areas, including from non-timber forest products;
- Sales of services in forestry;
- Property tax on private plantations;
- Sale of carbon credits based on reduced impact logging and redd+;
- Entrance fees to protected forest areas; and,
- Sale of hunting rights.

According to the National Forest Programme, it is expected that royalties from logging in the intact evergreen areas (1.25 million hectares, which is 50 percent of the production forest) for the next 20 years will bring in an estimated USD 728 million. The other 50 percent of production forest will bring in the royalties estimated at USD 455 million. Finally, it is expected that 75% of the 2 million hectares of community forest areas will consist of degraded deciduous forests, and 25% of logged semi-evergreen forests. Therefore, royalties from logging can be expected to commence once all of CF is operational with proper management plans in place. It is expected that within 20 years, royalties from log-



ging in CF areas would total approximately USD 476 million. Overall, the RGC expects that within the next 20 years, FA would be collecting about USD 1.6 billion from royalties from logging in the intact forest areas, production forest areas, and CF areas.





## 3.2 Leases, Concession Fees, and Public-Private Partnerships to Generate Revenues from Forest Enterprise Products and Services

In most parts of the world, user fees – especially for tourism and resource harvesting – have traditionally provided the majority of revenues for protected forests. In Cambodia, a variety of charges can in principle be collected for the use of forest land, resources and facilities, including for access, recreational services, land rental and concessions, as well as for various extractive resource uses. As well as generating income, user fees have the additional advantage that they can be employed to manage demand and optimize income from both economic and conservation viewpoints. Considerable revenues can also be generated from public-private partnerships created by the government of Cambodia with private businesses. In such a case the resulting business will have an explicit mission to generate revenues for the conservation of forests, biodiversity, and ecosystems, and income for communities and regions. These public-private entrepreneurial partnerships can also provide existing or emerging markets with products that have a positive impact on the environment, educate consumers, and contribute to building a global constituency for conservation and sustainable production.

The potential certainly exists to widen considerably the range of goods and service for which charges are levied. For example, the Philippines has expanded the basis of revenue generation in protected areas by allowing for income to be generated from a wide variety of sources including entrance fees, charges for the use of facilities such as car parks and visitor centers, payments for services such as snorkeling, diving, swimming, boating, mountain climbing, trekking, picnicking, bird watching, filming and photography, as well as fees for resource harvesting, construction and aquaculture development, land rental and concessions. Diversifying the range of goods and services for which fees are charged can make a significant difference in terms of income generation and cost recovery. For example, even though New Zealand's Department of Conservation is not permitted to charge for entry into public lands, it is able to cover 15% or more of its annual budget from commercial concessions on tourism, agriculture and filming, as well as from income generated by the users of recreational facilities such as huts, trails and campsites. All of these rates are set at levels that will ensure full cost-recovery, and are regularly revised and updated in line with inflation (Phillips 2000).

As well as involving the creation of new fee systems, funds can be generated by improving existing markets and pricing structures. This is because, very often, charges are set so low that they neither accurately reflect prevailing prices, nor fully recover the costs of providing those services. Kenya's differential pricing system in their protected areas was, for example, preceded by studies to assess tourist demand and willingness to pay, and to look entry fees and service charges in neighboring countries.

There is some risk in developing public-private enterprises since considerable initial capital outlay may be required to finance a business start up. However, initial investments for business start-ups typically rely on blended capital in the form of grants and affordable loans. Public-private partnerships can be developed through collaboration between government, NGOs and private foundations, with a guarantee that revenues from the business be used to support social and economic needs and forest and ecosystem conservation management. An important advantage of public-private partnerships to create forest-based enterprises is that the revenues generated from these businesses can become commercially viable and will not be dependent on long-term donor subsidies.

Impact investors may also be a source for initial project funding in some contexts. Impact investments are made into companies, organizations, and funds with the specific intention to generate social and environmental benefits and a financial return. Impact investments can be made in both emerging and developed markets, and target a range of returns from below market-to-market rate, depending upon the circumstances.

There is a growing opportunity to take advantage of existing markets promoting conservation, including such markets as:

- Ecotourism - “experiential” tourism--which encompasses ecotourism, nature, heritage, cultural, and soft adventure tourism, as well as sub-sectors such as rural and community tourism—are among the sectors expected to grow most quickly over the next two decades. Tourists are willing to travel long distances and pay high rates for viewing of charismatic wildlife and scenic landscapes and ecosystems.
- Organic or Sustainable Intensified Agriculture – the sale of organically derived agricultural products has grown globally at a rate of nearly 20 percent per year for the last few years. Further, emerging land management strategies such as the System of Rice Intensification (SRI), can be a win-win for both conservation and farmers' yields and profits.

<sup>1</sup> It should however be noted that these revenues are not necessarily collected or administered by FA authorities, but can instead be managed by an independent third party entity.

- Non-timber forest products market development – increasing interest from impact investors in products such as bamboo, resins, rattans, etc.

Section 3.2.3 below outlines other examples of public-private partnerships that have already been tested in Cambodia.

### 3.2.1 How Does This Mechanism Work?

The government has considerable experience collecting fees and charges for the use of public lands and resources. This expansion of this revenue source needs only to explore new possible funding sources from resources from which fees are not been collected, or where fee structures do not currently reflect fair market values. Government also has considerable experience with public-private partnerships. However, it may be useful for government and NGOs to identify suitable private sector partners for possible collaborative ventures involving sustainable forest-based enterprises. Government can then solicit funding and collaboration requests from potential partners through a formal proposal submission process, and then select and share the development costs for collaboration ventures. Each venture would then require the following:

- Feasibility studies, business plans and possibly seed grants to support start-up enterprise concepts.
- Capital loans at low interest rates (0-11% per annum) provided by NGO, private foundation, or investor partners allocated to the most promising enterprises for working capital and/or scaling up (either vertically or horizontally). Actual terms can be customized to the situation of each enterprise.
- Sustainable sourcing plans to ensure consistent high quality in product delivery.
- Marketing plans to identify and build demand, and ensure best price options for products and services.
- On-going technical support provided through NGO or investor partners to optimize business operations (accounting, sourcing, legal compliance), and ensure the adoption of sustainable business management and best practices, including monitoring support.

The feasibility of these public-private enterprises to generate significant revenues as part of a comprehensive forest finance strategy will require a comprehensive initial market survey to determine opportunities for proposed new ventures to gain entry into existing marketplaces or to stimulate new ones.

#### *Protecting Parks and Gorillas in Congo*

*WCS has developed an ecotourism program in the Republic of Congo that generates revenue for and creates jobs in Nouabalé-Ndoki National Park (NNNP), and positions the park to cover its operating costs. The project simultaneously benefits the local community, and increases awareness and support of gorilla conservation, while demonstrating the value of the wildlife and habitat to the surrounding communities. In the short-term, WCS has worked with the government of Congo to help to secure funding to improve NNNP's ecotourism infrastructure.*

*Additional staff will be hired to track the existing gorilla groups, maintain and improve local hiking trails, and handle tourism logistics. The results will better position the operation to handle an increase in tourist demand and may encourage enthusiastic visitors to stay longer and visit multiple groups. In the long-term, the project seeks to attract private investment from tour operators who will gain from the increased tourism opportunities created by the venture. Early stage sales of approximately \$200,000 suggest that the low investments could eventually yield significant revenues to help defray long-term park management costs.*





### 3.2.2 Institutional and Policy Factors in Cambodia

The Government of Cambodia has been taking steps to improve the investment climate and levels of investment. Comprehensive sector development plans have been prepared, but implementation is constrained by institutional weaknesses and limited borrowing capacity. Most funding is sourced from user fees for services provided by state-owned enterprises (SOEs), and through public sector borrowing on a concessional basis. SOEs have limited capacity to borrow due to the lack of availability of long-term debt in local financial markets. The amount of public sector borrowing is limited by the size of the country's tax base, which is low and does not reflect the demand for infrastructure facilities and services. In December 2011, all public sector debt, by law, was sourced on a concessional basis, and there was no commercial debt program. Government and official development assistance (ODA) funding resources are insufficient to meet Cambodia's overall funding needs. Public-private partnership (PPP) can help the government meet this financing gap by stimulating private sector investment and financing for development activities.

The Royal Government has recognized the importance of PPPs, and a Law on Concessions (LOC) was enacted by the National Assembly in 2007. A draft sub-decree that would allow the LOC to be implemented has been prepared, but it has not been approved. Despite the absence of a legal framework, as of December 2012, a significant number of PPPs had been implemented, or were in the process of being implemented in Cambodia, and further PPP projects are planned in the power sector. The PPP projects being proposed are often quite small and emerge on an ad hoc basis. PPPs are not standardized, and they tend to be issued on a reactive, unsolicited, and negotiated basis, rather than through proactive government preparation and competitive tendering. As a result, the amount of funds being raised through PPPs is below potential, and it is unlikely the services provided accurately reflect market needs.

### 3.2.3 Prior Experience with this Finance Mechanism in Cambodia

To date, most PPP projects in Cambodia have been procured on a noncompetitive and unsolicited basis. Some of these projects are quite large, particularly in the power sector, and the International Monetary Fund (IMF) noted in a recent report on Cambodia's debt sustainability that the hydropower projects presently being developed by the government as PPPs have the potential to create significant liabilities for the government. The IMF does recommend that the government implement a phased PPP development program that builds on project successes to create political support and investor confidence in order to broaden the scope and sector coverage for PPP projects.

While the number of PPPs is impressive, the overall level of private investment outside power in sectors such as water and transport is low. Data from the World Bank's Private Participation in Infrastructure (PPI) Projects Database show that during the period 1990–2008 there was a total of 22 PPP projects in Cambodia. Slightly over half of these projects were in the energy sector, representing about 55% of total investments by number and investment value. While private investment in infrastructure has been increasing in recent years, the number of projects and the amounts mobilized continue to be small. It appears that in the road sector there has been little investment as the concessions were allocated for existing roads. There is virtually no PPP investment in social sectors such as health and education and cross-sectoral sectors such as environment and conservation.

#### PPPs Implemented by the RGC

| Sector                 | Number and Form of PPP   | Level of Government Issuing Contract            |
|------------------------|--|---|
| Power                  | 6 hydropower generation BOT projects<br>3 coal-powered generation BOT projects<br>2 transmission leases/ BOT projects<br>Various licenses issued to small REEs for generation and distribution | National<br>National<br>National<br>Subnational |
| Airports               | 3 airport concessions<br>Air navigation services concession  | National<br>National                            |
| Roads                  | National Route 4, concession<br>Various rural concessions  | National<br>Subnational                         |
| Rail                   | Operation and maintenance contract   | National  |
| Seaports               | Oil terminal and dry port concession   | National  |
| Water                  | 16 small rural distribution concessions<br>1 bulk water project  | Subnational<br>Subnational                      |
| Solid Waste Management | 2 concessions  | Subnational                                     |

BOT: Build-Operate-Transfer; REE: Rural Electrification Enterprise; PPP: Public-Private Partnership  
Source: ADB 2012



## 3.3 Funding from Development Partners – Including Trust Funds

### 3.3.1 How Does This Mechanism Work?

Between 2008 and 2012, Cambodia received about USD 5.4 billion in development cooperation financing from development partners. Approximately USD 3.55 billion of this total was dispersed as grants, and US\$1.85 billion as loans. Based on projections in the NSDP 2014-2018, Cambodia is likely get USD 1.2 billion (USD 600 million as grant, and USD 600 million as loan) in the next 2-3 years. Development cooperation has accounted for approximately 10 percent of the country's GDP in the recent years. It has also probably contributed to the recent high economic growth rate, increased GDP per capita from USD 760 in 2008 to USD 1,036 in 2013, and reduced the poverty rate from around 47.8% in 2007 to 19.8% in 2011. Besides demonstrating the international community's support for the Royal Government's development program and reform effort, this increased level of external resources has also supported the creation of a positive enabling environment, which has been associated with expanded public and private investment, primarily in the infrastructure, garment, agriculture, construction, and tourism sectors.

Development partners provide an important source of funding for protected forests in Cambodia, with bilateral and multilateral agencies providing the largest source, along with some donations from individuals, NGOs, private charitable foundations, and private companies. However, donor interests and procedures can vary significantly. This means that fundraising approaches need to be tailored for each partner, and funding priorities can change quickly and dramatically. Most development partners provide support through two to five year projects, and this is often insufficient to fulfill the medium or long-term objectives and needs of many protected forests. However, some funders are increasingly willing to consider funding requests to catalyze long-term sustainable financing mechanisms and to capitalize financing mechanisms, such as conservation trust funds (see Section 3.3.2 below). Public-private-community partnerships, supported by donor financing, also provide new models for sustainable financing (see Section 3.2 above).

New approaches to traditional donor fundraising can also help to increase funding for protected forests. For example, many development partners have significantly increased available funding for programs responding to climate change and capitalizing on opportunities to generate revenues from payments for ecosystem services (PES – see Section 3.4 below). Others, such as the Global Environment Facility, have identified sustainable forest management as a funding core. Private charitable foundations are principally focused on social sectors in Cambodia. However, foundation support through NGO collaboration is another viable source of short-term funding. Increased private investment in Cambodia may also create new opportunities for private sector financing through partnership agreements, sustainable investments, and biodiversity offsets.

### 3.3.2 Conservation Trust Funds

Conservation Trust Funds (CTFs) are private, legally independent grant-making institutions that provide sustainable financing for biodiversity conservation and natural resource management. Conservation trust funds have been legally established in over 50 countries, typically as trust funds or foundations, as a way to manage long-term financing for protected areas, biodiversity conservation or other environmental purposes. These funds are usually independent of government, and are typically set up as private grant-making institutions that are governed by an independent board of directors which is charged with ensuring that funds are used for the specific purposes defined in the fund's legal statutes.

Conservation trust funds are often established to anchor other sustainable financing mechanisms by providing a transparent and efficient way to manage funding for conservation purposes. Conservation trust funds can manage endowment funds (e.g., only investment income is spent), sinking funds (e.g., both capital and investment income is disbursed) or revolving funds (e.g., pass-through sources of revenue are disbursed), or a combination of any of these.

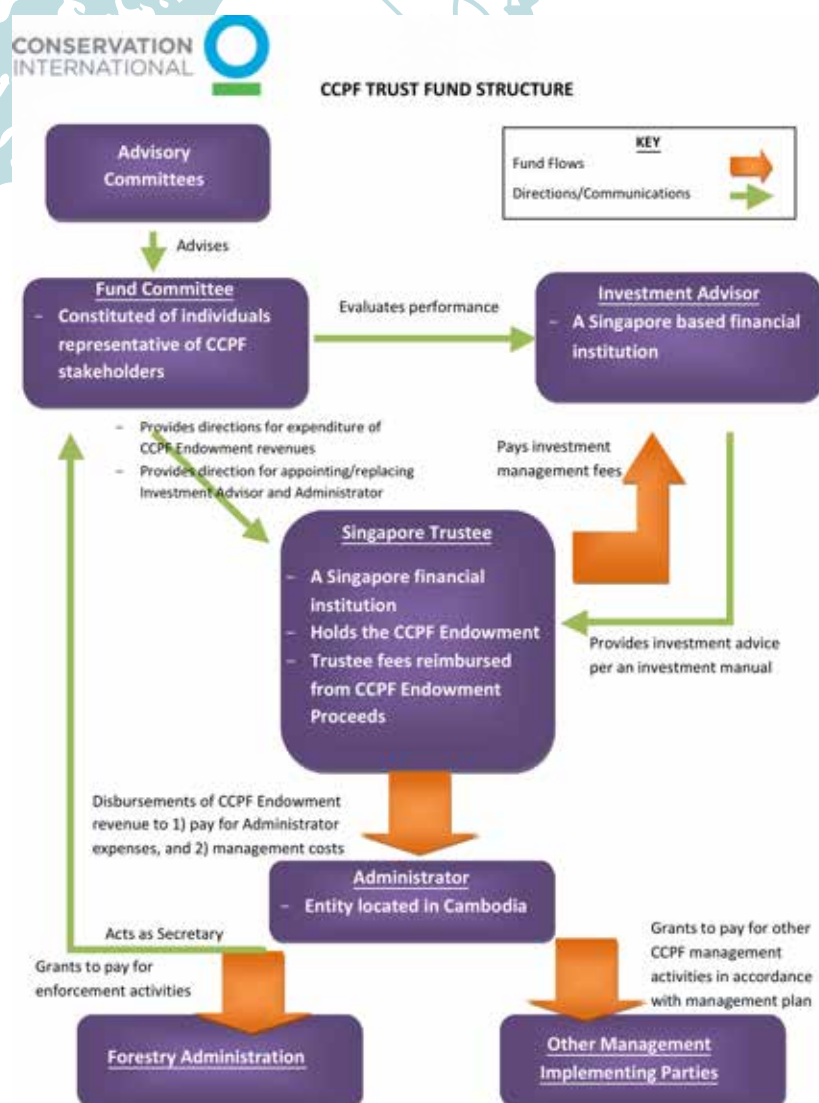
CTFs can be:

- Funds that support Protected Area (PA) management with a primary focus on biodiversity conservation, or
- Environmental funds that cover a range of environmental issues with significant support to civil societies and local communities.

- Endowment Fund – A large capital fund (often provided by a donor or via a grant or debt swap). Only spends the interest earned on the account.
- Sinking Fund – All funds in the account are spent over a specific time frame – 10 to 20 years.
- Revolving Fund – Income from taxes, fees, fines, donors, or PES are continuously raised and put in the fund.

Most funds combine 2 or 3 of the fund types as a way to diversify their sources of funding and take advantage of emerging opportunities.

The Central Cardamoms Protected Forest (CCPF) trust represents an important existing model to show how trust funds can significantly support forest management and conservation in Cambodia. The CCPF was signed and executed on June 10, 2015 by the MAFF, FA, and MEF and with support from The Global Conservation Fund of Conservation International (CI). The Fund includes an endowment (the “CCPF Endowment”) to provide a secure and steady long term flow of funds to support core management costs of the CCPF. An initial \$2.5 million in funds have been raised and invested by CI from various donors, with a gap of \$7.5 million in funds required for full target capitalization needed to cover management expenses. The first payout is expected in January 2017. Management decisions are made by a Fund Committee comprised of MAFF, MEF, a designated Administrator (CI), another NGO (FFI), private sector interests (Grandis Timber Ltd), academia (RUA), and donors (FINTRAC-HARVEST). The Fund Committee offers credible and transparent operational procedures and effective checks and balances for the administration of the Fund, pursuant to a CCPF Operations Manual. The CCPF protects habitat for 54 endangered species listed on the IUCN red list, provides drinking water for 30,000 people downstream, and stores an estimated 358,000 tons of CO2. The CCPF represents an essential source of funding to cover the significant gap in the \$250,000 minimum needed annually to manage the CCPF and enforce existing laws, including payment for 44 rangers, management and support staff and the fuel and motorbikes needed for monitoring patrols.





### 3.3.3 How Do Conservation Trust Funds Work?

CTFS are typically developed through a process that engages all affected stakeholders to carry out the following steps:

- Define the mission, vision, and desired outcomes from establishment of the fund.
- Determine the roles and responsibilities for all parties involved in the development and management of the fund – this can include the assignment of fund management responsibilities to an independent third party, often a local or international NGO, and appointment of secretariat to manage the overall development and implementation of the fund.
- Legally establish the fund, and define financial management procedures.
- Identify potential donors with demonstrated interest in the mission and vision of the proposed fund.
- Develop and submit proposals to raise the funds to endow the fund.
- Build the capacity for individuals and institutions managing funds.
- Help fund managers communicate with and learn from other trust funds.

#### *Madagascar Biodiversity Trust Fund*

*The Government of Madagascar established a conservation trust fund in 2005 as a part of a concerted effort to find sustainable financing the effective management of the protected area network by the National Park Service.*

*The external trust fund donors in addition to the participation of the Government of Madagascar are the Global Environment Facility (GEF), Fonds Français pour l'Environnement Mondial (AFD/FFEM), World Wildlife Fund (WWF), Conservation International (C.I.), World Bank (IDA), and KfW. The interests yielded from the assets will go to cover selected measures for infrastructure, and to partly cover the costs of maintaining the parks. They planned to have \$33 million EUR. As of 2007, \$11 million USD had already been disbursed.*

### 3.3.4 Institutional and Policy Factors in Cambodia

As previously mentioned, the NSDP 2014-2018 provides the overarching framework for implementing development activities and for programming domestic and external resources in Cambodia. The RGC has also produced a Development Cooperation and Partnerships Strategy to support implementation of the NSDP with the objective to promote development effectiveness in Cambodia. The Strategy is effective for the period between 2014 and 2018 and will guide the promotion of partnerships with a wide range of development actors, including Government ministries and agencies, development partners, civil society, the private sector and regional actors including South-South partners. Finally, the Cambodian Rehabilitation and Development Board of the Council for the Development of Cambodia (CRDB/CDC) is the focal point within the RGC for the mobilization of Official Development Assistance (ODA), for coordination of ODA with all development partners and NGOs, and for coordination with and between Royal Government ministries and agencies on ODA allocation and utilization issues.

#### *Development Partner Support for Conservation in Cambodia*

*Development partners have supported more than 550 projects in Cambodia. These development projects are divided into 4 main sectors: social, economic, infrastructure, and services/ cross-sectoral programs.*

*Environment and conservation projects are listed under the services/ cross-sectoral programs sector. There are in total 82 environment and conservation projects out of the 550 plus projects that are currently being supported by development partners. For the complete list of all projects in Cambodia, visit this Council for the Development of Cambodia's portal:*

*[http://cdc.khmer.biz/Reports/report\\_oda\\_and\\_ngo\\_listing\\_of\\_project\\_by\\_sector.asp](http://cdc.khmer.biz/Reports/report_oda_and_ngo_listing_of_project_by_sector.asp)*

The RGC divides development partners into two categories: bi-lateral partners and multi-lateral partners. Current bi-lateral partners include: Australia, Belgium, Canada, China, Denmark, Finland, France, Germany, Japan, the Netherlands, New Zealand, Norway, Republic of Korea, Russian Federation, Sweden, Thailand, United Kingdom, and the United States. Multi-lateral development partners include: United Nations Agencies (UNDP, UNICEF, WFP, UNFPA, UNHCR, UNESCO, FAO, WHO, UNCOHCHR, UNAIDS), Bretton-Wood Institutions (IBRD/ World Bank and IMF), Asian Development Bank, and the European Union/EEC. The RGC welcomes support from all of its development partners and acknowledges that, if carefully managed, this provides for innovation and a broad range of policy perspectives to help achieve successful implementation of priority policy objectives of the NSDP 2014-2018.

### ***Cambodia: Greater Mekong Subregion Biodiversity Conservation Corridors Project/Asia Development Bank, USD 19 Million***

*A Grant Agreement was signed between the RGC and ADB on 27 January 2011 to implement the GMS BCC Project in Cambodia over an eight year period (2011–2019) to establish sustainably managed biodiversity corridors in the GMS BCC Project provinces (Monduliri and Koh Kong). The Project covers 80 villages in 10 districts (covering 22 communes) across Monduliri and Koh Kong provinces in Cambodia. The long-term impact of the Project is to achieve climate resilient sustainable forest ecosystems benefiting local livelihoods. The Project outcome is sustainably managed biodiversity corridors. The Project has four outputs: (i) institutions and communities strengthened for biodiversity corridor management; (ii) biodiversity corridors restored, protected and maintained; (iii) livelihood improvement and small-scale infrastructure support in villages; and (iv) project management and support services provided.*

**Institutional and Policy Factors for Conservation Trust Funds:** Cambodia does not have any identifiable overarching law or any sub-decree that guides or regulates the establishment of funds generally (aside from the more general Law on Public Finance System 2008, discussed further below). The result is that existing funds in Cambodia have been created on an ad hoc basis through special subject-matter laws. Further details could be included below this law, via a sub-decree, in accordance with the hierarchy. An exception to this would be a project-based, donor managed trust fund established under contractual arrangements with a development partner(s) (also discussed further below). Nevertheless, there are various laws in Cambodia that do provide provision on how the different types of Conservation Trust Fund (discussed earlier) could be established.

The Law on Forestry 2002 establishes the legal framework for the management, harvesting, use, development and conservation of the forests in Cambodia. This law enables the establishment of a National Forestry Development Fund (NFDF), which is to be administered and managed under the responsibility of the National Forestry Development Committee (the organization and function of which is to be set out in Sub-Decree), and co-chaired by Minister of the MAFF and the Minister of MEF. The Forestry Law specifies that its revenue sources will include government allocations, premiums on forest products/by-products, wildlife conservation fees, contributions from international organizations, donations from individuals and non-government organizations, and revenue from 'other services in the forestry sector'. Activities the NFDF's funds may be only be used for are reforestation, silviculture and forestry rehabilitation, forest and biodiversity protection and conservation, scientific and technical research, extensions services; development in the forest and wildlife sector, development of community forestry; and training human resources for the forest and wildlife sector. The revenue of the fund must not be used for the organization and functioning of the FA. The FA is currently preparing the Sub-Decree to operationalize the NFDF.

The Law on Protected Areas 2008 ('PA Law') establishes a framework for the management, conservation and development of protected areas, under the jurisdiction of GDNAP of MoE. Amongst other things, the PA Law requires the establishment of a National Protected Area Strategic Management Plan, action plans and technical guidelines for managing protected areas, and proposals for establishing and modifying any protected areas. The PA Law also contains provisions enabling the establishment of a Protected Areas Fund ('PA Fund'). Similar to the Forestry Law, the PA Fund is to be organized, managed and 'given responsibility' by a protected area committee, which is to have the Minister of MoE and the Minister of MEF as co-chairs. PA Law also specifies that the PA Fund may be used for activities within protected areas including the protection, conservation, rehabilitation and enhancement of biological resources and ecosystems, technical and scientific research and study, maintenance and extension of eco-tourism services, training, human resource development and capacity building of staff, support for establishing community protected areas, education on protected areas, and infrastructure needs. The PA Fund has not yet been operationalized.

The Law on Environmental Protection and Natural Resource Management 1996 ('Environment Protection Law') under MoE establishes a broad framework on matters including national and regional environmental plans, natural resource management, environment protection and pollution control, and environmental impact assessment. It also provides the foundations for the establishment of an 'Environment Endowment Fund', a special Treasury account to be created and administer by the MoE 'for environmental protection and natural resource conservation' in Cambodia. Sources of revenue are to constitute government contributions, grants from international organizations, donations from individuals and non-government organizations, and other lawful sums. To date, MoE has not operationalized the Environment Endowment Fund.

### 3.3.5 Prior Experience with this Finance Mechanism in Cambodia

There are several examples of conservation trust funds that have been established in Cambodia. Thus far, the biggest trust fund that is currently operational and is relevant for conservation activities is the Cambodia Climate Change Alliance Trust Fund. Other trust funds that have been set up include the Marine Conservation Trust Fund and the Tropical Forest Conservation and Venture Trust Fund.

#### *Cambodia Climate Change Alliance (CCCA) Trust Fund*

*The CCCA Trust Fund is a multi-donor trust fund established by donors and government to apply a more coherent approach to climate change support for Cambodia. The fund is administered by UNDP, and implemented by a National Climate Change Committee within the MoE. A dedicated Trust Fund Secretariat appointed by government manages day-to-day operations, and reports to a Programme Support Board. A Trust Fund Administrator manages the Trust Fund, provides capacity development and financial assurance, and reports to the government and donors.*

*The CCCA Trust Fund is a sinking fund, where all committed funds will be disbursed by the end of the project time-frame. The initial design was for the duration of 3 years (2010-2012) and approximately USD 8.9 million was committed for that period. Recently the CCCA programme has been extended to 2014, with additional donor commitments being made (details to be finalized).*

*The CCCA Trust Fund operates under a project cycle, utilizing 'calls for proposals' followed by a two-step appraisal process (concept notes and full proposals), and grants are capped at a maximum of US\$300,000. It accepts proposals from government institutions, international organizations, NGOs and research institutes/universities. The CCCA Trust Fund prioritized projects that contribute to or are aligned with the 39 projects identified as priorities in the National Adaptation Programme of Action to Climate Change (NAPA). Four priority areas for adaptation are identified in the NAPA, which include water resource management and agriculture, forestry, health, and the coastal zone.*

#### *Tropical Forest Conservation and Venture Trust Fund, Eastern Plains Landscape (TRAFO)*

*The Eastern Plains Landscape covers an area of almost 16,000 km and constitutes the largest intact tropical dry forest in Southeast Asia, with 2 globally recognized protected areas: the Mondulkiri Protected Forest and the Phnom Prich Wildlife Sanctuary. Funded by WWF-Switzerland, the TRAFO project recognizes the multiple (economic, social and biological) values of forests. The approach also recognizes the role that communities play in retaining the forests, the opportunity costs of sustainable land uses and the sustainable commercialization of NTFP. There are three main objectives: (i) to identify appropriate financing incentives through an 'Incentive to Conserve' assessment, (ii) to establish and build capacity in the management of community forests, and (iii) to develop sustainable NTFP use and management processes. Communities are paid a set annual fee per hectare for protecting their forests. Another key strategy is to help establish Community Protected Areas (CPA) and Community Conservation Forests (CCF) that give communities management and decision-making rights within legally designated areas. The TRAFO also provides compensation to 30 forest patrol team members. Financial support is also given to CCF Management Committee and CPA Committee members to start up new enterprises based on natural products, or to scale up their existing ones to allow them to move beyond a subsistence level.*



### 3.4 Payments for Ecosystem Services (PES)

Ecosystem services are the many diverse benefits that people derive from nature. Payments for Ecosystem Services (PES) initiatives create financial mechanism allowing the people who protect ecosystem services to be compensated by the people who receive or benefit from those same services.

#### *What are 'Payments for Ecosystem Services'?*

*PES fall into four broad categories: supporting services (basic services upon which all other services depend such as photosynthesis, nutrient cycling, and soil formation); provisioning services (the goods that we directly derive and consume from nature which include food, fuel, drinking water, and medicine); regulating services (services that are often "invisible," including flood control, disease regulation, water purification, pollination, and climate regulation); and cultural services (the spiritual, recreational, educational, and aesthetic services that nature provides to people).*





### 3.4.1 How Does This Mechanism Work?

PES projects create mechanisms to measure, value, incentivize, and create payment schemes for one or more of the recognized services provided by ecosystems. This process typically proceeds as follows:

1. A set of parameters is established for measuring the stocks and flows of a specific ecosystem service, such as drinking or irrigation water.
2. The economic (or social) value of the service is quantified in collaboration with affected stakeholders. In voluntary markets the value can be arbitrarily set by the affected stakeholders working in collaboration with an independent third party to facilitate transactions.
3. Public or private interests who benefit from the protection of the ecosystem service compensate landowners for the use of best management practices to ensure protection.

The landowner affecting the supply the environmental services must typically hold a publically recognized right over an environmental service that provides a flow of benefits to the demanding party in order for compensation to be equitably established. Once these rights are established then a PES program can be set up through a contract agreement between the consumers of ecosystem services (the beneficiaries) and landowners who affect the supply of these services. In some cases, such programs can operate in the open marketplace without government involvement. However, many PES programs are funded by governments and facilitated by independent third party intermediaries, such as non-government organizations.

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#### *An Ecosystems Services Approach in the Cardamom Mountains*

*With the financial support from a three year European Commission's grant, FFI has been implementing the Sustainable Provision of Ecosystem Services in the Cardamom Mountains Landscape (CML) Project. The main objective of this project is to explore new incentive approaches to deal with the challenges of balancing biodiversity conservation and development at two hydro-dam sites located within the CML. One of the outcomes of this project was the feasibility assessment of an incentives for ecosystems services scheme in the Stung Atay catchment, developed using principals from PES projects*

### 3.4.3 Prior Experience with this Finance Mechanism in Cambodia

As discussed in the previous section (section 3.3.2), there have been several references to PES in the national policy documents. Several international conservation NGOs, in particular WCS and FFI, have also piloted a series of PES programs in Cambodia as a complement to improving conservation strategies in protected areas. To date, there are three pilot PES projects that have been supported by WCS and a pilot Incentives for Ecosystems Services scheme at a hydroelectricity facility in the Cardamom Mountain Landscape by FFI. All three of WCS programs were piloted in two Protected Areas in the Northern Plains landscape: the Kulen Promtep Wildlife Sanctuary managed by MoE and the Preah Vihear Protected Forest managed by MAFF.

#### *Paying for Upstream Watershed Protection in Colombia*

*In Colombia, associations of irrigators and governmental agencies are paying upstream forest landowners along the Cauca River to manage their land, to improve base flows and to reduce sedimentation in irrigation canals. Voluntary payments are made by associations of irrigators to a government agency; water users originally paid \$0.50/L/second every trimester (covered administrative costs, based on theoretical water use for single crop), but they now voluntarily pay an additional fee of \$1.50 to \$2.00 to be put in a separate fund to be used by the CVC to finance those watershed activities necessary to improve stream flow. The program covers 1 million hectares of forest, and will stimulate reforestation.*

#### *Community-Based Ecotourism in Tmatboey, Cambodia*

*The community-based ecotourism program was started in 2004 in the village of Tmatboey in Kulen Promtep Wildlife Sanctuary, following initial awareness-raising in 2002-3. There are various criteria that contribute to the success of this initiative. First, the area contains rare species that are high profile targets for international birdwatchers (e.g. the Giant Ibis). Second, sightings of these species are reliable year-round. Third, the village is relatively easy to access from the major tourism centre at Siem Reap, which receives more than 2 million visitors annually and has an international airport. Finally, prices for accommodation and other related expenses are moderately inexpensive. An agreement is drawn between the PA authorities, WCS and the village, which stipulates that tourism revenue is subject to the villagers agreeing to stop hunting key species and abiding by the land-use plan. The value to local families of conserving wildlife is further reinforced by the fact that each tourist pays \$30 to the village if all key species are seen and only \$15 if just a subset is observed.*

## 3.5 Debt Relief (“Debt for Nature” Swaps)

Debt relief, or “debt for nature swaps” (DFNS) produce an agreement through which debt owed by a developing country, or a private or commercial company, can be renegotiated with the creditor to fund natural resource conservation. The debt owed is exchanged with the creditor for financial payments made by the debtor country to cover the costs of conservation or improved natural resource management. Bilateral, multilateral, and commercial debt has each been used in DFNS agreements.



### 3.5.1 How Does This Mechanism Work?

A DFNS involves an agreement between a “Debtor”, a “Creditor”, and a conservation intermediary. The debtor is generally the national government erasing debt owed to a bilateral or multilateral donor or bank, or a private company or borrower erasing debt from a commercial loan. Debtors must demonstrate a commitment to allocate funds for biodiversity conservation or natural resource management needs that would not otherwise be funded through other means. A DFNS typically proceeds through a process similar to the following:

- A creditor (donor or bank) converts existing debt into local currency at a discounted rate and pays the debtor (usually the government) cash.
- The debtor (government) agrees to use the cash to fund forest management, or similar conservation activities, in the country in which the debt is to be converted.
- A third party, often a conservation NGO, usually negotiates the debt purchase.

There are also typically several preconditions that must be satisfied to make the DFNS feasible, including the following:

- Funds are available to reduce or cancel the debt, and
- A transparent institution exists to manage the funds that will be used to fund the proposed conservation activities.
- Donors, banks, investors or creditors must be willing to sell a country’s debt at less than full face value.

The payments from a DFNS agreement are often placed into conservation trust funds set up as a public-private entities that are privately managed (often an NGO), with funds disbursed to respond to specific budgeted conservation management needs.

#### *From Debt to Conservation in Indonesia*

*In partnership with the World Wildlife Fund - Indonesia (WWF) and the Nature Conservancy, the United States and Indonesia signed a debt-for-nature swap agreement in 2011. The U.S. agreed to forgive a debt of \$28.5 million over the next eight years; in exchange, the Government of Indonesia promised to commit these funds to support grants to protect and restore the the country’s tropical forests in Kalimantan, as well as investments in green-growth activities to reduce carbon emissions from deforestation, forest degradation, and land use. This fund will be channeled through civil society and will strengthen capacity of local institutions and stakeholders to ensure that a balanced approach to economic development is supported.*

### 3.5.2 Institutional and Policy Factors in Cambodia

According to the IMF (2014), the stock of Cambodia's external public debt, including arrears, stood at around US\$4.5 billion or 32 percent of GDP by the end of 2012. The debt-to-GDP ratio has increased from 27 percent in 2008, partly reflecting greater external fiscal financing during the economic slowdown in 2009 and larger disbursement of bilateral loans during 2011–12 (IMF 2014). In addition, the share of bilateral debt, including arrears, in total external public debt has increased from 50 percent in 2009 to 63 percent in 2012. China remains the largest bilateral creditor, contributing to more than 50 percent of the total bilateral debt stock and about 80 percent of bilateral debt disbursement during the past three years. Cambodia remains in arrears to the Russian Federation and the U.S. (nearly 20 percent of total debt or 6 percent of GDP), and the status of negotiations of these arrears has remained unchanged since the last IMF's Debt Sustainability Analysis (DSA). Cambodia is not servicing its debt with these two creditors. The Cambodian authorities have been in contact with the Russian and U.S. authorities at least on an annual basis, but further efforts are needed to conclude agreements under the Paris Club framework.

In terms of national legal provisions, Article 68 of the Law on Public Finance System states that only MEF has the rights to prepare debt repayment schedules for either debt liable to and from others. The preparation of a debt schedule is defined by the Law on Finance. Furthermore, according to Article 21 of the Draft Law on Financial Regime and Property Management for Sub-National Administration (2012), the sub-national administrations shall not be entitled to involve in loan agreement, publish bonds or/ and financial tickets, issue guarantee letters, and directly or indirectly perform activities which cause direct or indirect debts or financial liabilities for the Kingdom of Cambodia. In receiving grants, the sub-national administrations shall obtain prior agreement from MoI and MEF.

### 3.5.3 Prior Experience with this Finance Mechanism in Cambodia

As stated in the IMF's Press Release No. 05/286, the IMF Executive Board, under the Multilateral Debt Relief Initiative, has approved debt relief for Cambodia. As part of the Initiative, the IMF will provide 100 percent relief of outstanding debt incurred before January 1, 2005. This amounts to approximately US\$82 million. This debt relief was made available in early January 2006 when the remaining consents of the contributors to the Trust Subsidy Account have been received. According to the IMF, Cambodia qualified for the debt relief because of its overall satisfactory recent macroeconomic performance, progress in poverty reduction, and improvements in public expenditure management. Since 1999, Cambodia has enjoyed robust economic expansion, with annual growth rates averaging over 7 percent and inflation being kept under control. During this period, the RGC has shown strong commitment to implementing its National Poverty Reduction Strategy, and improving public administration, in particular public expenditure management. Performance in these areas provides assurance that resources made available under the Multilateral Debt Relief Initiative would be used effectively.

These additional resources were made available to help Cambodia make progress toward its Millennium Development Goals (CMDGs). While environmental sustainability is part of the CMDGs (Goal 7), the targets for this goal include: reverse the loss of environmental resources; increase the proportion of people who have access to potable water supply and sanitation, to a stipulated number (separately defined for rural and urban areas); reduce dependence on firewood for cooking to 52%; and increase the proportion of people with secure land tenure. In other words, the existing debt relief does not conform to the conventional modes of debt-for-nature-swap such as that developed in Indonesia or other countries.

## 3.6 Loans, Bonds, and Sustainable Investment Funds

A bond is a written promise to pay back a specified amount of money, with interest earned on the principal, at a specific date or dates in the future. It is very similar to a loan, with the exception that a bond can be traded in the marketplace to generate revenue. This means that the issuer of the bond, usually government, can sell it to investors, who, in turn, will purchase shares in the bond on the expectation that its value will increase over time. Loans are more commonly agreements made between banks and customers, and are generally non-tradable. The issuer of the bond (usually government) provides financial backing for the bond through its credit rating.



Pioneered by issuers such as the World Bank and the European Investment Bank (EIB), the green bond market has expanded across agencies and the wider corporate market. Green bonds are essentially debt securities whereby the issuer declares that the proceeds must be channeled into a designated environmental cause. The potential to generate revenue from the sale of a bond has made this a very desirable mechanism to use to help finance many infrastructure improvement projects, with the credit rating of the bond issuer generally incentivizing investors.

Conservation funds can also be raised through similar bond mechanisms, such as a Social Impact Bond (SIB). An SIB uses a commitment by the public sector to pay for improved social outcomes that result in public sector savings. Repayment of the capital is tied to the achievement of specified social and environmental outcomes (or 'impacts'). An SIB transfers project risk to impact-oriented investors, and uses donor finance to repay the principle once set objectives are delivered, guaranteeing increased effectiveness of the donor financing.

Another financial tool available for consideration is a "credit enhancement" adopted by banks or other lending institutions. Credit enhancements are protections provided to a borrower through pledged financial support to cover the losses of securitized assets in adverse conditions. Banks use credit enhancements to improve the credit rating of a borrower who may not have established credit. Rating Agencies such as Moody's Investor Services, Standard and Poor's Ratings Service, or Fitch Ratings can establish the borrower's credit. Risk mitigation tools such as credit enhancements or guarantees provide stability and support to projects which otherwise do not have the track record necessary to attract investors.

A further emerging financial force is the engagement of impact investors in the management of forest resources and natural capital. Impact investors seek to achieve specific social and environmental results through investments made into companies, organizations, and funds, while simultaneously achieving a desired financial return on their investment. Impact investments can be made in both emerging and developed markets, and target a range of returns from below market value to market rate, depending upon the circumstances. Investors can include private pension funds, wealthy individuals, or other mainstream retail investors. Consultations with impact investors at the recent Responsible Business Forum on Sustainable Development held in Singapore November 24-25, 2014 indicates very high investor interest in Southeast Asian markets, with a particular interest in infrastructure and natural capital development in the Mekong region

(<http://www.responsiblebusiness.com/events/responsible-business-forum-on-sustainable-development/>).

### 3.6.1 How Does This Mechanism Work?

Government backed bonds are typically developed and issued through a relatively simple process:

- The government determines how much money is needed to fund specific projects for a particular period of time.
- The Government then legally authorizes the creation of a bond to raise money from investors to fund the projects.
- Underwriters from national or international private sector companies buy the bonds and resell them to large and small investors. The underwriters make money on their investment when they re-sell the bonds. The investors in the bonds are most commonly pension funds, mutual funds, and other large investors. In some cases small investors will find bonds appealing, typically if they feel that the value will increase rapidly over a short time period.

Other key participants in the bond market include:

- Bond rating companies that provide a wide range of credit services, including establishing a rating that indicates how the financial market views the risk associated with the bonds.
- Debt Service administrators facilitate the payment schedule on the bond (principal and interest), with payments typically are made every 6 months for 20 or 25 years.

As the issuer of a bond, the government may also decide to declare a debt limit that restricts the amount of bonds the state can issue. Investors in the bond must have transparency, and some form of verification as to how the projects to be carried out fulfill the mandates of the bond. It is also essential that monitoring data demonstrate the use of proceeds from bond sales.

- *Proceeds bond* - a “full faith” senior unsecured bond whereby funds are set aside into a sub-portfolio to be used on a conservation project.
- *Proceeds Revenue bond* - these bonds have non-recourse to the issuer, and the credit exposure is made to pledged cash flows derived from other revenue streams such as fees, taxes, etc.
- *Project bond* - the investor has direct exposure to the risk of the project with or without recourse to the issuer of the bond.
- *Securitized bond* - these are collateralized by one or more projects, such as covered bonds or asset-backed securities.

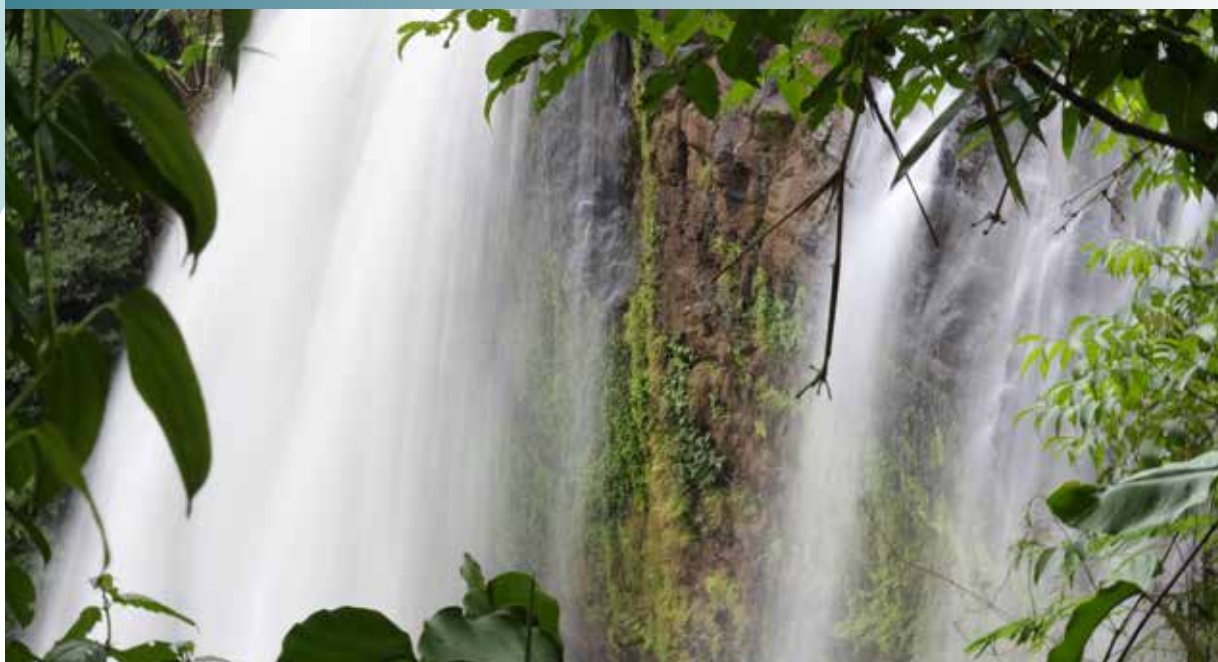
### *Green Bond Options*

Enterprise funds and other types of sustainable investment funds differ from bonds in that they channel capital – debt or equity – into environmentally-sustainable businesses. For-profit investments can be structured to provide financial returns for a private conservation trust or similar financial structure by tapping into the substantial financial resources of the private sector. In this way, these funds can provide both a direct financial benefit and promote adherence to environmental standards for use of resources.

The issuance of bonds to support forest or biodiversity conservation work is a relatively new mechanism, and has not been thoroughly tested to date. However, the mechanism is increasingly being viewed as a promising tool as part of a broader conservation finance strategy. Non-financial corporations began issuing such instruments in 2012. Although commercial banks have generally stood on the sidelines of the green bond market thus far, two banks have already been active - Bank of America kick-started the bank green bond market in November 2013 as part of a 10 year USD 50 billion environmental commitment. Canadian Toronto Dominion (TD) Bank followed in March 2014. There has also been some development in China. The Chinese government has already called for growth of a corporate green bond market, and the first yuan denominated green bond was issued last month by IFC.

### *A Green Bond for Rhinos*

*Threatened by poaching, rhino protection has become a high priority in Africa and Asia. In response to this problem, The Global Environment Facility (GEF) and the Zoological Society of London (ZSL) have teamed up to create what they call “rhino impact bonds” to raise money for rhino protection in up to five different conservation sites in Africa and Asia. These long-term funding commitments are used to leverage private investment on the basis that if outcomes are verifiably achieved then investors will be paid back (potentially with interest) by the donor. The project proposal outlines several goals, that when met, will be considered positive returns on the investment. The project will potentially receive over \$6 million USD in funding.*



### 3.6.2 Institutional and Policy Factors in Cambodia

The Government of Cambodia has undertaken comprehensive economic and structural reforms, beginning in 2001 when the Financial Sector Blueprint for 2001-2010 was adopted. The strategy outlines a sequence of policy reforms, including plans for the establishment of a securities exchange in 2007, and the legal and regulatory framework needed for market infrastructure. It also outlines the development of money market instruments, treasury bills, and the need to establish a bond market. Currently, Cambodia is in the second phase of implementation of the Financial Sector Blueprint. Through the National Bank of Cambodia (NBC), MEF has issued treasury bills, recapitalization bonds, and certificates of deposit. However, no negotiable instruments have been issued yet. The Law on Government Securities and Law on Issuance and Trading of Non-Government Securities were adopted in 2007, and have both been enforced. Additional to MEF's roles and responsibilities, the tasks related to bond market infrastructure are delegated to the Securities and Exchange Commission of Cambodia (SECC), the National Bank of Cambodia (NBC), and the Cambodia Securities Exchange (CSE).

The SECC is established under the Law on The Issuance and Trading of Non-Government Securities (Securities Law) to help regulate the securities industry in Cambodia and contribute to socio-economic development through capital mobilization from securities investors. The NBC is the central bank of Cambodia. Established in 1954, the NBC is referred to as the Government Securities Management Agency, whose authority is to address operational matters related to government securities. Finally, the CSE was established in March 2009 through a joint-venture agreement between the government, represented by MEF, and the Korea Exchange. CSE is considered as a public enterprise in accordance with the Law on the General Statutes of Public Enterprises. Cambodia Securities Exchange was then incorporated on 23 February 2010. In accordance with the agreement, CSX was capitalized by both parties, with MEF owning 55% of the registered capital and Korea Exchange the remaining 45%. In accordance with the Securities Law, CSX had been granted approval to function as market operator, clearing and settlement facility operator, and depository operator.

### 3.6.3 Prior Experience with this Finance Mechanism in Cambodia

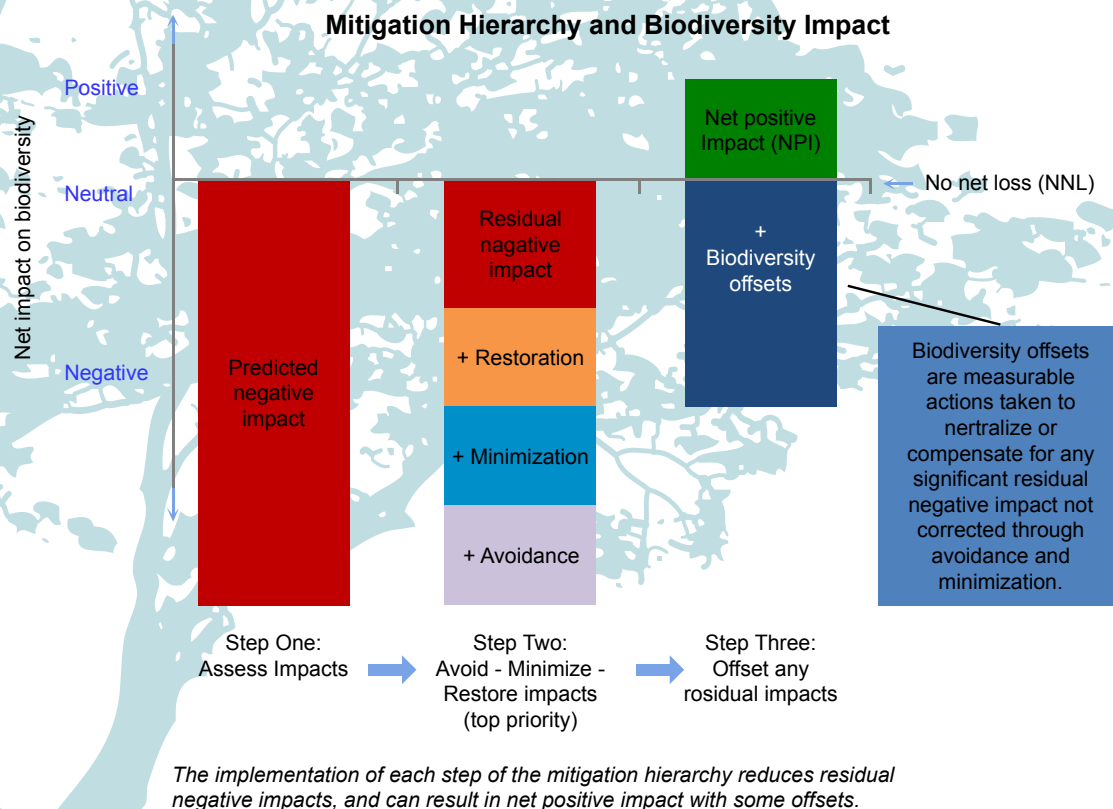
At the moment, there is no government bond market in Cambodia (ADB 2013). In the Financial Sector Development Strategy 2011-2020, it is stated that the Royal Government will consider issuing government bonds starting in 2017. Although the system no longer operates, Cambodia previously issued government bonds with maturities longer than 10 years, and it implemented a book-entry system. The Book-Entry System (BES) is a computerized registry for government bonds developed by the IMF that can process participant's details, auction outcomes, and secondary market transactions. BES also handles information on interest and redemption. In order to register, commercial banks need to create three accounts: securities account, customer account (one account for all customers of each bank that are trading on behalf of customers), and collateral account. A security account can be created for any large non-bank corporation that intends to participate in bond auctions on a regular basis, and a collateral account is also created when required. All submissions for bond auctions must be made on a standard physical form issued by the NBC. After all bid forms are validated, NBC enters all bid submissions in BES and selects accepted bids. The settlement date is 3 days (72 hours) after auction.

There are three patterns of bond sales and purchases in Cambodia: (i) between a bank and its customers, (ii) between two banks, and (iii) repo and reverse repo. For sales and purchases between a bank and its customers, the bank's securities account and bank's customer account are involved. The bank's customer account is one separate account whose current balance can be monitored by NBC. NBC occasionally requires a complete disclosure of a customer's particulars and the amount of securities held, the total of which must reconcile with the BES book-entry account held at NBC. All interest payments on bonds issued at face value with an annual rate of interest and a fixed maturity date are shown in BES. Interest can be paid to bond holders either once or twice per year depending on the terms of issuance. On the due date, NBC processes a fund transfer arising from interest payment by debiting a treasury account. NBC types and sends a letter to subscribers and also sends copies of an interest payment due report for to NBC's Internal Audit Department.



### 3.7 Biodiversity Offsets and Compensation

Biodiversity offsets are measurable actions taken to correct significant residual impacts to biodiversity and ecosystems that have resulted from a particular project development. Offsets are intended to correct adverse impacts that have not been avoided, minimized, or mitigated through other project actions. Offsets are generally developed in accordance with the protocol outlined in the mitigation hierarchy.



source: Tolisano et al., 2013

The mitigation hierarchy is a best practice approach to managing biodiversity risk. The approach applies efforts early in the project development process to prevent or avoid any adverse impacts to biodiversity and ecosystems wherever possible. The project developer then acts to minimize and reduce impacts that cannot be avoided; and then repair or restore impacts that cannot be avoided, minimized or reduced. If it is evident that the residual impacts cannot be corrected by actions to avoid, reduce, or mitigate the impact then an offset or compensation strategy may be the most appropriate action to achieve no net loss and preferably a net gain of biodiversity on the ground with respect to species composition, habitat structure, ecosystem function and people's use and cultural values associated with biodiversity. The mitigation hierarchy process distinguishes between actions to "compensate" for residual impacts, and those to "offset" residual impacts. Compensation for residual impacts can take a variety of forms, including financial payments or funds established and managed over the life of a project to cover recurrent costs for conservation management. Offsets typically involve specific actions designed to ensure that an equal or greater area of identical habitat is protected or improved as a result of residual project damages.

The corporation or business responsible for the project impacts assumes the costs for a biodiversity offsets. For example, a corporation or business may provide the funds to protect ecosystem services or the management costs for protected forests. Offset and compensation strategies typically create a mechanism through which the corporation or business either directly pays the mitigation and management costs, or finances the government or an assigned third party to carry out the same mitigation and management actions.

Although no standards have been adopted at the international level for biodiversity offsets, more than 30 countries have laws requiring biodiversity offsets or compensation. Brazil's industrial compensation program requires that, as a condition for licensing, project developers pay a percentage of the capital costs of development to finance the establishment or maintenance of protected areas. In Africa, although there are examples of companies voluntarily compensating for impacts on biodiversity (e.g. in Ghana and Madagascar), South Africa is one of the few countries that is developing a national biodiversity offset policy, and offset guidelines have already been drafted in the Western Cape and KwaZulu-Natal provinces. (Madsen et al. 2010)

### 3.7.1 How Does This Mechanism Work?

Examples of possible offset activities that may be included as a form of compensation could include:

- Strengthen ineffective protected areas by investing in capacity building for management staff and additional needed management activities;
- Establish new protected areas or no-go zones in collaboration with communities and government in order to conserve particular species and increase available habitat;
- Establish movement and dispersal corridors for wildlife;
- Establish or strengthen buffer zones adjacent to protected areas;
- Work with communities to develop alternative livelihoods that can reduce or eliminate unsustainable activities and hunting pressures.

Ideally, offsets should be designed and implemented as part of a national planning effort taking into account the cumulative impacts of development in the country, and contributing to and nested in existing national conservation strategies, including recovery plans for IUCN recognized threatened and endangered species and protected area strategies. Government-endorsed national offset and compensation strategies may also be most effective if supported and overseen by effective and transparent institutions, such as conservation trust funds, to ensure permanent funding to deliver conservation outcomes over the long term.

A key factor in the development of any compensation or offset strategy is the assurance that investments in conservation or offset activities do not simply provide a mechanism to allow inappropriate developments to move forward. This is particularly true in areas of rare, unique, or highly threatened species and ecosystems. Thus all compensation and offset strategies must ensure that appropriate monitoring, planning, and management mechanisms are in place and secure over the long term to guarantee that the compensation objectives are achieved.

#### *An Offset for Mining Impacts in Madagascar*

*Madagascar is a global hotspot for biodiversity, with a high species richness and many endangered and range-restricted species. Sherritt International, Sumitomo, KORES, and SNC Lavalin have teamed up in Madagascar to undertake a No-Net-Loss mining project in Madagascar. This site is a nickel and cobalt mining and processing joint venture, with an investment of \$7 billion USD. Their mission is to be the leader in the sustainable production of quality nickel and cobalt for the global market, while delivering no net loss, and preferably, a net gain in biodiversity. They plan to avoid pipeline tunnels underneath the forest, minimize paced directional clearing, and to restore the site after the mining is completed.*







## 3.7.2 Institutional and Policy Factors in Cambodia

The Draft Law on Environmental Impact Assessment under MoE establishes the legal framework for environmental impact assessments of all investment projects that create impacts on and harmful consequences to the environment, society, economy, culture, and legality and democracy of the nation. This law applies to all projects and activities carried out by naturalized persons, of owners of all types, of private legal entities, public legal entities, state units and institutions, and nations, which are under the jurisdiction of the Cambodian laws (Article 3), except for state projects, which have been decided by the government or approved by the National Assembly and which are considered to be the emergency projects related to national security, national protection, and disaster management (Article 4). The law establishes the condition that all development projects shall adopt and apply the 'polluter pays' principle in order to achieve the objective of sustainable development. Specifically, those who generate pollution and waste or cause harm to the environment should bear the cost of damage, containment, avoidance, or abatement (Article 7). As stated in Article 9, MoE is the only institution responsible for carrying out EIA.

The law further defines offsets as measurable conservation outcomes resulting from actions designed to compensate for significant adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization, and restoration measures have been taken. Generally, these are not within the project site (Annexure 1: Vocabulary). The format and procedure of the payment must be determined by a joint Prakas by MoE and MEF (Article 28). It should be noted that since this is still a draft law, sub-decree No. 72 dated August 11, 1999 on the Process of EIA and legal regulations related EIA are still valid until the draft law is adopted and that there are new regulations to replace them (Article 94).

## 3.7.3 Prior Experience with this Finance Mechanism in Cambodia

The RGC has thus far piloted various carbon and biodiversity offset projects across different sectors in Cambodia. These pilot projects could be grouped into two categories:

1. Forest specific offset projects, as in Reducing Emissions from Deforestation and Degradation (REDD+) pilot projects
2. Non-forest offset projects, taking the form of Clean Development Mechanisms

### REDD+ Pilot Projects

Following His Excellency Dr. Mok Mareth's remark at the 2007 UNFCCC conference in Indonesia, the Royal Government of Cambodia (RGC) started to implement REDD+ pilot projects. Classified as a priority "high forest cover, high deforestation" country for the purposes of REDD+, Cambodia started to pilot REDD+ projects in May 2008 when the Forestry Administration (FA) of the RGC approved the first REDD+ pilot project in Oddar Meanchey province, followed by the second REDD+ pilot project in the Seima Protection Forest, Mondulkiri province in 2009 (Forestry Administration, 2011). In addition to these two pilot projects, there are several other REDD+ projects that have been initiated under the different institutional jurisdictions of the RGC. Additionally the RGC has developed a jurisdictional REDD+ concept, submitted 2014 to FCPF, for the Northern Plains regions (Oddar Meanchey and Preh Vihear). The program was not pursued by the FCPF at this time. However, jurisdictional REDD+ development is still being pursued through other possible financial mechanisms. The following table lists the potential and current REDD+ pilot project sites in Cambodia.

## Pilot and potential REDD+ pilot sites in Cambodia

| Forestry Administration  | Ministry of Environment  | Fisheries Administration  |
|--|--|---|
| <ol style="list-style-type: none"> <li>1. Oddar Meanchey Community Forest REDD+ Pilot Project</li> <li>2. Seima Protection Forest REDD+ Pilot Project</li> <li>3. Southern Cardamom Mountains</li> <li>4. Central Cardamom Mountains</li> <li>5. Cardamom Mountains REDD+ project</li> <li>6. Siem Reap REDD Project</li> <li>7. Prey Lang REDD Project</li> <li>8. Western Siem Pang Important Bird Area</li> </ol> | <ol style="list-style-type: none"> <li>1. Kulen Promtep Wildlife Sanctuary REDD+ Pilot Project</li> <li>2. Phnom Oral REDD Project</li> <li>3. Phnom Samkos REDD Project</li> <li>4. Lomphat Wildlife Conservation Area</li> </ol> | <ol style="list-style-type: none"> <li>1. Koh Kong mangrove and flooded forest REDD Project</li> <li>2. Kampong Chhnang REDD Project</li> <li>3. Sihanouk Ville REDD Project</li> </ol> |
| 1. Samlout REDD+ Project   |  |   |

*Source: Information collected through interviews and desk review*

Oddar Meanchey Community Forest REDD+ Pilot Project and Seima Protection Forest REDD+ Pilot Project are the most advanced of these 16 projects.

The Oddar Meanchey REDD+ pilot project has been implemented by the FA, communities of the Oddar Meanchey province, Pact Cambodia, Terra Global Capital, the Children's Development Association and the Monk's Community Forestry Association. It has partnered directly with local communities to establish Community Forest groups that implement project activities in order to reduce deforestation, to improve livelihoods and to protect biodiversity. The project is the first community-based mosaic REDD+ project to achieve registration under the Verified Carbon Standard (VCS) and, in recognition of its exceptional social and biodiversity benefits, Gold level validation under the Climate, Community and Biodiversity (CCB) Alliance's standard. Over its 30-year lifetime (2008-2038), the project is expected to result in the generation of 8.1 million tons of emissions reductions (Forestry Administration, 2011).

The Seima REDD+ pilot project was officially launched by the Council of Ministers with the collaboration between the FA and the Wildlife Conservation Society (WCS). It aims to expand and improve law enforcement activities, to register existing communities land claims, and to provide incentives for communities to protect forests. According to Winrock International's feasibility study, the project is highly feasible and under a conservative scenario, it would avoid millions of tons of carbon emissions. It is estimated that 1.5 million tons of carbon will be sequestered over the 2008-2012 period if deforestation is decreased by 50 percent in the project area. The Seima project was validated in December 2014 and is currently under verification.

### Clean Development Mechanism Projects

Additional to REDD+ pilot projects, as a member of the Non-Annex I countries of the UNFCCC, the RGC is eligible for hosting emission reduction projects under the Clean Development Mechanism (CDM). In general, CDM projects have two key goals: (i) to assist developing countries who host CDM projects to achieve their sustainable development objectives, and (ii) to help developed countries partially meet their GHG reduction commitments by allowing them to take credits from emission reducing projects undertaken in developing countries (MoE 2004). For Cambodia, CDM projects represent a new source of investment on environmentally friendly technology and capacity building in the fields of energy, forestry, agriculture and waste management. Furthermore, the RGC expect that CDM projects will provide many environmental benefits and services such as watershed protection, control of soil erosion and degradation, biodiversity conservation, provision of non-timber products (MoE 2004).

On 15 July 2003, the RGC appointed the Ministry of Environment (MoE) as the Interim Designated National Authority (DNA) for CDM projects (Government Decision No. 01). As of now, MoE is the national implementing agency for a number of projects that aim to generate broad understanding and develop institutional and human capacity to fully participate as equal partner with developed countries in the formulation and implementation of potential CDM projects in Cambodia (MoE 2004). Furthermore, the Cambodian DNA is responsible for assessing proposed CDM projects against national sustainable development criteria and is authorized to provide written approval for proposed CDM projects in accordance with these criteria. Cambodia uses a sustainable development matrix as a tool for assessing the contribution of CDM projects in four aspects of sustainable development: economic, social, environmental and technology transfer. As of October 2014, there are 10 CDM projects listed under the Cambodia Climate Change Office of the MoE. The following table summarizes the projects.



| Name of CDM Project Activity  | Type of Project             | Supplemental Information | Approval Date (D/M/Y) | Annual emission reduction (tCO <sub>2</sub> /per year) | Project Participants (Host Country)   | Project Participants (Others)                   | Status           |
|---|-----------------------------|--------------------------|-----------------------|--|---|---|------------------|
| Angkor Bio Cogen Rice Husk Power Project                              | Biomass                     | Rice Husk                | 19/11/2006            | 51,620   | Angkor Bio Cogen Co., Ltd.  | Mitsubishi UFJ Securities Co., Ltd.             | Registered       |
| T. T. Y. Cambodia Biogas Project                                      | Biogas                      | Agricultural Waste       | 4/7/2007              | 50,036   | T. T. Y. Agricultural Plant Development and IMEX Co., Ltd.                          | None  | Registered       |
| Methane Fired Power Generation Plant in Samrong Thom Animal Husbandry | Biogas                      | Animal Waste             | 15/10/2007            | 5,593  | Samrong Thom Animal Husbandry   | Mitsubishi UFJ Securities Co., Ltd.             | Registered       |
| Kampot Cement Waste Heat Power Generation Project (KCC-WHG)           | Waste heat/ gas utilization | Cement Production Line   | 20/11/2008            | 17,107   | Kampot Cement Company Co., Ltd.   | None  | Registered       |
| Kamchay Hydroelectric BOT Project                                     | Hydro                       | New Reservoir            | 20/11/2008            | 370,496  | RGC's Electricite du Cambodge   | Sinohydro Corporation Limited                   | Under validation |
| Biogas Project at MH Bio-ethanol Distillery, Cambodia                 | Biogas                      | Agricultural Waste       | 29/6/2009             | 52,831   | MH-Bio-Energy Co., Ltd.   | None  | Under validation |
| W2E Siang Phong Biogas Project Cambodia                               | Biogas                      | Agricultural Waste       | 3/11/2010             | 27,121   | W2E Siang Phong Ltd.  | None  | Under validation |
| Lower Stung Russei Chrum Hydro-Electric Project                       | Hydro                       | New Reservoir            | 2/11/2011             | 701,199  | China Huandian Lower Stung Russei Chrum Hydro-Electric Project (Cambodia) Co., Ltd. | Vitol S. A. Switzerland                         | Under validation |
| Cambodia Stung Atay Hydropower Project                                | Hydro                       | New Reservoir            | 3/1/2012              | 266,472  | C. H. D. (Cambodia) Hydropower Development Co., Ltd.                                | Carbon Asset Management Sweden Pte Ltd.         | N/A              |
| Stung Tatay Hydroelectric Project                                     | Hydro                       | New Reservoir            | 16/1/2012             | 563,074  | Cambodian Tatay Hydropower Limited  | Gazprom Marketing & Trading Singapore Pte. Ltd. | N/A              |

Source: Cambodia Climate Change Office's Database, Ministry of Environment







# 4.

## Conclusions and Recommendations – A Proposed Action Plan for Development of a Cambodia Forest Finance Strategy

The forest finance options assessment has identified several promising opportunities for the Forestry Administration to consider as it strategizes the long-term conservation of Cambodia's protection forests. This assessment builds from the dialogue developed during an initial forest finance workshop carried out with 70 participants in Phnom Penh on May 26, 2014. This workshop provided an overview of the legal context in which any finance strategy must be developed. The workshop also examined existing forest financing sources being used to support forest management in Cambodia, including taxes levied on the legal trade in forest products, non-timber forest product (NTFPs), and wildlife permit; bilateral and multilateral funding for forest sector; income generated from Economic Land Concessions, or breeding or trade of wildlife species; government investment funds allocated to forestry development and conservation; tourism revenues; and donors funding.

Attention in the workshop was then given to financial tools that will have the most political and social acceptance; and identification of actions necessary to administer and manage the use of forest finance funds. It was suggested that four conditions can ensure the sustainability of a finance instrument:

- (1) Markets and capital exist to support the instrument over the long term
- (2) Political will and commitment exist to support the use of the financial instrument
- (3) Financial instruments have the support of communities, CBOs, NGOs, and the business community
- (4) The management and use of funds is transparent and well organized

Examples of innovative forest finance instruments being applied outside of Cambodia were then reviewed, including Payments for Ecosystem Services (PES); Debt Relief – Debt Exchanges; Trust Funds; Bonds and other investment funds; Offset and compensation payments; and Forest Enterprises. A comprehensive review of the information covered in this workshop is included in Annex 2 to this report.

The more detailed review of each of these potential financial instruments included in this assessment report suggests that each may hold potential for contributing to the financial resources needed to manage Cambodia's protection forests and secure their ecological integrity for future generations. Ultimately, it is expected that the Forestry Administration will work together with other appropriate government agencies to design and implement a comprehensive strategy that includes several of the financial instruments described here. However, the development of this strategy will still require the following information:

- A more thorough assessment of the legal framework available or required to support the use of each instrument to support the procurement of funds to support government actions to manage public protection forests;
- An up to date market analysis to determine the approximate amount of income that may be accessible to the FA through use of each financial instrument, including a review of Cambodia's competitive advantage for each instrument to be pursued;
- A prioritization of the most promising financial instruments based on the results from the market analysis;
- A determination of the most effective management framework that can best support the administration and disbursement of any funds raised, including the feasibility of public-private partnerships in the form of trust funds or para-statal organizations;
- A business plan to create a 3-5 year roadmap for financial success. The business plan will define the immediate and long-term objectives of the Forestry Administration and the specific financial needs the plan will fulfill; a summary of the market analysis; an action plan to guide the implementation and fulfillment of the finance strategy; and an operations and management plan to describe the administration and use of funds.

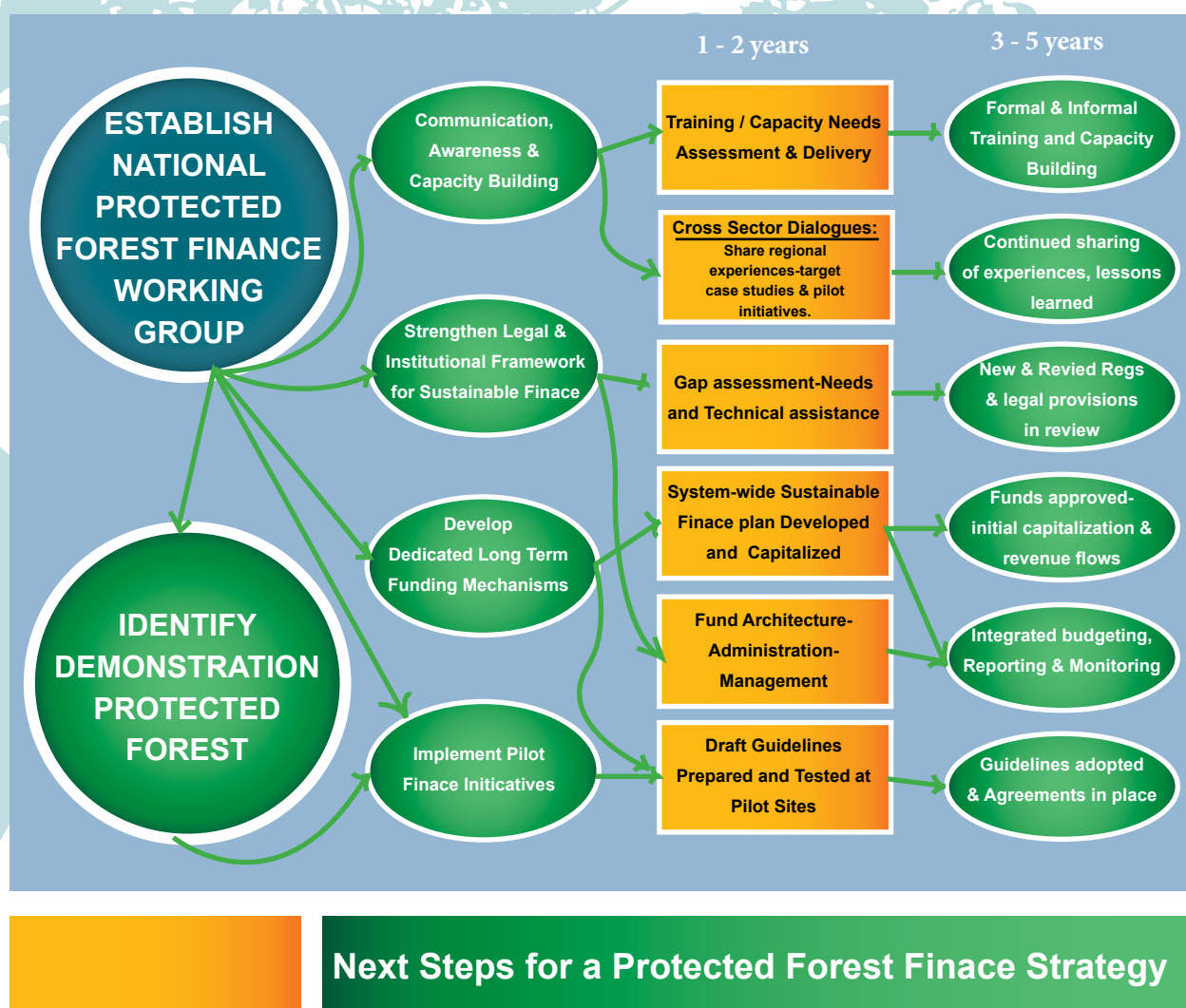
It is also recommended that protected forest financing measures and instruments mechanisms to ensure that the following three factors are achieved:

- A. Increase the size and diversity of financing sources and funding portfolios;
- B. Enhance revenue retention and promote direct reinvestment in conservation; and
- C. Streamline protected forest financial planning, costing and allocation procedures.

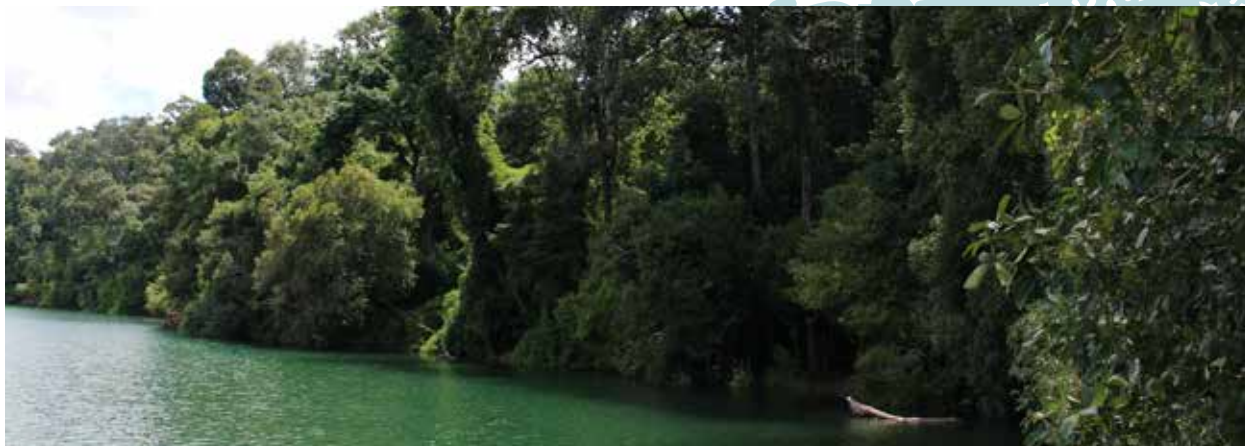
It is further recommended that TWG-FA now establish an action plan to carry out each of these steps. The results from this work will help provide more precise answers to each of the following concerns:

- The “Mission” and “Vision” of the proposed finance strategy;
- The approximate amount of funding required to ensure long-term conservation of Cambodia’s protection forest resources;
- The expected outputs and outcomes from the funding;
- Identification of the institutional structure and responsibilities of the management authority; and,
- Determination of the disbursement and accounting procedures for all leveraged funds.

A more detailed summary of the next steps that can be carried out to implement a sustainable finance strategy for Cambodia’s protected forests is shown in Figure.



The proposed action plan to move this work forward can proceed from the following:



A more detailed elaboration of the action has been produced as an outcome from the dissemination workshop held June 4, 2015.

### **Institutional Context for Going Forward**

Further action on the forest finance assessment must occur in the context of existing and anticipated institutional policy. For the next five years, 2014-2018, the policy priorities for the RGC in terms of sustainable management of natural resources will focus on four areas.

1. Further managing forest and wildlife resources in a sustainable and equitable manner, in accordance with the “National Forest Programme 2010-2029”, in particular through better law enforcement and governance, demarcation, classification and registration of forest, effective management and exploitation of state and private forests, implementation of measures for improving the livelihoods of and promoting participation from forest-dependent communities, enhancement of management and effectiveness of conservation measures, reduction of deforestation and degradation of forests, intensified tree planting and forest rehabilitation, strengthening the conservation of wildlife and wildlife sanctuaries, development of institutional and human capacity, and promotion of research studies and their dissemination.
2. Further strengthening the management and conservation of fishery resources in a sustainable manner in line with the “Strategic Planning Framework for Fisheries Sector 2010-2019” and the “Declaration on the National Policy for Fisheries Sector”, especially through the suppression of all violations of laws, rules and regulations related to fisheries including tightened control of fishing gears and fishing period, elimination of overfishing, strengthening fishing communities’ capacity for the management, use and conservation of fisheries resources, protection of biodiversity and aquatic-animal habitats, control of freshwater and seawater quality through pollution minimization, protection and replanting of flooded forests and mangroves, demarcation of flooded forest and fisheries conservation zones, development of institutional and human capacity, and preparing research studies and their dissemination.
3. Intensifying the implementation of necessary measures to ensure the sustainability of the ecosystem, aimed at ensuring the quality of soil, and surface and underground water for serving the agriculture sector and the livelihood of Cambodian people by promoting the preparation and effective implementation of policies and regulations, as well as related action plans and programs for the management of protected natural areas such as national parks, wildlife sanctuaries, protected landscape areas, multiple use areas, wetlands, biodiversity conservation areas, natural heritage conservation areas, and maritime parks, and in particular, strengthening the implementation of “Law on the Environmental Protection and the Management of Natural Resources”, “Law on Protected Natural Areas” and “Guideline on the Development of Coastal Areas in the Kingdom of Cambodia”.
4. Stepping up cooperation with relevant development stakeholders under the framework of the “National Policy on Green Development” and the “National Strategic Plan on Green Development 2013-2030” through the development of regulatory frameworks and mechanisms for carbon trading, strengthening the capability, preparation and implementation of climate change adaptation measures, assessment of the scope of the use of environmental financing mechanisms including payment for environmental services and environmental fund, strengthening the management of protected natural areas including protection of biodiversity, rain forests, and wetland areas; and environment and ecosystem monitoring and control mechanism at both national and sub-national levels.



# ANNEXES

Annex 1 is a list of relevant National Strategies, Laws, Policies and Regulations and literatures which used to compile the report. Annex 2 provides a summary result of the consultative meetings which aim to present and consult upon the context, framework, and approach to be taken in developing the forest financing options assessment, and share international experiences with regards to forest financing mechanisms. The meeting was held in May 2014 attended by a total of 60 participants including representatives from the Royal Government of Cambodia (Forestry Administration, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy and Finance), NGOs and Development Partners, Private Sector, and Civil Society Organizations. The list of all the participants in this consultative meeting can be found in Annex 3. In addition, Annex 4 highlights key articles from National Strategies, Laws, Policies and Regulations which enabling references in developing the forest financing options assessment. Annex 5 provides a legal assessment and some policy considerations that may affect the viability, or the practical reality of adoption, of each financial mechanism. Annex 6 gives a short description of a preliminary analysis of potential benefits and costs of the forest finance options proposed for the Royal Government of Cambodia's protected forests and protected areas, along with some recommendations.

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## Annex 2: Results From Consultative Meeting May 26, 2014

### Summary

The meeting was held on Monday 26th May, 2014 at the Sunway Hotel, attended by a total of 60 participants including representatives from the Royal Government of Cambodia (Forestry Administration, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy and Finance), NGOs and Development Partners, Private Sector, and Civil Society Organizations. The meeting started at 08:00am and finished at 15:30pm. The main objective of this consultative meeting was to present and consult upon the context, framework, and approach to be taken in developing the forest financing options assessment, and share international experiences with regards to forest financing mechanisms. The restitution workshop, to be held in July 2014, will present and consult upon the findings from the forest financing options assessment study.

The key outputs for this May 26th consultative meeting were to:

1. Review and consult upon the options for forest financing in Cambodia
2. Build the capacity of different stakeholders, especially relevant government line agencies, about the development of forest financing in Cambodia and international best practice
3. Produce an official report with the approval from the TWG-FR chair (Forestry Administration). This report will be used as a basic roadmap to support the development of forest financing in Cambodia. The results of the workshops will be posted in TWG-FR webpage to ensure the report is widely accessible.

Below is a summary of key points from each session.

1. **Welcome Remark, Dr. Ross Sinclair:** Dr. Sinclair started his welcome remark by reminding participants of the composition and key functions of the sustainable forest financing sub-group under the Technical Working Group on Forestry Reform (TWG-FR), a government and non-government platform that supports the implementation of the National Forest Programme (NFP). Dr. Sinclair mentioned that current work on sustainable forest financing will help contribute to keeping remaining forests in Cambodia by providing necessary finance for the implementation of key national policies and strategic plans on sustainable development and green growth.

Dr. Sinclair also stressed that the Forestry Administration has been very open and participatory in its approach to sustainable forest financing by inviting an NGO to be its co-chair for the sub-group. He ended his remark by encouraging participants to contribute to the activities planned for this consultative meeting as their comments will be taken up by the TWG-FR for its current work on sustainable finance to help with the conservation of Cambodia remaining forests.

2. **Opening speech, H. E. Chea Sam Ang, PhD :** For an opening speech, H.E. Dr. Chea Sam Ang welcomed all participants to this consultative meeting. He mentioned how this participation is a reflection of the collaboration between government and non-government counterparts on this important task to sustain Cambodia remaining forests and to improve the livelihood of communities living in and around the forest areas. His Excellency then focused his speech on the importance of sustainable financing in addressing some of the key challenges – human, resources, and collaboration with NGOs at the field – in the implementation of the NFP. Next, His Excellency highlighted some of the recent natural disasters in provinces such as Pailin and those near Tonle Sap that are attributable to climate change and its impacts on local communities and national economy to make his point regarding the roles of forests in reducing the impacts of climate change. Finally, His Excellency mentioned that study on options for sustainable forest financing should align with Cambodia existing legal context while at the same time taking into consideration international requirements and obligations that come with those options. His Excellency closed his opening speech by stating that the contributions from all participants will be very important in how the sub-group will be proceeding with this task to assess the feasible options for sustainable finance for conservation of Cambodia forests.
3. **Forest Conservation Financing in Cambodia: Status and Progress Forwards, Mr. Chhun Delux:** Mr. Chhun Delux made a presentation to explain existing legal context in Cambodia to be taken into account for conversations on sustainable financing for forest conservation. Mr. Chhun remarked that successful implementation of the NFP requires Cambodia to improve its ability to gather revenue from forestry sectors either from existing forest financing sources or innovative forest financing sources. He also stressed that in order to attract international funding, Cambodia would need to have transparent rules to manage funds; appropriate governance arrangements; and follow international best-practice principles. However, these principals have to align with existing laws and regulations relating to fund management in Cambodia, and must be aligned with the existing policies of other relevant government ministries such as the Ministry of Economy and Finance (MEF). Mr. Chhun closed his presentation by discussing existing forest financing sources in Cambodia, which include: taxes levied on the legal trade in forest products, non-timber forest product (NTFPs), and wildlife permit; bilateral and multilateral funding for forest sector; income generated from Economic Land Concessions, or breeding or trade of wildlife species; government investment funds allocated to forestry development and conservation; tourism revenues; and donors funding.
4. **Innovative Tools for Forest Finance, Dr. James Tolisano:** Dr. Tolisano focused on five key points in his presentation. First, he introduced participants to the main purposes of the Forest Finance Assessment, which include identification of financial tools and instruments that can be used to pay the costs for the management of Cambodia forests and habitats; assessment of the identified financial tools that will have the most political and social acceptance; and identification of actions necessary to administer and manage the use of forest finance funds. Second, Dr. Tolisano stated the four conditions that make a forest finance instrument sustainable, which are (1) markets and capital exist to support the instrument over the long term; (2) political will and commitment exist to support the use of the financial instrument; (3) financial instruments have the support of communities, CBOs, NGOs, and the business community; and (4) the management and use of funds is transparent and well organized. Dr. Tolisano then explored six examples of innovative forest finance instruments that have been tried in other countries. These instruments were: Payments for Ecosystem Services (PES); Debt Relief – Debt Exchanges; Trust Funds; Bonds and other investment funds; Offset and compensation payments; and Forest Enterprises. For each of these instruments, Dr. Tolisano first defined what they are, then explained how they could be set up, and finally highlighted some examples of where (which countries) these instruments have been piloted. Fourth, Dr. Tolisano informed participants of the next activities that will be conducted to complete the Forest Finance Assessment. According to the proposed timeline, the Assessment report will be completed by the second week of August 2014. To close his presentation, Dr. Tolisano shared with the participants key chapters that will be included in the Assessment report.
5. **Question and Answer Session:** After the presentation by Mr. Chhun Delux and Dr. James Tolisano, the floor



was open for questions from participants.

**Question 1 (H. E. Than Sarath, MAFF):** H. E. Than asked how/ what processes will be required to establish forest as an asset for the purposes of forest financing? How would government extract revenue from these financing options? Before asking his question, H. E. Than mentioned the difficulties of managing public property, for example a national park, where various stakeholders are involved.

**Answer 1 (Dr. James Tolisano, WCS):** Answer to H. E. Than's question would depend on which specific sustainable forest financing tool has been selected for a particular land area because each financing tool comes with different details on how land, forest and/ or natural resources should be managed. Similar to this point, the question on how government could extract revenue from these financing options is in fact one of the underlying factors that would indicate the constraints or feasibilities of certain financing options. **Mr. Chhun Delux** mentioned that he agreed with Dr. Tolisano's points. He also added that to ensure that revenues from these financing options reach the government, various policies and measures might need to be established depending on which option is selected for implementation. In addition, Mr. Chhun stated that this conversation highlighted the significance of having existing sources of funding for conservations well-coordinated amongst NGOs and development partners.

**Question 2 (Dr. Tim Boyle, UN-REDD Regional):** Dr. Boyle asked two clarifying questions. First, how money would be raised and managed for sustainable forest financing? Based on the concept note for the consultative meeting, Dr. Boyle's second question was why is REDD+ not included as one of the potential forest financing options?

**Answer 2 (Dr. James Tolisano, WCS):** Dr. Tolisano mentioned that the current Assessment report that he is working on with the help from Mr. Chhun Delux does not look at implementation of any financing option in particular. Thus Dr. Boyle's question on how fund should be managed will be answered at a later stage of the assessment.

- 6. Group Discussions:** After the coffee break, participants were divided into four groups to discuss two main questions following the presentations by Mr. Chhun Delux and Dr. James Tolisano. Except for one group where members are non-Khmer speakers, each discussion group composed of representatives from government ministries, private sector, NGOs and CSOs. The group discussed two questions: (1) what conservation finance mechanisms have been tried in Cambodia? (2) If you were in charge of this process, which finance mechanisms would you choose? It should be mentioned that before breaking into group, each participant was given 10 minutes to write their own answers to these questions on the Q-cards.

Each group received a flip chart. The group appointed one person to record the information shared on the flip chart. This person was also responsible for reporting the group's results to the full group of participants. A facilitator was assigned for each group, and was responsible for keeping the group on task and making sure everyone gets an opportunity to talk. Each group member started by sharing the answers they wrote on the Q-cards with other members while the recorder wrote down those mechanism identified by each participants on the flip chart. The group then discussed each of the identified mechanism in terms of its pros and cons in order to identify 3 to 5 prioritized mechanisms for conservation finance in Cambodia. The group also took into consideration the risks (social, economic, institutional, and environmental) that each of the mechanism might impose. Below are the summary from the group discussions.

## Question 1: What conservation finance mechanisms have been tried in Cambodia?

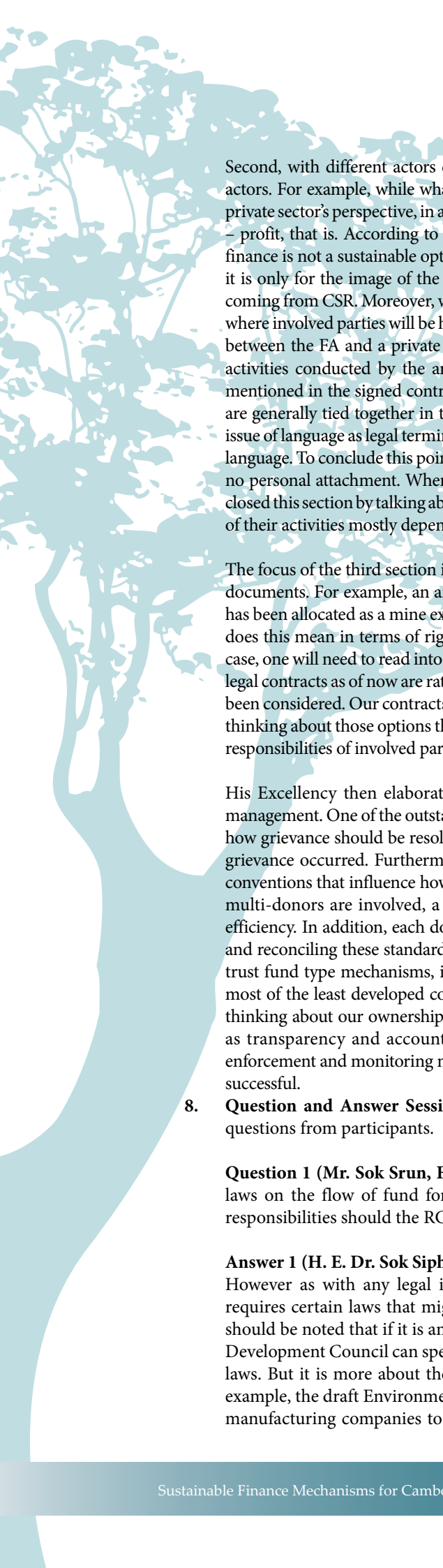
| Group 1  | Group 2  | Group 3  | Group 2  |
|--|--|--|--|
| 1. REDD+<br>2. Forest Management<br>3. Government Investment Fund<br>4. Development Partners' Fund<br>5. Climate Change Trust Fund<br>6. Ibis Rice Project<br>7. Nature-based Tourism<br>8. PES<br>9. Proposed Trust Fund<br>10. NTFP-based Enterprise<br>11. Pilot Forest Production Enterprise<br>12. CIP (NCDD) NRM<br>13. Revolving Fund | 1. Pilot REDD+<br>2. Wild Cattle Conservation Fund<br>3. Government Investment Fund<br>4. Commune/ Sangkat Fund<br>5. National Social Security Fund<br>6. Cambodia Climate Change Alliance Trust Fund<br>7. TWG-FR<br>8. NGOs Trust Fund | 1. Government Investment Fund<br>2. Development Partners' Fund<br>3. Bilateral and Multilateral Fund<br>4. Commune/ Sangkat Fund<br>5. National Social Security Fund<br>6. Cambodia Climate Change Alliance Trust Fund<br>7. Private Sectors<br>8. International NGOs Fund | 1. National Budget<br>2. Bilateral Funding<br>3. Grants from Donors, NGOs<br>4. PES<br>5. Tourism<br>6. REDD+<br>7. Offsets/ Lease from ELCs<br>8. Cambodia Climate Change Alliance Trust Fund<br>9. Conservation Agreements<br>10. Conservation Enterprises |

## Question 2: If you were in charge of this process, which finance mechanisms would you choose?

| Group 1   | Group 2  | Group 3  | Group 2  |
|---|--|--|--|
| 1. REDD+<br>2. Nature-based Tourism<br>3. PES/ PEFF<br>4. NTFP Enterprise<br>5. Climate Change Trust Fund | There should be further studies on these options:<br>1. TWG-FR<br>2. Cambodia Climate Change Alliance Trust Fund<br>3. NGOs Trust Fund | 1. Government Investment Fund<br>2. Development Partners' Fund<br>3. International NGOs Fund<br>4. Private Sectors | 1. National Budget<br>2. Trust Fund Development<br>3. PES<br>4. REDD+<br>5. Private Sector |

### 7. Legal considerations for development of forest financing options in Cambodia, H. E. Sok Siphana, PhD:

His Excellency mentioned that from the legal perspective, there are three points that one should think about when it comes to discussions on sustainable forest financing options, which were rights, responsibilities, and actors. Starting with actors, His Excellency mentioned that this could include government (e.g. ministry), private sector (e.g. banks), and civil society. In this category, actors such as the World Bank or the International Finance Corporation would impose on actors such as national government their standards/ conditions/ requirements as payments will be based on compliance with these standards. To think back to the different options that Mr. Tolisano presented in the morning, the discussions on actors that will be involved in these different options and the complications that it entail would depend on the scale of implementation for these options. For example, a micro level PES program in a rural area in Cambodia where the project is simply paying for local communities to stop what they are doing could not be compared to a national or international level of finance, for example bond, where the issues of credit rating will bring into the equation various international organizations. A very good example to illustrate this point is the US government shut down which affected the US credit rating, which in consequence affected the various actors that are involved with the US bond market. The point is, we should think of actors' involvement in conservation finance options as a funnel from international to national to local. Doing so, we will be able to see the different actors and their responsibilities at these various levels.



Second, with different actors come different responsibilities, some of which are beyond the control of certain actors. For example, while what has been mentioned so far are the responsibilities of the government, from the private sector's perspective, in addition to rights and responsibility, there is an added dimension for any discussions – profit, that is. According to His Excellency, corporate social responsibility (CSR) as a source of conservation finance is not a sustainable option because first of all it is a limited amount for a specified timeframe, and second it is only for the image of the company. Thus, government should really think more about the money that are coming from CSR. Moreover, when working with any private sector, one should be cautious of the legal procedure where involved parties will be held responsible to protect an investment. For example, a REDD+ contract is signed between the FA and a private company to protect a forest area. After the contract is signed, there was logging activities conducted by the army. In this case, the FA would be held responsible for this loss of forest area mentioned in the signed contract. The point is, when it comes to legal conversations, actors and responsibilities are generally tied together in the form of a contract. An additional comment to be made about contracts is the issue of language as legal terminologies are most of the time different in their meanings in comparison to everyday language. To conclude this point about private sector, one just has to remember that it is all about business, there is no personal attachment. When a signed contract is breached, someone will be responsible. His Excellency then closed this section by talking about the responsibilities of civil society organizations (CSOs), where implementation of their activities mostly depends on the agreements with their donors in order to receive funding.

The focus of the third section in His Excellency's presentation focused on government's responsibilities and legal documents. For example, an area has been allocated by MAFF as an ELC while at the same time this very same has been allocated as a mine exploration site by MIME. How would the government deal with this overlap? What does this mean in terms of rights and responsibilities of those involved? According to His Excellency, in such a case, one will need to read into the contracts that were signed by those involved. The difficulty however is that our legal contracts as of now are rather loose in comparison to international agreement where different scenarios have been considered. Our contracts are in general 5 to 6 pages in length, thus very difficult to interpret. In this context, thinking about those options that Mr. Tolisano presented this morning, one must think about these overlapped of responsibilities of involved parties, then clearly elaborate these responsibilities in the contracts.

His Excellency then elaborated on different issues one should think about in terms of trust fund and its management. One of the outstanding issues in terms of trust fund is the management of conflicts. In other words, how grievance should be resolved. In most cases, this issue has often been addressed outside the country where grievance occurred. Furthermore, most countries including Cambodia are signatories to various international conventions that influence how grievance shall be addressed. In terms of management of trust fund where there multi-donors are involved, a huge percentage of the fund would go to administrative costs - a question of efficiency. In addition, each donor or development partner operates according to their standards of operations, and reconciling these standards in general is not possible. Specific to Cambodia, in terms of ownership of these trust fund type mechanisms, in the next few years Cambodia will become a middle income country, and thus most of the least developed country's privileges would no longer apply. Therefore, Cambodia should now start thinking about our ownership and management of these trust funds in way that would address the issues such as transparency and accountability. His Excellency concluded his speech by stressing the importance of enforcement and monitoring mechanisms that must be in place for any conservation finance options for it to be successful.

8. **Question and Answer Session:** Following H. E. Dr. Sok Siphana's presentation, the floor was open for questions from participants.

**Question 1 (Mr. Sok Srun, FA):** Mr. Sok asked two questions. First, could you elaborate on RGC's existing laws on the flow of fund for forest management? Second, in terms of sources from private sector, what responsibilities should the RGC have in place to manage this fund?

**Answer 1 (H. E. Dr. Sok Siphana):** RGC has almost all the basic laws covering most activities in the country. However as with any legal issue, the specificity of the activity for sustainable conservation finance will requires certain laws that might already exist. In short, the contract will determine what law to be used. It should be noted that if it is an agreement, law would not be relevant in most cases. In general, the Cambodia Development Council can specify the content of the agreement. For your second question, we do have general laws. But it is more about the effective implementation of these laws that is the point of conversation. For example, the draft Environmental Impact Assessment (EIA) law specifies the standards and requirements for manufacturing companies to comply. However, in reality we (the RGC) do not have the resources nor the

technology to implement these requirements. In general, it is difficult to exactly estimate relevant stakeholders that should be responsible for the true costs of business activities on the environment.

**Question 2 (H. E. Than Sarath, MAFF):** H.E. Than asked two questions. First, how can we ensure that the procedure that Cambodia will use for establishing sustainable forest financing option will be compliant with both national and international requirements to be able to attract funding? Second, in terms of rights and responsibilities for economic growth, how can we ensure that private sector comply/ fulfill their responsibilities in the management of Economic Land Concessions?

**Answer 2 (H. E. Dr. Sok Siphana):** First we need to understand who is included in the partnership so that we can understand the enforcement and implementation of the contract for relevant stakeholders involved in this partnership. There is no one size fits all for these issues. Any one of the forest financing options we discussed so far will vary in terms of its rights, responsibilities and conditions. As for the second question, in any ELC agreement there are rights and responsibilities for parties involved when it comes to implementation. However, these ELC agreements are in general 6 or 7 pages in length, thus interpretation of articles in these agreements are very much open-ended. This type of agreement is where the weakness lies in terms of effective implementation of ELC agreements, for parties involved, in particular private sector. Therefore, we (the RGC) need to address these poorly articulated agreements to avoid the possibility of being sued by the private sector actors.


9. **Conclusion and Next Steps, Mr. Chhun Delux:** Mr. Chhun provided a short summary of activities conducted throughout the consultative meeting. He then reminded participants of the upcoming activities that will be required to complete the Assessment report. These include analysis of results from this consultative meeting, supplemented by a review of existing literature on the options prioritized by participants through group discussion activities and further consultation with key stakeholders. Mr. Chhun also informed the participants that the first draft of the Assessment report will be completed by mid-July, and a dissemination workshop of the results from this first draft will be conducted. The final draft of the Assessment report will be completed by mid-August, 2014.
10. **Closing remark:** H.E. Chea Sam Ang, Ph.D: H.E. Dr. Chea Sam Ang started the closing remark by mentioning that our efforts to further explore the feasibility of sustainable forest financing options in Cambodia should build on what we have at the moment. As such, we have looked at options such as PES and ecotourism. However, His Excellency mentioned that Cambodia is still learning about how we could get access to those potential options that Mr. Tolisano presented. His Excellency stated that there are various fund available for this task from development partners, but as His Excellency Sok Siphana mentioned there need to be better coordination of these supports to help with the implementation of existing strategies and policies that contribute to financing conservation of remaining forests in Cambodia. His Excellency then discussed the importance of the sustainable finance feasibility study which he hopes would contribute to a better coordinated sources of conservation finance current available in Cambodia and the potential of setting up innovative financing tools, to be completed by July 2014 (see Mr. Tolisano's presentation). His Excellency mentioned that if this feasibility study indicates that there are gaps in current policies/ laws/ regulations that would stymie the establishment of potential innovation conservation financing tools in Cambodia, actions could be taken to amend those identified gaps. His Excellency concluded his closing remark by reminding each participant to think about not just the finance that could come from these potential innovative conservation financing tools, but also the responsibilities that will be bestowed on relevant stakeholders. He mentioned that these responsibilities could be inter-generational, thus we must be careful on the decisions we make today. His Excellency then thanked all participants for joining today consultative meeting, and the organizers for making this meeting possible.













Annex 3: Participants in Assessment Scoping Session,  
May 26, 2014

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| 2   | ឯ.ឧ ជា សំអាង           | អនុប្រធានរដ្ឋបាលព្រៃឈើ                                      | រព                      | 012-862-730           | chsang@online.com          | ✓   |
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| 4   | លោក ប៊ុន វណ្ណា         | ប្រធាននាយកដ្ឋានសុរាហកម្មព្រៃ ឈើ និងសហប្រតិបត្តិការអន្តរជាតិ | រព                      | 012-880-303           | vannabun@yahoo.com         |   |
| 5   | លោក ហួត ពន្លឺ          | ប្រធាននាយកដ្ឋានផែនការ និង ហិរញ្ញវត្ថុ                       | រព                      | 017-664-378           | houptponloeu@yahoo.com     |   |
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| 8   | លោក សំរិត វណ្ណា        | អនុប្រធាននាយកដ្ឋានព្រៃឈើ និង សហគមន៍ព្រៃឈើ                   | រព                      | 092-720-071           | samrethv@yahoo.com         |  |
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| 10  | លោក ហុង គឹមហ៊ាន  | អនុប្រធាននាយកដ្ឋានអភិវឌ្ឍន៍ចំការព្រៃ និងព្រៃឯកជន            | រោ                      | 012-955-702           | kimhean-hong@hotmail.com |    |
| 11  | លោក វីស័រ វិសាល  | ប្រធានការិយាល័យគ្រប់គ្រងស្ថានីយ៍ផ្ទាល់បណ្តុះនិងស្ថានទូទៅ    | រោ                      | 017-792-727           |                          |   |
| 12  | លោក ញឹក គនៈពេជ្រ | ប្រធានទូទាត់ស្ថានសត្វ និងមជ្ឈមណ្ឌលសង្គ្រោះសត្វព្រៃភ្នំតាម៉ៅ | រោ                      | 012-934-093           | ratanapichhok@gmail.com  |   |
| 13  | លោក លីម ប៊ុនណា   | អនុប្រធានការិយាល័យស្ថិតិ និងប្រកាសប្រ                       | រោ                      | 088-8787-878          |                          |   |
| 14  | លោក ឈុន ឌីសុច    | អនុប្រធានការិយាល័យគណនាកម្មសាងសង់ និងការប្រែប្រួលអាកាសធាតុ   | រោ                      | 077-805-610           | chhundelux04@yahoo.com   | V   |
| 15  | លោក ជុន ជន្មា    | អនុប្រធានការិយាល័យគ្រប់គ្រងដែនជម្រក និងទេសចរណ៍ធម្មជាតិ      | រោ                      | ០២ 50០១១៩5            | huchphallafora@gmail.com |    |
| 16  | លោក សុខ ស្រីន    | អ្នកសម្របសម្រួល TWG-FR                                      | រោ                      | 012-940-936           | twgfr@wikam.com.kh       |   |
| 17  | លោក ម៉េង ឡុត     | មន្ត្រីវិទ្យាស្ថានស្រាវជ្រាវ និងអភិវឌ្ឍន៍សត្វព្រៃ           | រោ                      | 012 890 144           | wengloth@gmail.com       | M. Loth   |
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| 19  | នីត. សុខ         | នាយកដ្ឋានសត្វព្រៃ   | សហគមន៍សត្វព្រៃ          | 012 8857              | sokhom-noungyalee.com    |  |
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| 22  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               |                      |                       |
| 23  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               | kon-techno@gmail.com |                       |
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| 26  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               |                      |                       |
| 27  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               | kon-techno@gmail.com |                       |
| 28  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               |                      |                       |
| 29  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               |                      |                       |
| 30  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               | kon-techno@gmail.com |                       |
| 31  | គុណ្ណី ឌីណា   | នាយកដ្ឋានបរិស្ថាន  | ម/ក. ភិបាល              | ០១២៣៤៥៦               | kon-techno@gmail.com |                       |

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| 34  | Teang David    | Chief of OMC                        | CFA. Odd                | 012350997             | davidteang@yahoo.in                |                       |
| 35  | Sin Rosal      | Chief of K.G                        | CFA. odd.               | 012.889733            | kompengchimaif@yahoo.com.          |                       |
| 36  | Chhidy Sany    | CD                                  | WWF                     | 012929595             |                                    |                       |
| 37  | Chhay Saran    | Chief of Pursat FA -<br>Contentment | FA                      | 012565327             | Saravithay@yahoo.com               |                       |
| 38  | Boe Kumthay    | Translator                          | Sumatra Conservation    | 012602960             |                                    |                       |
| 39  | Boe Koss       | Secretary                           | ស.ព                     | 01888088              | chunthathannarakeyabocan@yahoo.com |                       |
| 40  | វ៉ិ. វ៉ា       | 19 ០ km                             | MEF                     |                       |                                    |                       |
| 41  | ស៊ី. ឈី        | 15.7 km                             | ស.ព                     | 0976207925            |                                    |                       |
| 42  | ស៊ី. ឈី        | 5 km                                | ស.ព                     | 012881877             |                                    |                       |



| No. | ឈ្មោះ<br>Name      | តំណែង<br>Position   | អង្គភាព<br>Organization | ទំនាក់ទំនង<br>Contact |                             | ហត្ថលេខា<br>Signature |
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## Annex 4: Enabling Provisions under Cambodian Law for Options Identified

### **The Constitution of the Kingdom of Cambodia, 1993**

**Article 59:** The State shall protect the environment and balance of abundant natural resources and establish a precise plan of management of land, water, air, wind, geology, ecological system, mines, energy, petrol and gas, rocks and sand, gems, forests and forestry products, wildlife, fish and aquatic resources.

### **Political Platform of the Royal Government of Cambodia of the Fifth Legislature of the National Assembly, 2013** **Section 3.11. Environment**

- Preserving and protecting biodiversity and ecosystem while exploiting onshore and offshore natural resources in a sustainable manner for the benefit of people now and in the future in order to respond to the increased pollution caused by industrial development and global climate change and to ensure socio-economic advancement and the public well-being.
- Hastening the protection of environment quality and preservation of natural resources to ensure their sustainability in the ecosystem by way of: enhancing the development of green economy with full participation from all strata of society, especially local communities; and through strengthening the institutional and legal framework relating to environmental protection.
- Streamlining environment sector into the socio-economic development plan, and deepening regional and international cooperation in this sector. Accelerating the implementation of the Law on Environment with the aim to preserve protected natural areas, prevent environmental quality degradation and mitigate disasters.
- Undertaking sound environmental impact assessments for all development projects in order to ensure sustainable use of natural resources for advancing socio-economic development. Reinforcing the management of land concessions so as to ensure sustainable land use for development projects with the aim to prevent forest land encroachment at core and protected zones all the while providing technical support to local people living in those areas. Promoting eco-tourism that will help protect the environment and natural resources.
- Increasing environmental control and reducing pollution including: the management of solid waste, dangerous substances, air quality monitoring and quality improvement; monitoring and prevention of land and water pollution, including sound and visual pollution.

### **Rectangular Strategy for Growth, Employment, Equity and Efficiency Phase III of the Royal Government of Cambodia, 2013**

**Paragraph 27:** The Royal Government will continue to take a comprehensive development approach toward environmental management in Cambodia, through:

1. Sustainable management of natural resources.
2. Intensifying efforts to reduce the impacts of climate change by strengthening adaptation capacity and resiliency to climate change, particularly by implementing the “National Policy on Green Development” and the “National Strategic Plan on Green Development 2013-2030”.
3. Continuing to strengthen technical and institutional capacity to promote the mainstreaming of climate change responses into the policies, laws and plans at national and sub-national levels.
4. Continuing to introduce measures to control environment and ecosystems pollution.

### **National Strategic Development Plan 2014-2018**

- **Paragraph 4.40 – see Paragraph 27 of Rectangular Strategy Phase III**

## **Cambodia Climate Change Strategic Plan: 2014-2023**

**Strategic Objective 3: Ensure climate resilience of critical ecosystems (Tonle Sap Lake, Mekong River, coastal ecosystems, highlands, etc.), biodiversity, protected areas and cultural heritage sites Strategies:**

- a. Strengthen biodiversity conservation and restore ecosystems threatened by climate change;
- b. Promote and encourage community-based, ecosystem-based approaches and ecotourism as cost-effective ways of addressing climate change;
- c. Promote payment for ecosystem services including REDD+;
- d. Promote participatory land-use planning.

**Strategic Objective 8: Strengthen collaboration and active participation in regional and global climate change processes Strategies:**

- a. Promote regional cooperation on climate change within inter-governmental and non-governmental mechanisms:
  - i. Implementation of commitments under the UNFCCC
  - ii. Cooperation under ASEAN framework
  - iii. South-South and North-South collaboration
  - iv. Trans-boundary initiatives, e.g. within the Mekong River Basin framework
  - v. Cooperation through the Clean Development Mechanism (CDM), carbon market mechanisms and other relevant carbon credit schemes.

## **National Policy on Green Growth, 2013**

### **Section 3.2: Objectives**

- Developing an economy in balance with environment, society and culture;
- Create a favorably enabling environment for green growth in equity, balance, fraternity, and quality of socio-economic systems and ecology that uphold national cultural value;
- Effective management of Access to water resources management and sanitation, Access to food security and food safety, Access to development, forest conservation, and mixed resources water, and sustainable land use, Access to renewable energy, and energy efficiency, Access to information and knowledge and skill, Access to better social livelihood service means and environment, and Access to finance for creation of small medium } enterprise and investment associated with green growth;
- Enhancing education and training on green growth;
- Strengthening information exchange, knowledge, good experiences, technology and investment related to green growth;
- Stimulating green growth cooperation at a national and sub national level, region and the world.

## **Law on Forestry, 2002**

**Article 1:** The objective of this law is to ensure the sustainable management of these forests for their social, economic and environmental benefits, including conservation of biological diversity and cultural heritage.

**Article 7:** The Forestry Administration shall perform the following duties: Study, collect data on State forests regarding scientific, economic, social and environmental factors in order to set a sustainable production level.

**Article 51:** The Forestry Administration shall collect the following Wildlife Conservation Fee and Wildlife Royalty:

1. A Wildlife Conservation Fee shall be paid to the Forest Development Fund; and
2. A Wildlife Royalty shall be paid to the National Budget.

The amount of a Wildlife Conservation Fee and Wildlife Royalty shall be determined by Joint-Prakas between the Ministry of Agriculture, Forestry and Fisheries and the Ministry of Economy and Finance.

**Article 52:** Except as stated in Article 53 of this law, any individual or legal entity harvesting Forest Products & By-products for commercial purposes within the Permanent Forest Reserve shall pay royalties and premiums to the national budget through the Forestry Administration. The Royal Government of Cambodia shall determine the royalties and premiums upon the joint proposal of Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy and Finance. The state will not require the payment of royalties or premiums for the harvesting of Forest Products & By-products from private forests. The Model Forest Concession Management Agreement shall include a table of royalties and premiums on Forest Products & By-products.



**Article 56:** Anyone with legal possession of a permit to harvest Forest Products & By-products shall pay all applicable royalties and premiums prior to transferring or selling any of these rights to a third party. The Minister of Ministry of Agriculture, Forestry and Fisheries, after consultation with the Ministry of Economy and Finance, may approve a delay in the payment of Royalties and Premiums on Forest Products & By-products for a permit holder who the Forestry Administration has recognized for practicing the sustainable forest management, and the delay of payment shall be based on rules and guideline under Article 55, 2nd paragraph of this law.

**Article 62:** The Royal Government of Cambodia shall establish a fund known as “National Forestry Development Fund” which shall be administered and managed under the responsibility of the National Forestry Development Committee, and co-chaired by the Minister of Ministry of Agriculture, Forestry and Fisheries and the Minister of the Ministry of Economy and Finance. The organization and functioning of the National Forestry Development Committee shall be determined by AnuKret.

**Article 63:** The National Forestry Development Fund shall have sources of revenues derived from:

1. Distributions from the Royal Government of Cambodia;
2. Premium on Forest Products & By-products;
3. Wildlife Conservation Fees;
4. Aid from international organizations;
5. Donations from charitable individuals and national and international non-governmental organizations, and
6. Revenue from other services in the forestry sector.

All of the above mentioned revenue should be deposited into the account of the National Forestry Development Fund.

**Article 64:** National Forestry Development Fund shall not be used for the organization and functioning of the Forestry Administration. This fund shall be used only for the following activities:

1. Reforestation;
2. Silviculture and forestry rehabilitation;
3. Forest Protection and Conservation and bio-diversity
4. Forest and wildlife scientific and technical research;
5. Extensions on Forest and Wildlife sector;
6. Development in Forest and wildlife sector;
7. Development of Community Forestry; and
8. Training human resources for the Forest and Wildlife sector.

**Article 94:** Any individual who has committed a forestry offense harming the forest ecosystem shall be liable for payment in order to restore or repair the forest ecosystem to its original condition.

#### **National Forest Programme: 2010-2029**

##### **Strategic objectives**

1. Maximize sustainable forest contribution to poverty alleviation, enhanced livelihoods and equitable economic growth
2. Adapt to climate change and mitigate its effects on forest based livelihoods
3. Macro land-use planning that allows for holistic planning across sectors, jurisdictions and local government borders
4. Forest governance, law and enforcement at all levels
5. Develop a conflict management system
6. Raise awareness, capacity of institutions and quality of education to enable sustainable implementation of the National Forest Programme
7. Ensure environmental protection and conservation of forest resources
8. Apply modern sustainable management models adaptive to changing context
9. Develop sustainable financing systems

## 6. Sustainable Forest Financing

Sustainable Forest Financing provides an economically sustainable and transparent framework required in meeting all the NFP objectives. This will be achieved through:

Sub-programme 6.1 – Government Financing

Sub-programme 6.2 – Income from Forest Sector

Sub-programme 6.3 – Income from the Private Sector and Community Forestry

Sub-programme 6.4 – Financing via Donors

Sub-programme 6.5 – Innovative Financing from Payments of Environmental services and Carbon Credit

### Law on Nature Protection Area/ Protected Areas Law 2008

**Article 1:** This law defines the framework of management, conservation and development of protected areas. The objectives of this law are to ensure the management, conservation of biodiversity, and sustainable use of natural resources in protected areas.

**Article 4:** The management of protected areas as mentioned in Article 2 of this law shall be under the jurisdiction of the Ministry of Environment. The Ministry of Environment has the “Nature Protection and Conservation Administration” (NPCA) as its own secretariat to manage the protected areas pursuant to the policy of the RGC. The organization and functioning of the Nature Protection and Conservation Administration in each protected area shall be determined by Prakas (Declaration) of the Ministry of Environment. The management of the protected area shall have to guarantee the rights of the local communities, indigenous ethnic minorities and the public to participate in the decision-making on the sustainable management and conservation of biodiversity.

**Article 32:** The Government shall establish a fund called “protected areas fund” which is organized, managed and given responsibility by a protected area committee with Minister of Environment and Minister of Economy and Finance as co-chairmen. The establishment and functioning of the committee shall be determined by a Sub-decree.

Article 33: Funding support for rehabilitation, improvement of protected areas and biodiversity shall come from:

1. National budget
2. Protected area entrance and other service fees
3. Environmental endowment insurance
4. Donations
5. Assistance from national and international organizations and friendly countries
6. Assistance from international environment funds

Article 34: Budget and funds from sources as stated in article 33 of this law may be used to support the following activities within the protected areas:

- The protection and conservation of biological resources and ecosystems;
- Rehabilitation and enhancement of biodiversity and ecosystems;
- Technical and scientific research study on the biological diversity and ecosystem;
- Maintenance and extension of eco-tourism services
- Training, human resource development and capacity building of the Nature Conservation and Protection Administration staff for effective protection and conservation of biodiversity and ecosystems;
- Programmes supporting the establishment of community protected area;
- Dissemination and education on protected area; and
- Construction, rehabilitation and maintenance of infrastructure.

## **Law on Environmental Protection and Natural Resource Management, 1996**

**Article 1:** This law has an objective:

- To protect and upgrade the environment quality and public health by means of prevention, reduction and control of pollution.
- To assess the environmental impacts of all proposed projects prior to the issuance of decision by the Royal Government;
- To ensure the rational and sustainable preservation, development, management and the use of the natural resources of the Kingdom of Cambodia.
- To encourage and provide possibility to public to participate in the protection of environment and the management of the natural resources.
- To suppress any acts which may affect to environment.

**Article 8:** Natural resources of the Kingdom of Cambodia which primarily consist of land, water, airspace, air, geology, ecological systems, minerals, energy, petroleum and gas, rocks and sand, gems and stones, forests and forest sub-products, wildlife, fish and aquatic resources, shall be preserved, developed and managed to use in a rational and sustainable manner. Natural resource protected zones consists primarily of National Parks, wildlife sanctuaries, landscape protected areas, multiple use areas, shall be determined by Royal Decree.

**Article 19:** A special Treasury account, the Environment Endowment Fund, shall be crested, and administered by the Ministry of Environment for environmental protection and natural resource conservation in the Kingdom of Cambodia in accordance with the Finance Law. The Environment Endowment Fund, which comes from contributions from the Royal Government, grants from international organizations, donations from charitable individuals, donations from non-governmental organizations, and other lawful sums, shall be included in the National Budget in order to provide the above special account.

**Article 21:** Any person who refuses to allow access or obstructs the inspection officials from entering to examine or carry out an inspection inside the premise as provided for in the para.1 of the article 15 of this law, shall be subject to an administrative fine in cash from 500,000 (five hundred thousand) to 1,000,000 (one million) riels. In case of repeated offenses, shall be penalized a fine of 1,000,000 (one million) riels to 5,000,000 (five million) riels or shall be punished to imprisonment from 1 month to 3 months or to both punishments.

Any person who violate the article 20 of this law, shall be subject to administrative fine in cash of 1000,000 (one million) riels to 10,000,000 (ten million) riels. In case of repeated offenses, shall be penalized a fine from 21,00,000 (twenty one million) riels to 30,000,000

(thirty million) riels or shall be subject to punishment to imprisonment from 1 (one) month to 1 (one) year, or to both punishments.

## **Law on Mineral Resource Management and Exploitation, 2001**

**Article 1:** The purpose of this law is to determine the management and exploitation of mineral resources, the manipulation of mines and all activities relating to the mining operation in the Kingdom of Cambodia save for the mining operation of petroleum and gas which shall be under a separate law.

**Article 22:** Guidelines on the form, plan expansion and increase and content of all necessary documents and work program, financial guarantee for proper implementation shall be determined by a Prakas of the Minister.

**Article 23:** In each necessary case, the Minister shall appoint competent officials to monitor the implementation of this law. Appointed officials shall:

1. Be responsible to the Minister for methods of administration in accordance with the provisions of the law.
2. Prepare an annual report on regulatory activities of exploration and mining during the preceding year and submit it to the Minister.
3. Collate information and maintain records of operations of explorations, mining, treatments, marketing and exportation of mineral resources and products.
4. Follow up and monitor to ensure that all provisions of this law have been implemented.
5. Make inspection to ensure that all regulations relating to the health and safety of workers and of the general public have been properly applied.

6. Perform other duties as determined by the Minister.

The power and duties of the officials appointed to monitor, inspect and report on all activities relating to the exploration, mining, research and analysis related to the methods of administration under the authority of this law shall be prescribed in Sub-decree.

**Article 31:** According to the applicable laws, a special tax regime shall be established for application to the output and revenue gained from the 6 (six) categories of the mining licenses as provided in Article 11.

**Article 32:** The rate of royalty on the value of mineral resources, methods of royalty payment to the State, and incentives for competent officials as provided in Article 23 shall be determined by Inter-Ministerial Prakas. Taxes, duties, tax on shares, tax on personal share, provision, method of expenditure, tax payment procedure, accounting and financial principles and practices, definitions of losses, exemption and incentives of investment in mineral sector shall comply with laws in force.

**Article 33:** Any person who conducts the operation of the mineral resource exploration without a mineral resource license shall be liable to a fine ranging from 500,000 (Five Hundred Thousand) Riels to 1,000,000 (One Million) Riels. In case of recalcitrance, the penalty shall be from 1,000,000 (One Million) Riels to 2,000,000 (Two Million) Riels, or such person shall be punished by 1 (one) month to 1 (one) year imprisonment, or both punishments.

**Article 34:** Any person who conducts the exploration operation in violation of the second paragraph of Article 7 or of Article 8 of this law shall be liable to a fine ranging from 5,000,000 (Five Million) Riels to 10,000,000 (Ten Million) Riels, or punished by 6 (six) months to 2 (two) years imprisonment or both penalties.

**Article 35:** Any person who conducts mining operation without a mining license or in violation of Article 7 and Article 8 of this law shall be liable to a fine of an amount equal to 3 (three) times the assessed value for a period the output of mineral has been extracted based on the size of apparatuses, used production machinery and quantity of minerals within such area, and shall be punished with a fine ranging from 1,000,000 (One Million) Riels to 10,000,000 (Ten Million) Riels per diem starting from the date such person illegally committed to the date the activities of mining operation have been ceased, and by imprisonment ranging from 1 (one) year to 5 (five) year regardless of compensation for damages. And the apparatuses and production machinery shall be confiscated into the State's property.

#### **Land Law, 2001**

**Article 1:** This law has the objective to determine the regime of ownership for immovable properties in the Kingdom of Cambodia for the purpose of guaranteeing the rights of ownership and other The Khmer version is the official version of this document rights related to immovable property, according to the provisions of the 1993 Constitution of the Kingdom of Cambodia.

**Article 8:** Only natural persons or legal entities of Khmer nationality have the right to ownership of land in the Kingdom of Cambodia. Thus, the following persons or entities may be owners of land in Cambodia: Cambodian citizens, public territorial collectives, public institutions, Cambodian communities or associations, public enterprises, Cambodian civil or commercial enterprises and any Cambodian organization which is recognized by law as a legal entity. A foreigner who falsifies national identity to become an owner of land in Cambodia shall be punished as determined under article 251 of this law. Any property bought under these circumstances will be seized as State property without compensation from the State.

**Article 12:** The State is the owner of the properties in the territory of the Kingdom of Cambodia enumerated in Article 58 of the 1993 Constitution and of all properties that are escheat, or that are voluntarily given to the State by their owners, or that have not been the subject of due and proper private appropriation or that are not presently being privately occupied in accordance with the provisions of Chapter 4 of this law.



**Article 26:** Ownership of the immovable properties described in Article 25 is granted by the State to the indigenous communities as collective ownership. This collective ownership includes all of the rights and protections of ownership as are enjoyed by private owners. But the community does not have the right to dispose of any collective ownership that is State public property to any person or group. The exercise of all ownership rights related to immovable properties of a community and the specific conditions of the land use shall be subject to the responsibility of the traditional authorities and mechanisms for decision-making of the community, according to their customs, and shall be subject to the laws of general enforcement related to immovable properties, such as the law on environmental protection. The provisions of this article are not an obstacle to the undertaking of works done by the State that are required by the national interests or a national emergency need.

#### **Law on Public Finance 2008**

**Article 2:** The Law has its objective to manage public financial system by complying with the principles of integrity, authority, unity, associability, universality, consistency, accountability, transparency, stability, comprehensiveness, and achievements. The public financial management covers national public finance including relations and interactions between national and international public finance, national and international private finance ensuring compliance with budget principles, financial accountability, linkages between budget and policies, and accountability for achievements.

**Article 13:** Permanent resources of the state include current and capital revenues.

■ Current revenue is divided into 2 groups and 3 categories, namely:

- Group 1: Real revenue
  - ◆ Category 1: Fiscal revenue
  - ◆ Category 2: Non-fiscal revenue
- Group 2: Revenue by order
- Category 3: Revenue by order

■ Capital revenue is divided into 2 groups and 3 categories, namely:

- Group 1: Real revenue
  - ◆ Category 1: Revenue from own sources
  - ◆ Category 2: Revenue from external sources
- Group 2: Revenue by order
  - ◆ Category 3: Revenue by order

Each type of revenue is classified by chapter, account, sub-account, and eventually can be in more detail by the Prakas issued by the Minister of Economy and Finance.

**Article 16:** Taxes, excises, and other fiscal revenues shall be determined by laws, collected and supervised by the Minister of Economy and Finance. The rates of taxes, excises, basis for taxation, tax exemption, and disputes related to the identification, collection, and control of taxes shall be determined in the framework and formalities stated in the law pertaining to the types of each tax and excise. No regulations of any kind, no international conventions shall induce changes leading to losses of revenue. The above case can only happen unless implementation of the formalities of similar laws and orders after having the approval from the Minister of Economy and Finance. The collection of non-fiscal revenue shall be under the supervision of the Minister of Economy and Finance.

**Article 68:** Under the limits defined by the Law on Finance and under the authority of the Prime Minister, only the Minister of Economy and Finance has the rights to prepare debt repayment schedules for either debt liable to and from others. The preparation of debt schedule shall be defined by the Law on Finance.

#### **Law on Tourism, 2009**

**Article 2:** The purposes of this Law are as follows:

- Govern the development of the tourism sector in a sustainable manner effectively and qualitatively and to reduce poverty;
- Protect and conserve the natural resources, culture and customs, which serve as the foundation of the tourism sector;

- Ensure and promote the quality of tourism services in the Kingdom of Cambodia through the introduction of a quality assurance system by providing security, safety, and comfort and by increasing tourists' satisfaction;
- Minimise negative impacts and maximise positive impacts of the tourism sector;
- Seek markets and enhance publicity with participation of both the public and private sectors;
- Develop human resources in the tourism sector; and
- Contribute to the development of international friendship and understanding through the tourism industry.

**Article 21:** Funds for the development and the management of the tourism sector shall be financed by:

- Allocation of the annual budget of the Ministry of Tourism;
- Cooperative finances from development partners;
- Contributions from charitable persons, customers, charity organizations, and the Tourism Industry Associations;
- Donations from the Cambodian Tourism Marketing and Promotion Board;
- Contributions from tourism operators; and
- Other financing sources or legitimate incomes.

The management and utilisation of funds for the development of tourism sector shall be determined by an interministerial regulation of the Ministry of Tourism and the Ministry of Economy and Finance.

**Article 36:** An application for the grant of or renewal of a tourism license shall be made by the operators of the tourism business and shall be in the form and accompanied by the supporting documents and other information as required by a Prakas (regulation) of Minister of the Ministry of Tourism. An application of tourism licence must thereof attach the license fees which were determined by an inter-ministerial Prakas (regulation) of Minister of the Ministry of Tourism and Minister of the Ministry of Economy and Finance.

**Article 55:** The types of complaints and disputes for which are in the jurisdiction of the Ministry of Tourism to undertake the role of ombudsman include complaints from and disputes between tourism businesses operators, their agents, employees, contractors, government officials concerned with tourism, tourists and other stakeholders. The Tourism Ombudsman Committee shall consider justly undertaking the dispute including the complaint. If the ombudsman is unable to resolve the dispute, any party may then refer the matter to the courts for resolution according to law. The expenditure and fee of the Tourism Ombudsman Committee shall be determined by a Prakas (regulation) of Minister of the Ministry of Tourism and Minister of the Ministry of Economy and Finance.

**Article 69:** Any tourist or leisure traveler who causes damages to the environment, cultural and natural heritages shall be guilty of an offence and subject to a legal liability in accordance with laws and regulations in effect.

Sub-Decree 19 on Social Land Concessions, 2003

Article 1: This sub decree has the objective to define the criteria, procedures and mechanism for the granting of social land concessions for residential use and/or family farming.

**Article 16:** The maximum size of social concession land granted for residential purposes is one thousand two hundred (1200) square meters, except in rural areas where land is available, the size of social concession may be increased up to three thousand six hundred (3600) square meters. In appropriate cases, particularly in urban areas, social land concessions for residential purposes may granted in the form of co-ownership.

**Article 17:** The maximum size of social concession land granted for family farming purposes is two (2) hectares, but for some areas the size of social concession land may be increased up to five (5) hectares based on the characteristics and potentiality of the land or the type of crop, and labor.

**Sub-Decree 79 on Community Forestry Management, 2003**

**Article 1:** This Sub-Decree aims at determining rules for the establishment, management and use of community forests throughout the Kingdom of Cambodia.

Article 4: Power in leading and managing a CF Community is gained through the election of community members.

**Article 10:** Roles and duties of CF Community members are as follows:

- Follow the instruction of the Forestry Administration and MAFF;
- Participate in developing and implementing Community Forestry Regulations, Community Forest Agreement and Community Forest Management Plan in compliance with Prakas of MAFF;
- Participate in forest resources management in compliance with Community Forestry Regulation, Community Forest Management Plan and other legislation related to forestry sector;
- Participate in sharing benefits from the community forest;
- Participate in monitoring the use of community forest resources by secondary users;
- Participate in conserving, protecting and planting the forest to ensure the sustainability of forest resources and environment.

**Article 11:** The User Rights of CF Community members include:

- Customary User Rights prescribed in Article 40 of the Forestry Law.
- The rights to barter, process, transport and sell NTFPs as described in Article 40(B) in point 5 of the Forestry Law.
- CF Community may continue to practice traditional swidden agriculture during specific periods of time as determined in the Community Forest Management Plan, as authorized in Article 37 of the Forestry Law.
- The right to appeal decisions which impact CF Community rights.
- The rights granted under a Community Forest Agreement within a specific area that shall ensure the sustainable use of forest resources.

**Article 31:** The Forestry Administration may use the national forest development budget to support the development process of Community Forestry consistent with provision prescribed in Article 62, 63 and 64 of the Forestry Law. Community Forestry Management Committee can seek direct financial sources to support the development process of Community Forestry from charity people, national and international organizations.

#### **Sub-Decree 146 on Economic Land Concessions, 2005**

**Article 3:** Economic land concessions may be granted to achieve the following purposes:

- To develop intensive agricultural and industrial-agricultural activities that requires a high rate and appropriate level of initial capital investment.
- To achieve a specific set of agreements from the investor for developing the land in an appropriate and perpetual manner based on a land use plan for the area.
- To increase employment in rural areas within a framework of intensification and diversification of livelihood opportunities and within a framework of natural resource management based on appropriate ecological system,
- To encourage small as well as large investments in economic land concession projects, and
- To generate state revenues or the provincial or communal revenues through economic land use fees, taxation and related services charges.

**Article 6:** There are two permissible ways to initiate economic land concession projects:

1. Solicited proposal, where a Contracting Authority proposes a project for solicitation of proposals from investors.
2. Unsolicited proposal, where an investor proposes a project proposal to the state for approval
  - o Contracting Authority refers to the authorities who have the legal power and exercise such power as granted by the Prime Minister to enter into Economic Land Concession Contracts on behalf of the Royal Government of Cambodia and who carries out duties in accordance with provisions of this sub-decree.







## Annex 5: Opinion on the Legal and Policy Considerations of the financing Mechanisms for Protected Areas

Prepared for the Cambodia Forestry Administration, MAFF  
By Dr. Sok Siphana  
April 13, 2015

### BACKGROUND:

process of Community Forestry consistent with provision prescribed in Article 62, 63 and 64 of the Forestry Law. Since the 1990s the Forestry Administration (FA) of the Ministry of Agriculture, Forestry and Fisheries (MAFF), and the Ministry of Environment (MoE) have received the mandate from the Royal Government of Cambodia (RGC) to secure protected forests in ecologically important landscapes and to establish new protected areas. One of their challenges is the ability to secure long-term financial arrangement necessary to pay for the full costs incurred in sustaining and safeguarding existing on-the-ground achievements, as well as ensuring the long-term integrity of standing forests.

Through a consultative process with key stakeholders the FA has reviewed the following finance mechanisms, which were thought to be technically achievable:

1. Taxes, fees, and fines levied on the legal trade in forest and non-timber forest (NTFPs) products;
2. Donor funding;
3. Payment for Environmental Services (PES), including payment for tourism, water and watershed services, and carbon and climate revenues;
4. Debt relief ('Debt-for-nature swaps');
5. Loans, bonds, and sustainable investment funds, including impact investments, allocated to forestry development and conservation;
6. Biodiversity and Forestry offsets and compensation agreements with industry;
7. Public-private partnerships, in which revenues from products and services sold are directed to a trust or other fund established for the explicit purpose of forest conservation, with primary attention given to possible income generated from Economic Land Concessions;
8. Establishing a forest conservation trust fund, with revenues generated from multiple sources;

This analysis provides a legal assessment and some policy considerations that may affect the viability, or the practical reality of adoption, of each financial mechanism.

### 1. GOVERNMENT BUDGET SUPPORT – PUBLIC TAXES, FEES, FINES, AND OTHER DIRECT ALLOCATIONS FROM THE STATE

Government revenue allocations should be the primary source of financial support for protected areas. Government budget allocations are done on an annual basis as part of the Financial Law, where fees collected directly from public taxes, fines, and other payments from concessions and businesses using Cambodia's natural resources are typically re-apportioned back through a centralized revenue system to support costs for management of protection forests.

The legal framework legislating and regulating the revenues collection through a centralized revenue system for natural resources conservation from environmental taxes, fines, fees, and/ or royalties are well in place:

1. The Law on Forestry provides for the collection of both Wildlife Conservation Fee and Wildlife Royalty,<sup>1</sup> the exact amount of which are regulated in a Joint- Prakas of MAFF and Ministry of Economy and Finance (MEF).
2. Payment of royalties and premiums are directed to the national budget through the FA:
  - a) for harvesting forest products and by-products for commercial purposes within the Permanent Forest Reserve.<sup>2</sup>
  - b) for any transfer of the rights under any permit to harvest forest products and by-products to a third party.<sup>3</sup>
3. Payment for forestry offenses collected by the FA are as well for the account of the national budget (payment to be used for the restoration or repair of the forest ecosystem to its original condition).<sup>4</sup>

New sources of public finance may be accessible through additional public taxes, fees or fines derived from natural resources exploitation or use. Taxes, fees and fines related to natural resource use can also be charged in sectors

such as petroleum, mining, hydropower and other energy production, fisheries, land, water supply, and tourism:

1. In the mining sector, payment of royalty on the value of mineral resources, methods of royalty payment to the State, i.e. through its centralized revenue system, is provided for in the Law on Mineral Resource Management and Exploitation.<sup>5</sup>
2. Fees, taxes and fines for environmental licensing and environmental impact assessment (EIA) are also collected for the account of the State.

#### LEGAL OPINION:

*We are of the opinion that the public finance is the best and viable long term and sustainable option, provided the FA in full collaboration with the MoE and other stakeholders can undertake the following sequential actions:*

1. *Undertake a fair assessment of the market value for various sources of public taxes, fees or fines and other services and products derived from or use of natural resources exploitation. The gist of such an assessment is to ensure:*
  - a) *proper market valuation of various revenue sources and benchmark it with global or regional standard or practices:*
    - (i) *licensing or permit system;*
    - (ii) *royalties from logging in the intact evergreen areas;*
    - (iii) *royalties and legal fees from logging in community forest areas and concessions areas, including from non-timber forest products;*
    - (iv) *sales of services in forestry;*
    - (v) *property tax on private plantations;*
    - (vi) *sale of carbon credits based on reduced impact logging and REDD+;*
    - (vii) *entrance fees to protected forest areas; and,*
    - (viii) *sale of hunting rights.*
  - b) *adequate cost recovery to finance conservation, restoration and redevelopment of damages ecosystem, i.e. sufficient funding available to cover transportation, community meeting, or facility maintenance costs of forest guards, bearing in mind that their basic salaries are covered under the regular national budget;*
2. *Renegotiation with the MEF for a fair re-allocation of these revenue collection with the FA and the key local forestry communities. Such a renegotiation can take into account:*
  - a) *the rewards or incentives for performance of forest guards or rangers, in addition to their low basic salaries;*
  - b) *adequate financing resources for the local communities: (i) to protect and preserve their respective natural resources, and (ii) to start an endowment system for generating regular revenues to support their sustained livelihood development from these natural resources.*
  - c) *the ability of the FA to devise a transparent well governed and managed fund designated for forest conservation uses.*
3. *In light of the trends of economic growth of the country, where public finance revenues are on the increase, competition with other line ministries for redistribution of these revenues will be fierce, although the prospect is more than viable provided the FA can provide the negotiation leadership backed by evidence based solutions.*
4. *However, taking into account the nascent nature or recent development of other natural resource sectors, (i.e. oil and gas, mining, hydropower and other energy production, fisheries, land, water supply, and tourism) and their thirst for financial resources to develop their own sectors, it is very unlikely that the FA and the MoE can argue for the MEF to tap these sectoral resources for protected areas conservation.*

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<sup>1</sup> Law on Forestry, Article 51.

<sup>2</sup> *ibid*, Article 52.

<sup>3</sup> *ibid*, Article 56.

<sup>4</sup> *ibid*, Article 94.

<sup>5</sup> Law on Mineral Resource Management and Exploitation, Article 32.

## 2. FUNDING FROM DEVELOPMENT PARTNERS

Funding for protected forests in Cambodia through Development Partners (DPs) has been and will continue to be an important source, in particular from major bilateral and multilateral agencies. The role of smaller and more ad hoc players, which include NGOs, private charitable foundations, and private companies, and some individual donations, can't be ignored.

Procedurally and agenda wise, DPs' interests and procedures can vary significantly and generally are well beyond the control of the RGC or the FA. DPs' respective approaches to providing funding are idiosyncratic, and although they are well appreciated by the government and the local communities, they are not in the long run sustainable. With the pressure to move their gradually limited financial resources to other post crisis countries, Cambodia's importance will fade away from their radar screen in the near or medium term.

### LEGAL OPINION:

*We are of the opinion that DPs' financial support for protected areas still remain a strong and viable long term sustainable financing option, provided the FA, the MoE and other stakeholders, can position it as a complementary source to the public finance. The FA should position their needs to reflect the new reality or concerns of the world, i.e. dramatic effects of climate change, sustainable forest management, etc. The following sequential actions could be envisaged to achieve that objective and to retain DPs' interests:*

- 1. Redirect the major DPs to support to long term financing mechanisms, such as conservation trust funds and public-private-community partnerships.*
- 2. Refocusing DPs' efforts to strengthen the capacity of FA and MoE and their stakeholders to capitalize on opportunities to generate sustainable revenues from payments for ecosystem services.*
- 3. The FA can initiate a mapping process of the long-term development needs of many protected forests so as to provide a coherent framework for interventions by smaller and ad hoc players such as NGOs, private charitable foundations, and private companies, and some individual donations. As the human resources of the FA is finite, it is crucial that they are not diverted or distracted by small and unsolicited petty projects.*

*The harsh reality of dealing with DPs is that they are here but each one of them has its own set of rigid rules of engagement, which leaves very space for the FA to maneuver. As such from the legal arrangement standpoint, there is not much the FA can design or take leadership. The FA needs to bear this legal and institutional reality for as long as the DPs are operating in Cambodia: DPs have their own standard agreements, Memorandums, and programme and project templates for the FA to populate, with minor efforts.*

## 3. PAYMENTS FOR ECOSYSTEM SERVICES (PES)

The RGC has stated unambiguously in many of its key national development strategic plans the possibility of PES as an option to generate revenues for financing sustainably conservation activities. Ecosystem services are the many diverse benefits that people derive from nature and those providing ecosystem services should be compensated by those receiving ecosystem services.

Legally speaking, the process to operationalize the PES process should not be in principle difficult nor complex. The complexity lies upstream with the FA and the MoE to define, design and negotiate projects with clear mechanisms to measure, value, incentivize, and create payment schemes for one or more of the recognized services provided by ecosystems. Such process generally involves: (i) establishing a set of parameters for measuring the stocks and flows of a specific ecosystem service, such as drinking or irrigation water; (ii) quantifying the economic (or social) value of the service in collaboration with affected stakeholders. In voluntary markets the value can be arbitrarily set by the affected stakeholders working in collaboration with an independent third party to facilitate transactions; and (iii) determining compensation by public or private interests who benefit from the protection of the ecosystem service to landowners for the use of best management practices to ensure protection.

### LEGAL OPINION:

*We are of the opinion that while the design of the legal mechanism to implement the PES is not difficult, the real challenges will be in its subsequent enforcement. The issue of minor versus substantial breaches, the latter of which could lead to defaults and therefore of non payments are issues of significant importance; a potential post transaction*



*loss of publically recognized right over an environmental service that provides a flow of benefits to the demanding party could nullify the agreed compensation scheme; the need to secure independent third party monitoring intermediaries is another issue related to the right of payment or non payment.*

*A strong feeling of comfort on the viability of the PES mechanism is the success of existing pilot PES programs in Cambodia as a complement to improving conservation strategies in protected areas. To date, there are three pilot PES projects in two Protected Areas in the Northern Plains landscape -- the Kulen Promtep Wildlife Sanctuary managed by MoE and the Preah Vihear Protected Forest managed by MAFF -- that have been supported by Wildlife Conservation Society (WCS) and a pilot Incentives for Ecosystems Services scheme at a hydroelectricity facility in the Cardamom Mountain Landscape by Flora and Fauna International (FFI).*

#### 4. DEBT RELIEF (“DEBT FOR NATURE” SWAPS)

Debt Relief generally is not well practices in the case of Cambodia. The Cambodian authorities have in vain negotiated with the Russian and U.S. authorities at least on an annual basis to find solution to its decades old debts. A few years ago, there is an exceptional case with the IMF, which provided 100 percent relief of outstanding debt incurred before January 1, 2005. These additional resources freed up from the outstanding debt were made available to help Cambodia make progress toward its Millennium Development Goals (CMDGs). Reallocation of these resources were thus for general poverty reduction related initiatives.

##### LEGAL OPINION:

*We are of the opinion the Law on Public Finance System provides the mandate for the MEF to oversee the debt repayment process<sup>6</sup> and as such the overarching parameters MEF generally follow are directly related to major development agenda of the country, i.e. MDGs and in the next several year the Sustainable Development Goals (SDGs) in the UN Post 2015 Development Agenda. Other key priorities are related to initiatives to generate growth in the lead up to the imminent integration to the ASEAN Economic Community, the focus on remaining competitive and generating new jobs under the recently enacted “Industrial Development Policy (IDP)”. All these elements, combined with the little or no experiences by MEF in existing debt relief, let alone the sophisticated debt-for-nature-swap, lead to a pessimistic conclusion that this financing option will not be considered by the RGC, at least in the near term.*

#### 5. LOANS, BONDS, AND SUSTAINABLE INVESTMENT FUNDS

A bond is a written promise to pay back a specified amount of money, with interest earned on the principal, at a specific date or dates in the future. It is very similar to a loan, with the exception that a bond can be traded in the marketplace to generate revenue. Government backed bonds are typically developed and issued through a relatively simple process whereby (i) the government determines how much money is needed to fund specific projects for a particular period of time, and (ii) the Government then legally authorizes the creation of a bond to raise money from investors to fund the projects.

The real challenges in developing a bond market in Cambodia are the missing soft infrastructure to administer the mechanism. In other words, Cambodia still lack key participants such as (i) bond rating companies (Moody’s Investor Services, Standard and Poor’s Ratings Service, or Fitch Ratings) that provide a wide range of credit services, including establishing a rating that indicates how the financial market views the risk associated with the bonds, and (ii) debt service administrators to facilitate the payment schedule on the bond (principal and interest), where payments typically are made every 6 months for 20 or 25 years.

Institutional coordination wise, the tasks related to bond market infrastructure are still unclear with the MEF delegating its roles and responsibilities to the Securities and Exchange Commission of Cambodia (SECC) and the Cambodia Securities Exchange (CSE) on the one hand, and the National Bank of Cambodia (NBC) on the other. This explains in simple term why at the moment, there is no government bond market in Cambodia.

##### LEGAL OPINION:

*Despite the RGC’s policy commitment as highlighted in the Financial Sector Development Strategy 2011-2020, that it*

<sup>6</sup> Law on Public Finance System, Article 68.

*will consider issuing government bonds starting in 2017, we are of the opinion that such a timeframe is unrealistic. And assuming the optimistic scenario, if the RGC will decide to move so to launch its first bond market, the priorities will be more to raise crucially needed financing to develop and transform Sihanoukville into a Special Administrative Region (SAR) whereas the entire region will be developed into a sort of multi-purpose model Special Economic Zone. This SAR is highlighted as one of the four key practical measures to promote the implementation of the IDP to be achieved by the end of 2018.*

## 6. BIODIVERSITY OFFSETS AND COMPENSATION

Biodiversity offsets are measurable actions taken to respond to significant residual impacts from project development on biodiversity and ecosystems. Offsets are intended to correct adverse impacts that have not been avoided, minimized, or mitigated through other project actions. Offsets are generally developed in accordance with the protocol outlined in the mitigation hierarchy.

Although no standards have been adopted at the international level for biodiversity offsets, more than 30 countries have laws requiring biodiversity offsets or compensation, which could include the followings:

- Strengthening ineffective protected areas by investing in capacity building for management staff and additional needed management activities;
- Establishing new protected areas or no-go zones in collaboration with communities and government in order to conserve particular species and increase available habitat;
- Establish movement and dispersal corridors for wildlife;
- Establish or strengthen buffer zones adjacent to protected areas;
- Work with communities to develop alternative livelihoods that can reduce or eliminate unsustainable activities and hunting pressures.

The RGC has thus far piloted various carbon and biodiversity offset projects across different sectors in Cambodia. These pilot projects could be grouped into two categories:

1. Forest specific offset projects, as in Reducing Emissions from Deforestation and Degradation (REDD+) pilot projects in Oddar Meanchey province launched in May 2008, followed by the second REDD+ pilot project in the Seima Protection Forest, Mondulkiri province launched in 2009.
2. Non-forest offset projects, taking the form of Clean Development Mechanisms.

In addition to these two pilot projects, there are several other REDD+ projects that have been initiated under the different institutional jurisdictions of the RGC.

Additional to REDD+ pilot projects, there is the Clean Development Mechanism (CDM), under which Cambodia is eligible for hosting emission reduction projects. In general, CDM projects have two key goals: (i) to assist developing countries who host CDM projects to achieve their sustainable development objectives, and (ii) to help developed countries partially meet their GHG reduction commitments by allowing them to take credits from emission reducing projects undertaken in developing countries. As of October 2014, there are 10 CDM projects listed under the Cambodia Climate Change Office of the MoE.

### LEGAL OPINION:

*There are initial precedence in carbon and biodiversity offset projects and other projects under the Clean Development Mechanism are well tested. As such the relevant government institutions are very familiar with the legal and procedural aspects to ensure permanent funding to deliver conservation outcomes over the long term.*

*There are currently 14 projects at various phases, which could benefit from the experiences of the Oddar Meanchey Community Forest REDD+ Pilot Project and Seima Protection Forest REDD+ Pilot Project. However, current funding governance and its disbursement mechanism needs to be revisited to ensure timely redistribution of these funds to the local Forest communities.*

## 7. PUBLIC-PRIVATE PARTNERSHIPS TO GENERATE REVENUES FROM FOREST ENTERPRISE PRODUCTS AND SERVICES

Public-private partnerships (PPP) is another mechanism, which can be developed by the government to establish a business with an explicit mission to generate revenues for the conservation of forests, biodiversity, and ecosystems, and income for communities and regions. Like any business, there is some risk in developing public-private enterprises

since considerable initial capital outlay in the form of grants and affordable loans will be required to finance a business start up. Moreover, all funding proposals to select and fund collaboration ventures would require other upfront costs to undertake feasibility studies, business plans and possibly seed grants to support start-up enterprise concepts. There is

also the cost of capital even though loans at low interest rates (0-11% per annum) can be provided by NGO, private foundation, or investor partners. Generally PPPs are very attractive for the power and road infrastructure and there is clearly a large critical mass of consumers who are consuming or buying round the clock energy in their households or their businesses, or travelling on a toll road, thus providing a good steady flow of proceeds to repay the loans. There is virtually no PPP investment in social sectors such as health and education and cross-sectoral sectors such as environment and conservation.

#### LEGAL OPINION:

*While the possibilities of public-private partnerships exist to create forest-based enterprises that can generate revenues and become commercially viable, there is a clear need for an initial endowment or subsidies support from development partners to kick start upstream preparatory works such as feasibility studies, business plans, marketing plans as well as on-going technical support to ensure optimization of business operations, i.e. accounting, sourcing, legal compliance.*

*Moreover, the existing legal framework governing infrastructure concessions, i.e. the 2007 Law on Concessions, is neither appropriate nor applicable for PPP investments in environment and conservation sectors. As such, the viability of this option is slim.*

## 8. CONSERVATION TRUST FUNDS

Conservation Trust Funds (CTFs) are private, legally independent grant-making institutions that provide sustainable financing for biodiversity conservation and natural resource management. Conservation trust funds are often established to anchor other sustainable financing mechanisms by providing a transparent and efficient way to manage funding for conservation purposes. Conservation trust funds can manage endowment funds (e.g., only investment income is spent), sinking funds (e.g., both capital and investment income is disbursed) or revolving funds (e.g., pass-through sources of revenue are disbursed), or a combination of any of these. Most funds combine 2 or 3 of the fund types as a way to diversify their sources of funding and take advantage of emerging opportunities.

Despite the efforts of the MEF in the past several years to draft a Trust Law with the assistance of the Asian Development Bank, Cambodia has yet to have an overarching law or any sub-decree that guides or regulates the establishment of funds generally. The more general trust principles are laid in the 2008 Law on Public Finance System, which explains the creation on an ad hoc basis of existing funds in Cambodia through special subject-matter laws:

1. The 1996 Law on Environmental Protection and Natural Resource Management provides the foundation for the establishment of an 'Environment Endowment Fund', a special Treasury account to be created and administered by the MoE 'for environmental protection and natural resource conservation' in Cambodia.
2. The 2002 Law on Forestry enables the establishment of a National Forestry Development Fund, which is to be administered and managed under the responsibility of the National Forestry Development Committee.
3. The 2008 Law on Protected Areas also contains provisions enabling the establishment of a Protected Areas Fund, which is to be organized, managed and 'given responsibility' by a protected area committee, with the Ministers of MoE and MEF as co-chairs.

On the Development Partners side, there are several examples of conservation trust funds that have been established in Cambodia, the biggest trust fund relevant for conservation activities operational thus far is the Cambodia Climate Change Alliance Trust Fund. This fund is a multi-donor trust fund established by donors and the RGC to apply a more coherent approach to climate change support for Cambodia. It is administered by UNDP, and implemented by a National Climate Change Committee within the MoE. A dedicated Trust Fund Secretariat appointed by government manages day-to-day operations, and reports to a Programme Support Board. A Trust Fund Administrator manages the Trust Fund, provides capacity development and financial assurance, and reports to the government and donors. Other trust funds that have been set up include the Marine Conservation Trust Fund and the Tropical Forest Conservation and Venture Trust Fund.

#### LEGAL OPINION:

*The Conservation Trust Fund option is also another well tested concept, which have tremendous flexibility in terms modes of operations (Endowment Fund, Sinking Fund, Revolving Fund) and can absorb large contribution from development partners. In term of operational efficiency, scale and long term impact, but foremost appreciation and buy-in from the Government, this option should be pursued as much as possible.*

#### CONCLUSION:

*In light of the above review, we are of the opinion that, out of eight options, five options are quite viable though different in procedural approaches: Public finances generated from taxes, fees, and fines levied on the legal trade in forest and non-timber forest products; traditional donor funding; Payment for Environmental Services (PES), Biodiversity and Forestry offsets and compensation schemes; and conservation trust fund.*

The remaining three options are considered as still premature for application in Cambodia; Debt relief ('Debt-for-nature swaps'); bonds, and other sustainable investment funds, including impact investments, allocated to forestry development and conservation; and public-private partnerships. In the medium term, all three options could be considered by the Government as additional options to secure long-term financial arrangement to meet the Government's objectives of sustaining and safeguarding the environment and its forests.



## Annex 6: Benefits, Costs, and Follow Up Information Needs For Potential Forest Finance Options in Cambodia

A preliminary analysis of potential benefits and costs of the forest finance options proposed for The Royal Government of Cambodia's (RGC) protected forests and protected areas is outlined here, along with a summary of follow on recommendations. The purpose of a benefit-cost analysis (BCA) is to compare the potential social and economic benefits associated with each of the finance options policy or investment decisions with the anticipated financial or related costs required to implement the policy or investment. The feasibility of a policy or investment significantly increases if it can be shown that the sum of the benefits exceeds the costs. The accuracy and usability of the results from a BCA is greatly improved if benefits or costs can be measured and monetized. However, in practice, many BCAs are greatly limited by a lack of available information and methods for estimating and monetizing the consequences of the proposed investment or policy. Unfortunately, this is very much the case with the benefit-cost analysis of the options for financing the management and expansion of protected forests and protected areas in Cambodia. Very few data exist to quantify anticipated costs that will be associated with each proposed financial option. As a result, the current analysis is considered to be very preliminary and speculative, and has been designed to serve as a framework from which a more detailed BCA can be developed once the Cambodia Forest Authority (FA) determines the most feasible finance options.

The basic steps carried out to do this preliminary assessment included the following:

1. Define the Project Alternative considered in the analysis. For each alternative the following factors have been estimated:
  - a. Basic cumulative user costs
  - b. Selected economic factors that could affect user costs
  - c. Assumed user benefits.
  - d. Possible risks associated with the finance option
2. Recommendations for the preparation of a more thorough BCA once the preferred financial options for financing Cambodia's protected forests have been determined.

To simplify the benefit-cost-risk analysis, the Project Alternatives described in the Cambodia Forest Finance Assessment have been combined into three categories:

- Direct user fees and service charges, allocation of additional government revenues, voluntary levies and surcharges, along with cross-sectoral and sub-national fiscal transfers;
- Payments for ecosystem services, biodiversity offsets and leases, concessions and joint ventures;
- Debt relief, loans and bonds, and sustainable investment funds.

A summary of conclusions drawn from the preliminary analysis is included, along with recommendations for additional information that can produce a deeper assessment of potential benefits and costs associated with each option.

***Alternative 1 - Direct user fees and service charges, allocation of additional government revenues, voluntary levies and surcharges, along with cross-sectoral and sub-national fiscal transfers.***

Direct user fees and service charges can be derived from taxes, fees and fines related to natural resource uses that are charged in sectors such as petroleum, mining, hydropower and other energy production, fisheries, forestry, land, water supply, and tourism. A percentage of the fees, taxes and fines for environmental licensing and environmental impact assessment (EIA) can also be assigned to a government or independently managed fund designated for forest conservation uses. Fee structures should include "willingness to pay" surveys that are further linked with market surveys to determine a fair market rate for each service offered to private businesses for the use of Cambodia's natural resources. Government budget allocations are typically done on an annual basis, and protected forests typically are funding through a centralized revenue system. Thus revenues from taxes, fees or other charges within a specific protected forest or PA are not retained at the local level, but are delivered to a central agency or the national Treasury. Protected forests and PAs typically receive only a small portion of these collected fees through one annual allocation. Also, the separation of budget allocations from earnings reduces any incentives for protected forest managers to generate more revenue, and creates little responsibility or accountability for them to do so.

**Economic Factors Affecting User Benefits and Costs:** FA has been collecting royalties from timber products, fines and premiums for many years. For example, as stated in the National Forest Programme, the royalties for timber



collected between 1999 and 2009 was calculated at U.S. 56.5 million dollars (USD). In 2008, the royalties to FA from 36,785 m3 of round logs equalled approximately USD 2.5 million, while fines and premiums collected by FA was estimated at approximately USD 600,000. The revenues from forests have been derived from the sale of logs and timber as a sub-unit of the total value of the forests. Thus additional revenues that could add to the total income from fines, fees, and royalties could include:

- The value of NTFPs such as fuel-wood, charcoal, medical plants, furniture processing, and wildlife;
- Employment resulting from timber harvesting in the primary sector, in particular the considerable downstream processing;
- Significant increases in value-added through the chain of wood processing;
- Payments for environmental services; and,
- Revenues from eco-tourism.

FA will focus from the present time through 2029 on the RGC's ability to contribute to the financing of forest conservation by pushing for the reallocation of funds from the national budget, the contribution from royalties and fines collected, as well as any export duties on timber and non-timber forest products.

In the next 10-20 years, some of the approaches that FA will pursue to raise revenues for sustainable forest management will include:

- Collecting royalties from logging in the intact evergreen areas;
- Royalties and legal fees from logging in community forest areas and concessions areas, including from non-timber forest products;
- Sales of services in forestry;
- Property tax on private plantations;
- Sale of carbon credits based on reduced impact logging and redd+;
- Entrance fees to protected forest areas; and,
- Sale of hunting rights.

According to the National Forest Programme, it is expected that royalties from logging in the intact evergreen areas (1.25 million hectares, which is 50 percent of the production forest) for the next 20 years will bring in an estimated USD 728 million. The other 50 percent of production forest will bring in the royalties estimated at USD 455 million. Finally, it is expected that 75% of the 2 million hectares of community forest areas will consist of degraded deciduous forests, and 25% of logged semi-evergreen forests. Therefore, royalties from logging can be expected to commence once all of CF is operational with proper management plans in place. It is expected that within 20 years, royalties from logging in CF areas would total approximately USD 476 million, or an approximate gross yield of more than USD 20 million per year. Overall, the RGC expects that within the next 20 years, FA could be collecting about USD 1.6 billion from royalties from logging in the intact forest areas, production forest areas, and CF areas, or a cumulative gross income of USD 80 million per year.

The government has considerable experience collecting fees and charges for the use of public lands and resources. This expansion of this revenue source needs only to explore new possible funding sources from resources from which fees are not been collected, or where fee structures do not currently reflect fair market values. Government also has considerable experience with public-private partnerships.

From this coarse assessment it is evident that significant financial benefits can be accrued from this Alternative. Management costs are estimated at net present value of approximately USD 35 million per year, which suggests that financial benefits could significantly exceed anticipated costs. However, additional social and ecological costs could be incurred in the process of forest harvests unless stringent forest management practices are incorporated into harvest leases, including minimal impact felling practices, selective logging, and low impact skidding and transport policies, and on-going monitoring of the impacts of harvesting practices on biodiversity and ecosystem dynamics. Although actual cost estimates are not available to calculate the finances required to include these sustainable harvesting measures, it is obvious that including them in forest harvest leases will add significant costs to each lease agreement, and the costs will reduce net financial gain.

**Conclusions:** Despite the anticipated additional costs of sustainable forest harvest measures, the direct user fee options appear to have high potential, with greater benefits than costs. Each method is explicitly enabled by law, and is already under operation in Cambodia. The main opportunity lies in expanding the scope and scale of these arrangements, extending the range of sites in which they are applied, and rationalising fee levels in line with market prices and to consumer willingness to pay.

The voluntary levies and charge financial options are identified as having medium potential. All of these instruments tap into existing revenue streams, and do not require the development of new markets, products or services. Although earmarking and retention is not wholly consistent with the government's current stated policies, on-going public financial management reforms and decentralisation processes open the door to the possibility of these kinds of arrangements becoming more viable in the near future.

#### ***Alternative 2 – Payments for ecosystem services, biodiversity offsets and leases, concessions and public-private partnership (PPP) joint ventures***

It may be useful for government and NGOs to identify suitable private sector partners for possible collaborative ventures involving sustainable forest-based enterprises. Government can then solicit funding and collaboration requests from potential partners through a formal proposal submission process, and then select and share the development costs for collaboration ventures. Each venture would then require the following:

- Feasibility studies, business plans and possibly seed grants to support start-up enterprise concepts.
- Capital loans at low interest rates (0-11% per annum) provided by NGO, private foundation, or investor partners allocated to the most promising enterprises for working capital and/or scaling up (either vertically or horizontally). Actual terms can be customized to the situation of each enterprise.
- Sustainable sourcing plans to ensure consistent high quality in product delivery.
- Marketing plans to identify and build demand, and ensure best price options for products and services.
- On-going technical support provided through NGO or investor partners to optimize business operations (accounting, sourcing, legal compliance), and ensure the adoption of sustainable business management and best practices, including monitoring support.

The feasibility of these public-private enterprises to generate significant revenues as part of a comprehensive forest finance strategy will require a comprehensive initial market survey to determine opportunities for proposed new ventures to gain entry into existing marketplaces or to stimulate new ones.

Examples of possible offset activities that may be included as a form of compensation could include:

- Strengthen ineffective protected areas by investing in capacity building for management staff and additional needed management activities;
- Establish new protected areas or no-go zones in collaboration with communities and government in order to conserve particular species and increase available habitat;
- Establish movement and dispersal corridors for wildlife;
- Establish or strengthen buffer zones adjacent to protected areas;
- Work with communities to develop alternative livelihoods that can reduce or eliminate unsustainable activities and hunting pressures.

Ideally, offsets should be designed and implemented as part of a national planning effort taking into account the cumulative impacts of development in the country, and contributing to and nested in existing national conservation strategies, including recovery plans for IUCN recognized threatened and endangered species and protected area strategies. Government-endorsed national offset and compensation strategies may also be most effective if supported and overseen by effective and transparent institutions, such as conservation trust funds, to ensure permanent funding to deliver conservation outcomes over the long term.

A key factor in the development of any compensation or offset strategy is the assurance that investments in conservation or offset activities do not simply provide a mechanism to allow inappropriate developments to move forward. This is particularly true in areas of rare, unique, or highly threatened species and ecosystems. Thus all compensation and offset strategies must ensure that appropriate monitoring, planning, and management mechanisms are in place and secure over the long term to guarantee that the compensation objectives are achieved.

**Economic Factors Affecting User Benefits and Costs:** To date, most PPP projects in Cambodia have been procured on a noncompetitive and unsolicited basis. Some of these projects are quite large, particularly in the power sector, and the International Monetary Fund (IMF) noted in a recent report on Cambodia's debt sustainability that the hydro-power projects presently being developed by the government as PPPs have the potential to create significant liabilities for the government. The IMF does recommend that the government implement a phased PPP development program that builds on project successes to create political support and investor confidence in order to broaden the scope and sector coverage for PPP projects.

While the number of PPPs is impressive, the overall level of private investment outside power in sectors such as water and transport is low. Data from the World Bank's Private Participation in Infrastructure (PPI) Projects Database show

that during the period 1990–2008 there was a total of 22 PPP projects in Cambodia. Slightly over half of these projects were in the energy sector, representing about 55% of total investments by number and investment value. While private investment in infrastructure has been increasing in recent years, the number of projects and the amounts mobilized continue to be small. It appears that in the road sector there has been little investment as the concessions were allocated for existing roads. There is virtually no PPP investment in social sectors such as health and education and cross-sectoral sectors such as environment and conservation.

Unfortunately, the potential financial revenues from PES and offset strategies remain highly speculative at this time, and predictions are too varied to provide a reliable estimate of potential financial benefits. However, based on experiences in similar environments, the costs of implementation for these projects are expected to be less than potential income, rendering the option as representing a financial gain for the RGC. The social and ecological benefits are also expected to be very significant, including retention of important hydrologic and ecological functions, reduced losses of biodiversity, and increased availability of non-timber forest resources.

**Conclusions:** These financial options are identified as having high-medium potential, with benefits most likely exceeding costs, and low risk associated with each venture. All have been recognized by the MOE for development, and work is already underway on identifying legal and operational modalities for their implementation. All respond to opportunities and interests associated with the recent opening up of the economy to outside investments, especially ongoing developments in the tourism, infrastructure and extractive industries sectors.

### **Alternative 3 – Debt relief, loans and bonds, and sustainable investment funds**

Between 2008 and 2012, Cambodia received about USD 5.4 billion in development cooperation financing from development partners. Approximately USD 3.55 billion of this total was dispersed as grants, and US\$1.85 billion as loans. Based on projections in the NSDP 2014–2018, Cambodia is likely get USD 1.2 billion (USD 600 million as grant, and USD 600 million as loan) in the next 2–3 years. Development cooperation has accounted for approximately 10 percent of the country's GDP in the recent years. It has also probably contributed to the recent high economic growth rate, increased GDP per capita from USD 760 in 2008 to USD 1,036 in 2013, and reduced the poverty rate from around 47.8% in 2007 to 19.8% in 2011. Besides demonstrating the international community's support for the Royal Government's development program and reform effort, this increased level of external resources has also supported the creation of a positive enabling environment, which has been associated with expanded public and private investment, primarily in the infrastructure, garment, agriculture, construction, and tourism sectors.

Development partners provide an important source of funding for protected forests and PAs in Cambodia, with bilateral and multilateral agencies providing the largest source, along with some donations from individuals, NGOs, private charitable foundations, and private companies. However, donor interests and procedures can vary significantly. This means that fundraising approaches need to be tailored for each partner, and funding priorities can change quickly and dramatically. Most development partners provide support through two to five year projects, and this is often insufficient to fulfill the medium or long-term objectives and needs of many protected forests and PAs. However, some funders are increasingly willing to consider funding requests to catalyze long-term sustainable financing mechanisms and to capitalize financing mechanisms, such as conservation trust funds.

Government backed bonds are typically developed and issued through a relatively simple process:

- The government determines how much money is needed to fund specific projects for a particular period of time.
- The Government then legally authorizes the creation of a bond to raise money from investors to fund the projects.
- Underwriters from national or international private sector companies buy the bonds and resell them to large and small investors. The underwriters make money on their investment when they re-sell the bonds. The investors in the bonds are most commonly pension funds, mutual funds, and other large investors. In some cases small investors will find bonds appealing, typically if they feel that the value will increase rapidly over a short time period.

Other key participants in the bond market include:

- Bond rating companies that provide a wide range of credit services, including establishing a rating that indicates how the financial market views the risk associated with the bonds.
- Debt Service administrators facilitate the payment schedule on the bond (principal and interest), with payments typically are made every 6 months for 20 or 25 years.



As the issuer of a bond, the government may also decide to declare a debt limit that restricts the amount of bonds the state can issue. Investors in the bond must have transparency, and some form of verification as to how the projects to be carried out fulfill the mandates of the bond. It is also essential that monitoring data demonstrate the use of proceeds from bond sales.

Enterprise funds and other types of sustainable investment funds differ from bonds in that they channel capital – debt or equity – into environmentally-sustainable businesses. For-profit investments can be structured to provide financial returns for a private conservation trust or similar financial structure by tapping into the substantial financial resources of the private sector. In this way, these funds can provide both a direct financial benefit and promote adherence to environmental standards for use of resources.

**Economic Factors Affecting User Benefits and Costs:** At the moment, there is no government bond market in Cambodia. In the Financial Sector Development Strategy 2011-2020, it is stated that the Royal Government will consider issuing government bonds starting in 2017. Although the system no longer operates, Cambodia previously issued government bonds with maturities longer than 10 years, and it implemented a book-entry system. The Book-Entry System (BES) is a computerized registry for government bonds developed by the IMF that can process participant's details, auction outcomes, and secondary market transactions. BES also handles information on interest and redemption. In order to register, commercial banks need to create three accounts: securities account, customer account (one account for all customers of each bank that are trading on behalf of customers), and collateral account. A security account can be created for any large non-bank corporation that intends to participate in bond auctions on a regular basis, and a collateral account is also created when required. All submissions for bond auctions must be made on a standard physical form issued by the NBC. After all bid forms are validated, NBC enters all bid submissions in BES and selects accepted bids. The settlement date is 3 days (72 hours) after auction.

There are three patterns of bond sales and purchases in Cambodia: (i) between a bank and its customers, (ii) between two banks, and (iii) repo and reverse repo. For sales and purchases between a bank and its customers, the bank's securities account and bank's customer account are involved. The bank's customer account is one separate account whose current balance can be monitored by NBC. NBC occasionally requires a complete disclosure of a customer's particulars and the amount of securities held, the total of which must reconcile with the BES book-entry account held at NBC. All interest payments on bonds issued at face value with an annual rate of interest and a fixed maturity date are shown in BES. Interest can be paid to bond holders either once or twice per year depending on the terms of issuance. On the due date, NBC processes a fund transfer arising from interest payment by debiting a treasury account. NBC types and sends a letter to subscribers and also sends copies of an interest payment due report for to NBC's Internal Audit Department.

Unfortunately, all of the potential income options in this Alternative are minimally developed in Cambodia at this time, and the legal hurdles required to more fully develop each option could be substantial. The potential revenues that can be derived from each option (debt relief, loans and bonds, and outside investment) are also highly speculative and uncertain given Cambodia's fragile credit rating. Thus it is uncertain if the benefits from the investment in the legal and policy infrastructure required outweigh the probable costs.

**Conclusions:** These financial options are identified as have low to medium potential, with costs possibly exceeding benefits in most cases, and moderate to high risk associated with some of these finance strategies. The policy framework to pursue these strategies is only partially in place, and some legal and operational hurdles may exist to constraint their use. Much more information will be required on anticipated changes in market conditions, credit ratings, and expected commercial ventures associated with Cambodian public forests before greater confidence can be generated for these possible ventures.

### **Recommendations for Future B/C Analysis of the Cambodia Forest Finance Options**

A more detailed review of each of the potential financial instruments included in this assessment report suggests that each may hold potential for contributing to the financial resources needed to manage Cambodia's protection forests and secure their ecological integrity for future generations. However, the emphasis should probably be placed on Alternatives 1 and 2, in that priority, with Alternative 3 assigned for more in depth legal and policy cost analysis. Ultimately, it is expected that the Forestry Administration will work together with other appropriate government agencies to design and implement a comprehensive strategy that includes several of the financial instruments described here. However, the development of this strategy will still require the following information:

- A more thorough assessment of the legal framework available or required to support the use of each instrument to support the procurement of funds to support government actions to manage public protection forests;

- An up to date market analysis to determine the approximate amount of income that may be accessible to the FA through use of each financial instrument, including a review of Cambodia's competitive advantage for each instrument to be pursued;
- A prioritization of the most promising financial instruments based on the results from the market analysis;
- A determination of the most effective management framework that can best support the administration and disbursement of any funds raised, including the feasibility of public-private partnerships in the form of trust funds or para-statal organizations;
- A business plan to create a 3-5 year roadmap for financial success. The business plan will define the immediate and long-term objectives of the Forestry Administration and the specific financial needs the plan will fulfill; a summary of the market analysis; an action plan to guide the implementation and fulfillment of the finance strategy; and an operations and management plan to describe the administration and use of funds.

It is also recommended that protected forest financing measures and instruments mechanisms to ensure that the following three factors are achieved:

- A. Increase the size and diversity of financing sources and funding portfolios;
- B. Enhance revenue retention and promote direct reinvestment in conservation; and
- C. Streamline protected forest financial planning, costing and allocation procedures.

Five particularly pervasive financial constraints to effective protected forest management are evident, and each of these factors will ultimately influence the ratio of benefits to costs required to fulfil each alternative:

1. There is insufficient funding at the present time to cover core site-level costs and coordinate national-level forest management activities;
2. Funding is distributed unevenly across the protected forest network;
3. Staff costs dominate public budgets;
4. Protected forests and PAs rely on a very narrow funding base and limited range of financial sources;
5. Protected forests and PAs operate according to a short-term financial planning horizon.

Again, this analysis remains very preliminary due to the very limited data available to assess potential benefits, costs, and risks associated with each forest finance opportunity. Future work will seek to increase the available data to allow a more robust and thorough CBA in order to facilitate greater confidence in the selection and development of specific finance options.

## References

Cited in Annex 1 of full report









United Nations

FAO/CP/2015/L.9/Rev.1



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## Conference of the Parties

Twenty-first session

Paris, 30 November to 11 December 2015

Agenda item 4(b)

**Durban Platform for Enhanced Action (decision 1/CP.17)**

**Adoption of a protocol, another legal instrument, or an  
agreed outcome with legal force under the Convention  
applicable to all Parties**

## ADOPTION OF THE PARIS AGREEMENT

### Proposal by the President

#### Draft decision -/CP.21

*The Conference of the Parties,*

*Recalling* decision 1/CP.17 on the establishment of the Ad Hoc Working Group on the Durban Platform for Enhanced Action,

*Also recalling* Articles 2, 3 and 4 of the Convention,

*Further recalling relevant* decisions of the Conference of the Parties, including decisions 1/CP.16, 2/CP.18, 1/CP.19 and 1/CP.20,

*Welcoming* the adoption of United Nations General Assembly resolution A/RES/70/1, “Transforming our world: the 2030 Agenda for Sustainable Development”, in particular its goal 13, and the adoption of the Addis Ababa Action Agenda of the third International Conference on Financing for Development and the adoption of the Sendai Framework for Disaster Risk Reduction,

*Recognizing* that climate change represents an urgent and potentially irreversible threat to human societies and the planet and thus requires the widest possible cooperation by all countries, and their participation in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse gas emissions,

*Also recognizing* that deep reductions in global emissions will be required in order to achieve the ultimate objective of the Convention and emphasizing the need for urgency in addressing climate change,

*Acknowledging* that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples,

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local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,

*Also acknowledging* the specific needs and concerns of developing country Parties arising from the impact of the implementation of response measures and, in this regard, decisions 5/CP.7, 1/CP.10, 1/CP.16 and 8/CP.17,

*Emphasizing* with serious concern the urgent need to address the significant gap between the aggregate effect of Parties' mitigation pledges in terms of global annual emissions of greenhouse gases by 2020 and aggregate emission pathways consistent with holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 °C above pre-industrial levels,

*Also emphasizing* that enhanced pre-2020 ambition can lay a solid foundation for enhanced post-2020 ambition,

*Stressing* the urgency of accelerating the implementation of the Convention and its Kyoto Protocol in order to enhance pre-2020 ambition,

*Recognizing* the urgent need to enhance the provision of finance, technology and capacity-building support by developed country Parties, in a predictable manner, to enable enhanced pre-2020 action by developing country Parties,

*Emphasizing* the enduring benefits of ambitious and early action, including major reductions in the cost of future mitigation and adaptation efforts,

*Acknowledging* the need to promote universal access to sustainable energy in developing countries, in particular in Africa, through the enhanced deployment of renewable energy,

*Agreeing* to uphold and promote regional and international cooperation in order to mobilize stronger and more ambitious climate action by all Parties and non-Party stakeholders, including civil society, the private sector, financial institutions, cities and other subnational authorities, local communities and indigenous peoples,

## **I. ADOPTION**

1. *Decides* to adopt the Paris Agreement under the United Nations Framework Convention on Climate Change (hereinafter referred to as "the Agreement") as contained in the annex;
2. *Requests* the Secretary-General of the United Nations to be the Depositary of the Agreement and to have it open for signature in New York, United States of America, from 22 April 2016 to 21 April 2017;
3. *Invites* the Secretary-General to convene a high-level signature ceremony for the Agreement on 22 April 2016;
4. *Also invites* all Parties to the Convention to sign the Agreement at the ceremony to be convened by the Secretary-General, or at their earliest opportunity, and to deposit their respective instruments of ratification, acceptance, approval or accession, where appropriate, as soon as possible;
5. *Recognizes* that Parties to the Convention may provisionally apply all of the provisions of the Agreement pending its entry into force, and *requests* Parties to provide notification of any such provisional application to the Depositary;



6. *Notes* that the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, in accordance with decision 1/CP.17, paragraph 4, has been completed;
7. *Decides* to establish the Ad Hoc Working Group on the Paris Agreement under the same arrangement, *mutatis mutandis*, as those concerning the election of officers to the Bureau of the Ad Hoc Working Group on the Durban Platform for Enhanced Action;<sup>1</sup>
8. *Also decides* that the Ad Hoc Working Group on the Paris Agreement shall prepare for the entry into force of the Agreement and for the convening of the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
9. *Further decides* to oversee the implementation of the work programme resulting from the relevant requests contained in this decision;
10. *Requests* the Ad Hoc Working Group on the Paris Agreement to report regularly to the Conference of the Parties on the progress of its work and to complete its work by the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
11. *Decides* that the Ad Hoc Working Group on the Paris Agreement shall hold its sessions starting in 2016 in conjunction with the sessions of the Convention subsidiary bodies and shall prepare draft decisions to be recommended through the Conference of the Parties to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement for consideration and adoption at its first session;

## II. INTENDED NATIONALLY DETERMINED CONTRIBUTIONS

12. *Welcomes* the intended nationally determined contributions that have been communicated by Parties in accordance with decision 1/CP.19, paragraph 2(b);
13. *Reiterates* its invitation to all Parties that have not yet done so to communicate to the secretariat their intended nationally determined contributions towards achieving the objective of the Convention as set out in its Article 2 as soon as possible and well in advance of the twenty-second session of the Conference of the Parties (November 2016) and in a manner that facilitates the clarity, transparency and understanding of the intended nationally determined contributions;
14. *Requests* the secretariat to continue to publish the intended nationally determined contributions communicated by Parties on the UNFCCC website;
15. *Reiterates* its call to developed country Parties, the operating entities of the Financial Mechanism and any other organizations in a position to do so to provide support for the preparation and communication of the intended nationally determined contributions of Parties that may need such support;
16. *Takes note* of the synthesis report on the aggregate effect of intended nationally determined contributions communicated by Parties by 1 October 2015, contained in document FCCC/CP/2015/7;
17. *Notes* with concern that the estimated aggregate greenhouse gas emission levels in 2025 and 2030 resulting from the intended nationally determined contributions do not fall within least-cost 2 °C scenarios but rather lead to a projected level of 55 gigatonnes in 2030, and *also notes* that much greater emission reduction efforts will be required than those associated with the intended nationally determined contributions in order to hold the increase in the global average temperature to below 2 °C above pre-industrial levels by

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<sup>1</sup> Endorsed by decision 2/CP.18, paragraph 2.

reducing emissions to 40 gigatonnes or to 1.5 °C above pre-industrial levels by reducing to a level to be identified in the special report referred to in paragraph 21 below;

18. *Also notes, in this context*, the adaptation needs expressed by many developing country Parties in their intended nationally determined contributions;

19. *Requests* the secretariat to update the synthesis report referred to in paragraph 16 above so as to cover all the information in the intended nationally determined contributions communicated by Parties pursuant to decision 1/CP.20 by 4 April 2016 and to make it available by 2 May 2016;

20. *Decides* to convene a facilitative dialogue among Parties in 2018 to take stock of the collective efforts of Parties in relation to progress towards the long-term goal referred to in Article 4, paragraph 1, of the Agreement and to inform the preparation of nationally determined contributions pursuant to Article 4, paragraph 8, of the Agreement;

21. *Invites* the Intergovernmental Panel on Climate Change to provide a special report in 2018 on the impacts of global warming of 1.5 °C above pre-industrial levels and related global greenhouse gas emission pathways;

### **III. DECISIONS TO GIVE EFFECT TO THE AGREEMENT**

#### *MITIGATION*

22. *Invites* Parties to communicate their first nationally determined contribution no later than when the Party submits its respective instrument of ratification, accession, or approval of the Paris Agreement. If a Party has communicated an intended nationally determined contribution prior to joining the Agreement, that Party shall be considered to have satisfied this provision unless that Party decides otherwise;

23. *Urges* those Parties whose intended nationally determined contribution pursuant to decision 1/CP.20 contains a time frame up to 2025 to communicate by 2020 a new nationally determined contribution and to do so every five years thereafter pursuant to Article 4, paragraph 9, of the Agreement;

24. *Requests* those Parties whose intended nationally determined contribution pursuant to decision 1/CP.20 contains a time frame up to 2030 to communicate or update by 2020 these contributions and to do so every five years thereafter pursuant to Article 4, paragraph 9, of the Agreement;

25. *Decides* that Parties shall submit to the secretariat their nationally determined contributions referred to in Article 4 of the Agreement at least 9 to 12 months in advance of the relevant meeting of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement with a view to facilitating the clarity, transparency and understanding of these contributions, including through a synthesis report prepared by the secretariat;

26. *Requests* the Ad Hoc Working Group on the Paris Agreement to develop further guidance on features of the nationally determined contributions for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

27. *Agrees* that the information to be provided by Parties communicating their nationally determined contributions, in order to facilitate clarity, transparency and understanding, may include, as appropriate, inter alia, quantifiable information on the reference point (including, as appropriate, a base year), time frames and/or periods for implementation, scope and coverage, planning processes, assumptions and methodological approaches including those for estimating and accounting for anthropogenic greenhouse gas

emissions and, as appropriate, removals, and how the Party considers that its nationally determined contribution is fair and ambitious, in the light of its national circumstances, and how it contributes towards achieving the objective of the Convention as set out in its Article 2;

28. *Requests* the Ad Hoc Working Group on the Paris Agreement to develop further guidance for the information to be provided by Parties in order to facilitate clarity, transparency and understanding of nationally determined contributions for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

29. *Also requests* the Subsidiary Body for Implementation to develop modalities and procedures for the operation and use of the public registry referred to in Article 4, paragraph 12, of the Agreement, for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

30. *Further requests* the secretariat to make available an interim public registry in the first half of 2016 for the recording of nationally determined contributions submitted in accordance with Article 4 of the Agreement, pending the adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement of the modalities and procedures referred to in paragraph 29 above;

31. *Requests* the Ad Hoc Working Group on the Paris Agreement to elaborate, drawing from approaches established under the Convention and its related legal instruments as appropriate, guidance for accounting for Parties' nationally determined contributions, as referred to in Article 4, paragraph 13, of the Agreement, for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session, which ensures that:

(a) Parties account for anthropogenic emissions and removals in accordance with methodologies and common metrics assessed by the Intergovernmental Panel on Climate Change and adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;

(b) Parties ensure methodological consistency, including on baselines, between the communication and implementation of nationally determined contributions;

(c) Parties strive to include all categories of anthropogenic emissions or removals in their nationally determined contributions and, once a source, sink or activity is included, continue to include it;

(d) Parties shall provide an explanation of why any categories of anthropogenic emissions or removals are excluded;

32. *Decides* that Parties shall apply the guidance mentioned in paragraph 31 above to the second and subsequent nationally determined contributions and that Parties may elect to apply such guidance to their first nationally determined contribution;

33. *Also decides* that the Forum on the Impact of the Implementation of response measures, under the subsidiary bodies, shall continue, and shall serve the Agreement;

34. *Further decides* that the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation shall recommend, for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session, the modalities, work programme and functions of the Forum on the Impact of the Implementation of response measures to address the effects of the implementation of response measures under the Agreement by enhancing cooperation amongst Parties on understanding the impacts of mitigation actions under the Agreement

and the exchange of information, experiences, and best practices amongst Parties to raise their resilience to these impacts;\*

36. *Invites* Parties to communicate, by 2020, to the secretariat mid-century, long-term low greenhouse gas emission development strategies in accordance with Article 4, paragraph 19, of the Agreement, and *requests* the secretariat to publish on the UNFCCC website Parties' low greenhouse gas emission development strategies as communicated;

37. *Requests* the Subsidiary Body for Scientific and Technological Advice to develop and recommend the guidance referred to under Article 6, paragraph 2, of the Agreement for adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session, including guidance to ensure that double counting is avoided on the basis of a corresponding adjustment by Parties for both anthropogenic emissions by sources and removals by sinks covered by their nationally determined contributions under the Agreement;

38. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement adopt rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Agreement on the basis of:

- (a) Voluntary participation authorized by each Party involved;
- (b) Real, measurable, and long-term benefits related to the mitigation of climate change;
- (c) Specific scopes of activities;
- (d) Reductions in emissions that are additional to any that would otherwise occur;
- (e) Verification and certification of emission reductions resulting from mitigation activities by designated operational entities;
- (f) Experience gained with and lessons learned from existing mechanisms and approaches adopted under the Convention and its related legal instruments;

39. *Requests* the Subsidiary Body for Scientific and Technological Advice to develop and recommend rules, modalities and procedures for the mechanism referred to in paragraph 38 above for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

40. *Also requests* the Subsidiary Body for Scientific and Technological Advice to undertake a work programme under the framework for non-market approaches to sustainable development referred to in Article 6, paragraph 8, of the Agreement, with the objective of considering how to enhance linkages and create synergy between, inter alia, mitigation, adaptation, finance, technology transfer and capacity-building, and how to facilitate the implementation and coordination of non-market approaches;

41. *Further requests* the Subsidiary Body for Scientific and Technological Advice to recommend a draft decision on the work programme referred to in paragraph 40 above, taking into account the views of Parties, for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

#### ADAPTATION

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\* Paragraph 35 has been deleted, and subsequent paragraph numbering and cross references to other paragraphs within the document will be amended at a later stage.

42. *Requests* the Adaptation Committee and the Least Developed Countries Expert Group to jointly develop modalities to recognize the adaptation efforts of developing country Parties, as referred to in Article 7, paragraph 3, of the Agreement, and make recommendations for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

43. *Also requests* the Adaptation Committee, taking into account its mandate and its second three-year workplan, and with a view to preparing recommendations for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session:

(a) To review, in 2017, the work of adaptation-related institutional arrangements under the Convention, with a view to identifying ways to enhance the coherence of their work, as appropriate, in order to respond adequately to the needs of Parties;

(b) To consider methodologies for assessing adaptation needs with a view to assisting developing countries, without placing an undue burden on them;

44. *Invites* all relevant United Nations agencies and international, regional and national financial institutions to provide information to Parties through the secretariat on how their development assistance and climate finance programmes incorporate climate-proofing and climate resilience measures;

45. *Requests* Parties to strengthen regional cooperation on adaptation where appropriate and, where necessary, establish regional centres and networks, in particular in developing countries, taking into account decision 1/CP.16, paragraph 13;

46. *Also requests* the Adaptation Committee and the Least Developed Countries Expert Group, in collaboration with the Standing Committee on Finance and other relevant institutions, to develop methodologies, and make recommendations for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session on:

(a) Taking the necessary steps to facilitate the mobilization of support for adaptation in developing countries in the context of the limit to global average temperature increase referred to in Article 2 of the Agreement;

(b) Reviewing the adequacy and effectiveness of adaptation and support referred to in Article 7, paragraph 14(c), of the Agreement;

47. *Further requests* the Green Climate Fund to expedite support for the least developed countries and other developing country Parties for the formulation of national adaptation plans, consistent with decisions 1/CP.16 and 5/CP.17, and for the subsequent implementation of policies, projects and programmes identified by them;

#### LOSS AND DAMAGE

48. *Decides* on the continuation of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, following the review in 2016;

49. *Requests* the Executive Committee of the Warsaw International Mechanism to establish a clearinghouse for risk transfer that serves as a repository for information on insurance and risk transfer, in order to facilitate the efforts of Parties to develop and implement comprehensive risk management strategies;

50. *Also requests* the Executive Committee of the Warsaw International Mechanism to establish, according to its procedures and mandate, a task force to complement, draw upon the work of and involve, as appropriate, existing bodies and expert groups under the Convention including the Adaptation Committee and the Least Developed Countries Expert Group, as well as relevant organizations and expert bodies outside the Convention, to

develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change;

51. *Further requests* the Executive Committee of the Warsaw International Mechanism to initiate its work, at its next meeting, to operationalize the provisions referred to in paragraphs 49 and 50 above, and to report on progress thereon in its annual report;

52. *Agrees* that Article 8 of the Agreement does not involve or provide a basis for any liability or compensation;

#### FINANCE

53. *Decides* that, in the implementation of the Agreement, financial resources provided to developing countries should enhance the implementation of their policies, strategies, regulations and action plans and their climate change actions with respect to both mitigation and adaptation to contribute to the achievement of the purpose of the Agreement as defined in Article 2;

54. *Also decides* that, in accordance with Article 9, paragraph 3, of the Agreement, developed countries intend to continue their existing collective mobilization goal through 2025 in the context of meaningful mitigation actions and transparency on implementation; prior to 2025 the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall set a new collective quantified goal from a floor of USD 100 billion per year, taking into account the needs and priorities of developing countries;

55. *Recognizes* the importance of adequate and predictable financial resources, including for results-based payments, as appropriate, for the implementation of policy approaches and positive incentives for reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks; as well as alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests; while reaffirming the importance of non-carbon benefits associated with such approaches; encouraging the coordination of support from, inter alia, public and private, bilateral and multilateral sources, such as the Green Climate Fund, and alternative sources in accordance with relevant decisions by the Conference of the Parties;

56. *Decides* to initiate, at its twenty-second session, a process to identify the information to be provided by Parties, in accordance with Article 9, paragraph 5, of the Agreement with the view to providing a recommendation for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

57. *Also decides* to ensure that the provision of information in accordance with Article 9, paragraph 7 of the Agreement shall be undertaken in accordance with modalities, procedures and guidelines referred to in paragraph 96 below;

58. *Requests* Subsidiary Body for Scientific and Technological Advice to develop modalities for the accounting of financial resources provided and mobilized through public interventions in accordance with Article 9, paragraph 7, of the Agreement for consideration by the Conference of the Parties at its twenty-fourth session (November 2018), with the view to making a recommendation for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

59. *Decides* that the Green Climate Fund and the Global Environment Facility, the entities entrusted with the operation of the Financial Mechanism of the Convention, as well as the Least Developed Countries Fund and the Special Climate Change Fund, administered by the Global Environment Facility, shall serve the Agreement;

60. *Recognizes* that the Adaptation Fund may serve the Agreement, subject to relevant decisions by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
61. *Invites* the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to consider the issue referred to in paragraph 60 above and make a recommendation to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;
62. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall provide guidance to the entities entrusted with the operation of the Financial Mechanism of the Convention on the policies, programme priorities and eligibility criteria related to the Agreement for transmission by the Conference of the Parties;
63. *Decides* that the guidance to the entities entrusted with the operations of the Financial Mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before adoption of the Agreement, shall apply *mutatis mutandis*;
64. *Also decides* that the Standing Committee on Finance shall serve the Agreement in line with its functions and responsibilities established under the Conference of the Parties;
65. *Urges* the institutions serving the Agreement to enhance the coordination and delivery of resources to support country-driven strategies through simplified and efficient application and approval procedures, and through continued readiness support to developing country Parties, including the least developed countries and small island developing States, as appropriate;

#### TECHNOLOGY DEVELOPMENT AND TRANSFER

66. *Takes note of* the interim report of the Technology Executive Committee on guidance on enhanced implementation of the results of technology needs assessments as referred to in document FCCC/SB/2015/INF.3;
67. *Decides* to strengthen the Technology Mechanism and requests the Technology Executive Committee and the Climate Technology Centre and Network, in supporting the implementation of the Agreement, to undertake further work relating to, *inter alia*:
- (a) Technology research, development and demonstration;
  - (b) The development and enhancement of endogenous capacities and technologies;
68. *Requests* the Subsidiary Body for Scientific and Technological Advice to initiate, at its forty-fourth session (May 2016), the elaboration of the technology framework established under Article 10, paragraph 4, of the Agreement and to report on its findings to the Conference of the Parties, with a view to the Conference of the Parties making a recommendation on the framework to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement for consideration and adoption at its first session, taking into consideration that the framework should facilitate, *inter alia*:
- (a) The undertaking and updating of technology needs assessments, as well as the *enhanced* implementation of their results, particularly technology action plans and project ideas, through the preparation of bankable projects;
  - (b) The provision of enhanced financial and technical support for the implementation of the results of the technology needs assessments;

- (c) The assessment of technologies that are ready for transfer;
  - (d) The enhancement of enabling environments for and the addressing of barriers to the development and transfer of socially and environmentally sound technologies;
69. *Decides* that the Technology Executive Committee and the Climate Technology Centre and Network shall report to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, through the subsidiary bodies, on their activities to support the implementation of the Agreement;
70. *Also decides* to undertake a periodic assessment of the effectiveness of and the adequacy of the support provided to the Technology Mechanism in supporting the implementation of the Agreement on matters relating to technology development and transfer;
71. *Requests* the Subsidiary Body for Implementation to initiate, at its forty-fourth session, the elaboration of the scope of and modalities for the periodic assessment referred to in paragraph 70 above, taking into account the review of the Climate Technology Centre and Network as referred to in decision 2/CP.17, annex VII, paragraph 20 and the modalities for the global stocktake referred to in Article 14 of the Agreement, for consideration and adoption by the Conference of the Parties at its twenty-fifth session (November 2019);

#### CAPACITY-BUILDING

72. *Decides* to establish the Paris Committee on Capacity-building whose aim will be to address gaps and needs, both current and emerging, in implementing capacity-building in developing country Parties and further enhancing capacity-building efforts, including with regard to coherence and coordination in capacity-building activities under the Convention;
73. *Also decides* that the Paris Committee on Capacity-building will manage and oversee the work plan mentioned in paragraph 74 below;
74. *Further decides* to launch a work plan for the period 2016–2020 with the following activities:
- (a) Assessing how to increase synergies through cooperation and avoid duplication among existing bodies established under the Convention that implement capacity-building activities, including through collaborating with institutions under and outside the Convention;
  - (b) Identifying capacity gaps and needs and recommending ways to address them;
  - (c) Promoting the development and dissemination of tools and methodologies for the implementation of capacity-building;
  - (d) Fostering global, regional, national and subnational cooperation;
  - (e) Identifying and collecting good practices, challenges, experiences, and lessons learned from work on capacity-building by bodies established under the Convention;
  - (f) Exploring how developing country Parties can take ownership of building and maintaining capacity over time and space;
  - (g) Identifying opportunities to strengthen capacity at the national, regional, and subnational level;
  - (h) Fostering dialogue, coordination, collaboration and coherence among relevant processes and initiatives under the Convention, including through exchanging



information on capacity-building activities and strategies of bodies established under the Convention;

(i) Providing guidance to the secretariat on the maintenance and further development of the web-based capacity-building portal;

75. *Decides* that the Paris Committee on Capacity-building will annually focus on an area or theme related to enhanced technical exchange on capacity-building, with the purpose of maintaining up-to-date knowledge on the successes and challenges in building capacity effectively in a particular area;

76. *Requests* the Subsidiary Body for Implementation to organize annual in-session meetings of the Paris Committee on Capacity-building;

77. *Also requests* the Subsidiary Body for Implementation to develop the terms of reference for the Paris Committee on Capacity-building, in the context of the third comprehensive review of the implementation of the capacity-building framework, also taking into account paragraphs 75, 76, 77 and 78 above and paragraphs 82 and 83 below, with a view to recommending a draft decision on this matter for consideration and adoption by the Conference of the Parties at its twenty-second session;

78. *Invites* Parties to submit their views on the membership of the Paris Committee on Capacity-building by 9 March 2016;<sup>2</sup>

79. *Requests* the secretariat to compile the submissions referred to in paragraph 78 above into a miscellaneous document for consideration by the Subsidiary Body for Implementation at its forty-fourth session;

80. *Decides* that the inputs to the Paris Committee on Capacity-building will include, inter alia, submissions, the outcome of the third comprehensive review of the implementation of the capacity-building framework, the secretariat's annual synthesis report on the implementation of the framework for capacity-building in developing countries, the secretariat's compilation and synthesis report on capacity-building work of bodies established under the Convention and its Kyoto Protocol, and reports on the Durban Forum and the capacity-building portal;

81. *Requests* the Paris Committee on Capacity-building to prepare annual technical progress reports on its work, and to make these reports available at the sessions of the Subsidiary Body for Implementation coinciding with the sessions of the Conference of the Parties;

82. *Also requests* the Conference of the Parties at its twenty-fifth session (November 2019), to review the progress, need for extension, the effectiveness and enhancement of the Paris Committee on Capacity-building and to take any action it considers appropriate, with a view to making recommendations to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session on enhancing institutional arrangements for capacity-building consistent with Article 11, paragraph 5, of the Agreement;

83. *Calls upon* all Parties to ensure that education, training and public awareness, as reflected in Article 6 of the Convention and in Article 12 of the Agreement are adequately considered in their contribution to capacity-building;

84. *Invites* the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session to explore ways of enhancing the implementation of

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<sup>2</sup> Parties should submit their views via the submissions portal at <<http://www.unfccc.int/5900>>.

training, public awareness, public participation and public access to information so as to enhance actions under the Agreement;

#### *TRANSPARENCY OF ACTION AND SUPPORT*

85. *Decides* to establish a Capacity-building Initiative for Transparency in order to build institutional and technical capacity, both pre- and post-2020. This initiative will support developing country Parties, upon request, in meeting enhanced transparency requirements as defined in Article 13 of the Agreement in a timely manner;

86. *Also decides* that the Capacity-building Initiative for Transparency will aim:

(a) To strengthen national institutions for transparency-related activities in line with national priorities;

(b) To provide relevant tools, training and assistance for meeting the provisions stipulated in Article 13 of the Agreement;

(c) To assist in the improvement of transparency over time;

87. *Urges and requests* the Global Environment Facility to make arrangements to support the establishment and operation of the Capacity-building Initiative for Transparency as a priority reporting-related need, including through voluntary contributions to support developing countries in the sixth replenishment of the Global Environment Facility and future replenishment cycles, to complement existing support under the Global Environment Facility;

88. *Decides* to assess the implementation of the Capacity-building Initiative for Transparency in the context of the seventh review of the financial mechanism;

89. *Requests* that the Global Environment Facility, as an operating entity of the financial mechanism include in its annual report to the Conference of the Parties the progress of work in the design, development and implementation of the Capacity-building Initiative for Transparency referred to in paragraph 85 above starting in 2016;

90. *Decides* that, in accordance with Article 13, paragraph 2, of the Agreement, developing countries shall be provided flexibility in the implementation of the provisions of that Article, including in the scope, frequency and level of detail of reporting, and in the scope of review, and that the scope of review could provide for in-country reviews to be optional, while such flexibilities shall be reflected in the development of modalities, procedures and guidelines referred to in paragraph 92 below;

91. *Also decides* that all Parties, except for the least developed country Parties and small island developing States, shall submit the information referred to in Article 13, paragraphs 7, 8, 9 and 10, as appropriate, no less frequently than on a biennial basis, and that the least developed country Parties and small island developing States may submit this information at their discretion;

92. *Requests* the Ad Hoc Working Group on the Paris Agreement to develop recommendations for modalities, procedures and guidelines in accordance with Article 13, paragraph 13, of the Agreement, and to define the year of their first and subsequent review and update, as appropriate, at regular intervals, for consideration by the Conference of the Parties, at its twenty-fourth session, with a view to forwarding them to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement for adoption at its first session;

93. *Also requests* the Ad Hoc Working Group on the Paris Agreement in developing the recommendations for the modalities, procedures and guidelines referred to in paragraph 92 above to take into account, inter alia:

- (a) The importance of facilitating improved reporting and transparency over time;
- (b) The need to provide flexibility to those developing country Parties that need it in the light of their capacities;
- (c) The need to promote transparency, accuracy, completeness, consistency, and comparability;
- (d) The need to avoid duplication as well as undue burden on Parties and the secretariat;
- (e) The need to ensure that Parties maintain at least the frequency and quality of reporting in accordance with their respective obligations under the Convention;
- (f) The need to ensure that double counting is avoided;
- (g) The need to ensure environmental integrity;

94. *Further requests* the Ad Hoc Working Group on the Paris Agreement, when developing the modalities, procedures and guidelines referred to in paragraph 92 above, to draw on the experiences from and take into account other on-going relevant processes under the Convention;

95. *Requests* the Ad Hoc Working Group on the Paris Agreement, when developing modalities, procedures and guidelines referred to in paragraph 92 above, to consider, inter alia:

- (a) The types of flexibility available to those developing countries that need it on the basis of their capacities;
- (b) The consistency between the methodology communicated in the nationally determined contribution and the methodology for reporting on progress made towards achieving individual Parties' respective nationally determined contribution;
- (c) That Parties report information on adaptation action and planning including, if appropriate, their national adaptation plans, with a view to collectively exchanging information and sharing lessons learned;
- (d) Support provided, enhancing delivery of support for both adaptation and mitigation through, inter alia, the common tabular formats for reporting support, and taking into account issues considered by the Subsidiary Body for Scientific and Technological Advice on methodologies for reporting on financial information, and enhancing the reporting by developing countries on support received, including the use, impact and estimated results thereof;
- (e) Information in the biennial assessments and other reports of the Standing Committee on Finance and other relevant bodies under the Convention;
- (f) Information on the social and economic impact of response measures;

96. *Also requests* the Ad Hoc Working Group on the Paris Agreement, when developing recommendations for modalities, procedures and guidelines referred to in paragraph 92 above, to enhance the transparency of support provided in accordance with Article 9 of the Agreement;

97. *Further requests* the Ad Hoc Working Group on the Paris Agreement to report on the progress of work on the modalities, procedures and guidelines referred to in paragraph

92 above to future sessions of the Conference of the Parties, and that this work be concluded no later than 2018;

98. *Decides* that the modalities, procedures and guidelines developed under paragraph 92 above, shall be applied upon the entry into force of the Paris Agreement;

99. *Also decides* that the modalities, procedures and guidelines of this transparency framework shall build upon and eventually supersede the measurement, reporting and verification system established by decision 1/CP.16, paragraphs 40 to 47 and 60 to 64, and decision 2/CP.17, paragraphs 12 to 62, immediately following the submission of the final biennial reports and biennial update reports;

#### *GLOBAL STOCKTAKE*

100. *Requests* the Ad Hoc Working Group on the Paris Agreement to identify the sources of input for the global stocktake referred to in Article 14 of the Agreement and to report to the Conference of the Parties, with a view to the Conference of the Parties making a recommendation to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement for consideration and adoption at its first session, including, but not limited to:

- (a) Information on:
  - (i) The overall effect of the nationally determined contributions communicated by Parties;
  - (ii) The state of adaptation efforts, support, experiences and priorities from the communications referred to in Article 7, paragraphs 10 and 11, of the Agreement, and reports referred to in Article 13, paragraph 7, of the Agreement;
  - (iii) The mobilization and provision of support;
- (b) The latest reports of the Intergovernmental Panel on Climate Change;
- (c) Reports of the subsidiary bodies;

101. *Also requests* the Subsidiary Body for Scientific and Technological Advice to provide advice on how the assessments of the Intergovernmental Panel on Climate Change can inform the global stocktake of the implementation of the Agreement pursuant to its Article 14 of the Agreement and to report on this matter to the Ad Hoc Working Group on the Paris Agreement at its second session;

102. *Further requests* the Ad Hoc Working Group on the Paris Agreement to develop modalities for the global stocktake referred to in Article 14 of the Agreement and to report to the Conference of the Parties, with a view to making a recommendation to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement for consideration and adoption at its first session;

#### *FACILITATING IMPLEMENTATION AND COMPLIANCE*

103. *Decides* that the committee referred to in Article 15, paragraph 2, of the Agreement shall consist of 12 members with recognized competence in relevant scientific, technical, socio-economic or legal fields, to be elected by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the basis of equitable geographical representation, with two members each from the five regional groups of the United Nations and one member each from the small island developing States and the least developed countries, while taking into account the goal of gender balance;

104. *Requests* the Ad Hoc Working Group on the Paris Agreement to develop the modalities and procedures for the effective operation of the committee referred to in Article 15, paragraph 2, of the Agreement, with a view to the Ad Hoc Working Group on the Paris

Agreement completing its work on such modalities and procedures for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session;

#### *FINAL CLAUSES*

105. *Also requests* the secretariat, solely for the purposes of Article 21 of the Agreement, to make available on its website on the date of adoption of the Agreement as well as in the report of the Conference of the Parties at its twenty-first session, information on the most up-to-date total and per cent of greenhouse gas emissions communicated by Parties to the Convention in their national communications, greenhouse gas inventory reports, biennial reports or biennial update reports;

#### **IV. ENHANCED ACTION PRIOR TO 2020**

106. *Resolves* to ensure the highest possible mitigation efforts in the pre-2020 period, including by:

- (a) Urging all Parties to the Kyoto Protocol that have not already done so to ratify and implement the Doha Amendment to the Kyoto Protocol;
- (b) Urging all Parties that have not already done so to make and implement a mitigation pledge under the Cancun Agreements;
- (c) Reiterating its resolve, as set out in decision 1/CP.19, paragraphs 3 and 4, to accelerate the full implementation of the decisions constituting the agreed outcome pursuant to decision 1/CP.13 and enhance ambition in the pre-2020 period in order to ensure the highest possible mitigation efforts under the Convention by all Parties;
- (d) Inviting developing country Parties that have not submitted their first biennial update reports to do so as soon as possible;
- (e) Urging all Parties to participate in the existing measurement, reporting and verification processes under the Cancun Agreements, in a timely manner, with a view to demonstrating progress made in the implementation of their mitigation pledges;

107. *Encourages* Parties to promote the voluntary cancellation by Party and non-Party stakeholders, without double counting of units issued under the Kyoto Protocol, including certified emission reductions that are valid for the second commitment period;

108. *Urges* host and purchasing Parties to report transparently on internationally transferred mitigation outcomes, including outcomes used to meet international pledges, and emission units issued under the Kyoto Protocol with a view to promoting environmental integrity and avoiding double counting;

109. *Recognizes* the social, economic and environmental value of voluntary mitigation actions and their co-benefits for adaptation, health and sustainable development;

110. *Resolves* to strengthen, in the period 2016–2020, the existing technical examination process on mitigation as defined in decision 1/CP.19, paragraph 5(a), and decision 1/CP.20, paragraph 19, taking into account the latest scientific knowledge, including by:

- (a) Encouraging Parties, Convention bodies and international organizations to engage in this process, including, as appropriate, in cooperation with relevant non-Party stakeholders, to share their experiences and suggestions, including from regional events, and to cooperate in facilitating the implementation of policies, practices and actions identified during this process in accordance with national sustainable development priorities;

(b) Striving to improve, in consultation with Parties, access to and participation in this process by developing country Party and non-Party experts;

(c) Requesting the Technology Executive Committee and the Climate Technology Centre and Network in accordance with their respective mandates:

(i) To engage in the technical expert meetings and enhance their efforts to facilitate and support Parties in scaling up the implementation of policies, practices and actions identified during this process;

(ii) To provide regular updates during the technical expert meetings on the progress made in facilitating the implementation of policies, practices and actions previously identified during this process;

(iii) To include information on their activities under this process in their joint annual report to the Conference of the Parties;

(d) Encouraging Parties to make effective use of the Climate Technology Centre and Network to obtain assistance to develop economically, environmentally and socially viable project proposals in the high mitigation potential areas identified in this process;

111. *Encourages* the operating entities of the Financial Mechanism of the Convention to engage in the technical expert meetings and to inform participants of their contribution to facilitating progress in the implementation of policies, practices and actions identified during the technical examination process;

112. *Requests* the secretariat to organize the process referred to in paragraph 110 above and disseminate its results, including by:

(a) Organizing, in consultation with the Technology Executive Committee and relevant expert organizations, regular technical expert meetings focusing on specific policies, practices and actions representing best practices and with the potential to be scalable and replicable;

(b) Updating, on an annual basis, following the meetings referred to in paragraph 112(a) above and in time to serve as input to the summary for policymakers referred to in paragraph 112(c) below, a technical paper on the mitigation benefits and co-benefits of policies, practices and actions for enhancing mitigation ambition, as well as on options for supporting their implementation, information on which should be made available in a user-friendly online format;

(c) Preparing, in consultation with the champions referred to in paragraph 122 below, a summary for policymakers, with information on specific policies, practices and actions representing best practices and with the potential to be scalable and replicable, and on options to support their implementation, as well as on relevant collaborative initiatives, and publishing the summary at least two months in advance of each session of the Conference of the Parties as input for the high-level event referred to in paragraph 121 below;

113. *Decides* that the process referred to in paragraph 110 above should be organized jointly by the Subsidiary Body for Implementation and the Subsidiary Body for Scientific and Technological Advice and should take place on an ongoing basis until 2020;

114. *Also decides* to conduct in 2017 an assessment of the process referred to in paragraph 110 above so as to improve its effectiveness;

115. *Resolves* to enhance the provision of urgent and adequate finance, technology and capacity-building support by developed country Parties in order to enhance the level of ambition of pre-2020 action by Parties, and in this regard *strongly urges* developed country Parties to scale up their level of financial support, with a concrete roadmap to achieve the

goal of jointly providing USD 100 billion annually by 2020 for mitigation and adaptation while significantly increasing adaptation finance from current levels and to further provide appropriate technology and capacity-building support;

116. *Decides* to conduct a facilitative dialogue in conjunction with the twenty-second session of the Conference of the Parties to assess the progress in implementing decision 1/CP.19, paragraphs 3 and 4, and identify relevant opportunities to enhance the provision of financial resources, including for technology development and transfer and capacity-building support, with a view to identifying ways to enhance the ambition of mitigation efforts by all Parties, including identifying relevant opportunities to enhance the provision and mobilization of support and enabling environments;

117. *Acknowledges* with appreciation the results of the Lima-Paris Action Agenda, which build on the climate summit convened on 23 September 2014 by the Secretary-General of the United Nations;

118. *Welcomes* the efforts of non-Party stakeholders to scale up their climate actions, and *encourages* the registration of those actions in the Non-State Actor Zone for Climate Action platform;<sup>3</sup>

119. *Encourages* Parties to work closely with non-Party stakeholders to catalyse efforts to strengthen mitigation and adaptation action;

120. *Also encourages* non-Party stakeholders to increase their engagement in the processes referred to in paragraph 110 above and paragraph 125 below;

121. *Agrees* to convene, pursuant to decision 1/CP.20, paragraph 21, building on the Lima-Paris Action Agenda and in conjunction with each session of the Conference of the Parties during the period 2016–2020, a high-level event that:

(a) Further strengthens high-level engagement on the implementation of policy options and actions arising from the processes referred to in paragraph 110 above and paragraph 125 below, drawing on the summary for policymakers referred to in paragraph 112(c) above;

(b) Provides an opportunity for announcing new or strengthened voluntary efforts, initiatives and coalitions, including the implementation of policies, practices and actions arising from the processes referred to in paragraph 110 above and paragraph 125 below and presented in the summary for policymakers referred to in paragraph 112(c) above;

(c) Takes stock of related progress and recognizes new or strengthened voluntary efforts, initiatives and coalitions;

(d) Provides meaningful and regular opportunities for the effective high-level engagement of dignitaries of Parties, international organizations, international cooperative initiatives and non-Party stakeholders;

122. *Decides* that two high-level champions shall be appointed to act on behalf of the President of the Conference of the Parties to facilitate through strengthened high-level engagement in the period 2016–2020 the successful execution of existing efforts and the scaling-up and introduction of new or strengthened voluntary efforts, initiatives and coalitions, including by:

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<sup>3</sup> <<http://climateaction.unfccc.int/>>.

(a) Working with the Executive Secretary and the current and incoming Presidents of the Conference of the Parties to coordinate the annual high-level event referred to in paragraph 121 above;

(b) Engaging with interested Parties and non-Party stakeholders, including to further the voluntary initiatives of the Lima-Paris Action Agenda;

(c) Providing guidance to the secretariat on the organization of technical expert meetings referred to in paragraph 112(a) above and paragraph 130(a) below;

123. *Also decides* that the high-level champions referred to in paragraph 122 above should normally serve for a term of two years, with their terms overlapping for a full year to ensure continuity, such that:

(a) The President of the Conference of the Parties of the twenty-first session should appoint one champion, who should serve for one year from the date of the appointment until the last day of the Conference of the Parties at its twenty-second session;

(b) The President of the Conference of the Parties of the twenty-second session should appoint one champion who should serve for two years from the date of the appointment until the last day of the Conference of the Parties at its twenty-third session (November 2017);

(c) Thereafter, each subsequent President of the Conference of the Parties should appoint one champion who should serve for two years and succeed the previously appointed champion whose term has ended;

124. *Invites* all interested Parties and relevant organizations to provide support for the work of the champions referred to in paragraph 122 above;

125. *Decides* to launch, in the period 2016–2020, a technical examination process on adaptation;

126. *Also decides* that the technical examination process on adaptation referred to in paragraph 125 above will endeavour to identify concrete opportunities for strengthening resilience, reducing vulnerabilities and increasing the understanding and implementation of adaptation actions;

127. *Further decides* that the technical examination process referred to in paragraph 125 above should be organized jointly by the Subsidiary Body for Implementation and the Subsidiary Body for Scientific and Technological Advice, and conducted by the Adaptation Committee;

128. *Decides* that the process referred to in paragraph 125 above will be pursued by:

(a) Facilitating the sharing of good practices, experiences and lessons learned;

(b) Identifying actions that could significantly enhance the implementation of adaptation actions, including actions that could enhance economic diversification and have mitigation co-benefits;

(c) Promoting cooperative action on adaptation;

(d) Identifying opportunities to strengthen enabling environments and enhance the provision of support for adaptation in the context of specific policies, practices and actions;

129. *Also decides* that the technical examination process on adaptation referred to in paragraph 125 above will take into account the process, modalities, outputs, outcomes and lessons learned from the technical examination process on mitigation referred to in paragraph 110 above;



130. *Requests* the secretariat to support the technical examination process referred to in paragraph 125 above by:

(a) Organizing regular technical expert meetings focusing on specific policies, strategies and actions;

(b) Preparing annually, on the basis of the meetings referred to in paragraph 130(a) above and in time to serve as an input to the summary for policymakers referred to in paragraph 112(c) above, a technical paper on opportunities to enhance adaptation action, as well as options to support their implementation, information on which should be made available in a user-friendly online format;

131. *Decides* that in conducting the process referred to in paragraph 125 above, the Adaptation Committee will engage with and explore ways to take into account, synergize with and build on the existing arrangements for adaptation-related work programmes, bodies and institutions under the Convention so as to ensure coherence and maximum value;

132. *Also decides* to conduct, in conjunction with the assessment referred to in paragraph 120 above, an assessment of the process referred to in paragraph 125 above, so as to improve its effectiveness;

133. *Invites* Parties and observer organizations to submit information on the opportunities referred to in paragraph 126 above by 3 February 2016;

## V. NON-PARTY STAKEHOLDERS

134. *Welcomes* the efforts of all non-Party stakeholders to address and respond to climate change, including those of civil society, the private sector, financial institutions, cities and other subnational authorities;

135. *Invites* the non-Party stakeholders referred to in paragraph 134 above to scale up their efforts and support actions to reduce emissions and/or to build resilience and decrease vulnerability to the adverse effects of climate change and demonstrate these efforts via the Non-State Actor Zone for Climate Action platform<sup>4</sup> referred to in paragraph 118 above;

136. *Recognizes* the need to strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change, and *establishes* a platform for the exchange of experiences and sharing of best practices on mitigation and adaptation in a holistic and integrated manner;

137. *Also recognizes* the important role of providing incentives for emission reduction activities, including tools such as domestic policies and carbon pricing;

## VI. ADMINISTRATIVE AND BUDGETARY MATTERS

138. *Takes note* of the estimated budgetary implications of the activities to be undertaken by the secretariat referred to in this decision and requests that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources;

139. *Emphasizes* the urgency of making additional resources available for the implementation of the relevant actions, including actions referred to in this decision, and the implementation of the work programme referred to in paragraph 9 above;

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<sup>4</sup> <<http://climateaction.unfccc.int/>>.

140. *Urges* Parties to make voluntary contributions for the timely implementation of this decision.

## Annex

### PARIS AGREEMENT

The Parties to this Agreement,

*Being* Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as “the Convention”,

*Pursuant* to the Durban Platform for Enhanced Action established by decision 1/CP.17 of the Conference of the Parties to the Convention at its seventeenth session,

*In pursuit* of the objective of the Convention, and being guided by its principles, including the principle of equity and common but differentiated responsibilities and respective capabilities, in the light of different national circumstances,

*Recognizing* the need for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge,

*Also recognizing* the specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, as provided for in the Convention,

*Taking full account* of the specific needs and special situations of the least developed countries with regard to funding and transfer of technology,

*Recognizing* that Parties may be affected not only by climate change, but also by the impacts of the measures taken in response to it,

*Emphasizing* the intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty,

*Recognizing* the fundamental priority of safeguarding food security and ending hunger, and the particular vulnerabilities of food production systems to the adverse impacts of climate change,

*Taking into account* the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities,

*Acknowledging* that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,

*Recognizing* the importance of the conservation and enhancement, as appropriate, of sinks and reservoirs of the greenhouse gases referred to in the Convention,

*Noting* the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth, and noting the importance for some of the concept of “climate justice”, when taking action to address climate change,

*Affirming* the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matters addressed in this Agreement,

*Recognizing* the importance of the engagements of all levels of government and various actors, in accordance with respective national legislations of Parties, in addressing climate change,

*Also recognizing* that sustainable lifestyles and sustainable patterns of consumption and production, with developed country Parties taking the lead, play an important role in addressing climate change,

Have agreed as follows:

## Article 1

For the purpose of this Agreement, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. “Convention” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.
2. “Conference of the Parties” means the Conference of the Parties to the Convention.
3. “Party” means a Party to this Agreement.

## Article 2

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:
  - (a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;
  - (b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;
  - (c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

## Article 3

As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.

## Article 4

1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.
2. Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.
3. Each Party’s successive nationally determined contribution will represent a progression beyond the Party’s then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.
4. Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.
5. Support shall be provided to developing country Parties for the implementation of this Article, in accordance with Articles 9, 10 and 11, recognizing that enhanced support for developing country Parties will allow for higher ambition in their actions.

6. The least developed countries and small island developing States may prepare and communicate strategies, plans and actions for low greenhouse gas emissions development reflecting their special circumstances.
7. Mitigation co-benefits resulting from Parties' adaptation actions and/or economic diversification plans can contribute to mitigation outcomes under this Article.
8. In communicating their nationally determined contributions, all Parties shall provide the information necessary for clarity, transparency and understanding in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
9. Each Party shall communicate a nationally determined contribution every five years in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and be informed by the outcomes of the global stocktake referred to in Article 14.
10. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall consider common time frames for nationally determined contributions at its first session.
11. A Party may at any time adjust its existing nationally determined contribution with a view to enhancing its level of ambition, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
12. Nationally determined contributions communicated by Parties shall be recorded in a public registry maintained by the secretariat.
13. Parties shall account for their nationally determined contributions. In accounting for anthropogenic emissions and removals corresponding to their nationally determined contributions, Parties shall promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
14. In the context of their nationally determined contributions, when recognizing and implementing mitigation actions with respect to anthropogenic emissions and removals, Parties should take into account, as appropriate, existing methods and guidance under the Convention, in the light of the provisions of paragraph 13 of this Article.
15. Parties shall take into consideration in the implementation of this Agreement the concerns of Parties with economies most affected by the impacts of response measures, particularly developing country Parties.
16. Parties, including regional economic integration organizations and their member States, that have reached an agreement to act jointly under paragraph 2 of this Article shall notify the secretariat of the terms of that agreement, including the emission level allocated to each Party within the relevant time period, when they communicate their nationally determined contributions. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of that agreement.
17. Each party to such an agreement shall be responsible for its emission level as set out in the agreement referred to in paragraph 16 above in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.
18. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Agreement, each member State of that regional economic integration organization individually, and together with the regional economic integration organization, shall be responsible for its emission level as set out in the agreement communicated under paragraph 16 of this Article in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.
19. All Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of Article 2 taking into account their common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

## Article 5

1. Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases as referred to in Article 4, paragraph 1(d), of the Convention, including forests.
2. Parties are encouraged to take action to implement and support, including through results-based payments, the existing framework as set out in related guidance and decisions already agreed under the Convention for: policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon

stocks in developing countries; and alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests, while reaffirming the importance of incentivizing, as appropriate, non-carbon benefits associated with such approaches.

### **Article 6**

1. Parties recognize that some Parties choose to pursue voluntary cooperation in the implementation of their nationally determined contributions to allow for higher ambition in their mitigation and adaptation actions and to promote sustainable development and environmental integrity.
2. Parties shall, where engaging on a voluntary basis in cooperative approaches that involve the use of internationally transferred mitigation outcomes towards nationally determined contributions, promote sustainable development and ensure environmental integrity and transparency, including in governance, and shall apply robust accounting to ensure, inter alia, the avoidance of double counting, consistent with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
3. The use of internationally transferred mitigation outcomes to achieve nationally determined contributions under this Agreement shall be voluntary and authorized by participating Parties.
4. A mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development is hereby established under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement for use by Parties on a voluntary basis. It shall be supervised by a body designated by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, and shall aim:
  - (a) To promote the mitigation of greenhouse gas emissions while fostering sustainable development;
  - (b) To incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities authorized by a Party;
  - (c) To contribute to the reduction of emission levels in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to fulfil its nationally determined contribution; and
  - (d) To deliver an overall mitigation in global emissions.
5. Emission reductions resulting from the mechanism referred to in paragraph 4 of this Article shall not be used to demonstrate achievement of the host Party's nationally determined contribution if used by another Party to demonstrate achievement of its nationally determined contribution.
6. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall ensure that a share of the proceeds from activities under the mechanism referred to in paragraph 4 of this Article is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.
7. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall adopt rules, modalities and procedures for the mechanism referred to in paragraph 4 of this Article at its first session.
8. Parties recognize the importance of integrated, holistic and balanced non-market approaches being available to Parties to assist in the implementation of their nationally determined contributions, in the context of sustainable development and poverty eradication, in a coordinated and effective manner, including through, inter alia, mitigation, adaptation, finance, technology transfer and capacity-building, as appropriate. These approaches shall aim to:
  - (a) Promote mitigation and adaptation ambition;
  - (b) Enhance public and private sector participation in the implementation of nationally determined contributions; and
  - (c) Enable opportunities for coordination across instruments and relevant institutional arrangements.
9. A framework for non-market approaches to sustainable development is hereby defined to promote the non-market approaches referred to in paragraph 8 of this Article.

## Article 7

1. Parties hereby establish the global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal referred to in Article 2.
2. Parties recognize that adaptation is a global challenge faced by all with local, subnational, national, regional and international dimensions, and that it is a key component of and makes a contribution to the long-term global response to climate change to protect people, livelihoods and ecosystems, taking into account the urgent and immediate needs of those developing country Parties that are particularly vulnerable to the adverse effects of climate change.
3. The adaptation efforts of developing country Parties shall be recognized, in accordance with the modalities to be adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session.
4. Parties recognize that the current need for adaptation is significant and that greater levels of mitigation can reduce the need for additional adaptation efforts, and that greater adaptation needs can involve greater adaptation costs.
5. Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.
6. Parties recognize the importance of support for and international cooperation on adaptation efforts and the importance of taking into account the needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change.
7. Parties should strengthen their cooperation on enhancing action on adaptation, taking into account the Cancun Adaptation Framework, including with regard to:
  - (a) Sharing information, good practices, experiences and lessons learned, including, as appropriate, as these relate to science, planning, policies and implementation in relation to adaptation actions;
  - (b) Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties;
  - (c) Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making;
  - (d) Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices;
  - (e) Improving the effectiveness and durability of adaptation actions.
8. United Nations specialized organizations and agencies are encouraged to support the efforts of Parties to implement the actions referred to in paragraph 7 of this Article, taking into account the provisions of paragraph 5 of this Article.
9. Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include:
  - (a) The implementation of adaptation actions, undertakings and/or efforts;
  - (b) The process to formulate and implement national adaptation plans;
  - (c) The assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems;
  - (d) Monitoring and evaluating and learning from adaptation plans, policies, programmes and actions; and
  - (e) Building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources.

10. Each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions, without creating any additional burden for developing country Parties.
11. The adaptation communication referred to in paragraph 10 of this Article shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a nationally determined contribution as referred to in Article 4, paragraph 2, and/or a national communication.
12. The adaptation communications referred to in paragraph 10 of this Article shall be recorded in a public registry maintained by the secretariat.
13. Continuous and enhanced international support shall be provided to developing country Parties for the implementation of paragraphs 7, 9, 10 and 11 of this Article, in accordance with the provisions of Articles 9, 10 and 11.
14. The global stocktake referred to in Article 14 shall, inter alia:
  - (a) Recognize adaptation efforts of developing country Parties;
  - (b) Enhance the implementation of adaptation action taking into account the adaptation communication referred to in paragraph 10 of this Article;
  - (c) Review the adequacy and effectiveness of adaptation and support provided for adaptation; and
  - (d) Review the overall progress made in achieving the global goal on adaptation referred to in paragraph 1 of this Article.

### Article 8

1. Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage.
2. The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and may be enhanced and strengthened, as determined by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
3. Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.
4. Accordingly, areas of cooperation and facilitation to enhance understanding, action and support may include:
  - (a) Early warning systems;
  - (b) Emergency preparedness;
  - (c) Slow onset events;
  - (d) Events that may involve irreversible and permanent loss and damage;
  - (e) Comprehensive risk assessment and management;
  - (f) Risk insurance facilities, climate risk pooling and other insurance solutions;
  - (g) Non-economic losses;
  - (h) Resilience of communities, livelihoods and ecosystems.
5. The Warsaw International Mechanism shall collaborate with existing bodies and expert groups under the Agreement, as well as relevant organizations and expert bodies outside the Agreement.

### Article 9

1. Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.
2. Other Parties are encouraged to provide or continue to provide such support voluntarily.
3. As part of a global effort, developed country Parties should continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds,



through a variety of actions, including supporting country-driven strategies, and taking into account the needs and priorities of developing country Parties. Such mobilization of climate finance should represent a progression beyond previous efforts.

4. The provision of scaled-up financial resources should aim to achieve a balance between adaptation and mitigation, taking into account country-driven strategies, and the priorities and needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change and have significant capacity constraints, such as the least developed countries and small island developing States, considering the need for public and grant-based resources for adaptation.
5. Developed country Parties shall biennially communicate indicative quantitative and qualitative information related to paragraphs 1 and 3 of this Article, as applicable, including, as available, projected levels of public financial resources to be provided to developing country Parties. Other Parties providing resources are encouraged to communicate biennially such information on a voluntary basis.
6. The global stocktake referred to in Article 14 shall take into account the relevant information provided by developed country Parties and/or Agreement bodies on efforts related to climate finance.
7. Developed country Parties shall provide transparent and consistent information on support for developing country Parties provided and mobilized through public interventions biennially in accordance with the modalities, procedures and guidelines to be adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, at its first session, as stipulated in Article 13, paragraph 13. Other Parties are encouraged to do so.
8. The Financial Mechanism of the Convention, including its operating entities, shall serve as the financial mechanism of this Agreement.
9. The institutions serving this Agreement, including the operating entities of the Financial Mechanism of the Convention, shall aim to ensure efficient access to financial resources through simplified approval procedures and enhanced readiness support for developing country Parties, in particular for the least developed countries and small island developing States, in the context of their national climate strategies and plans.

### **Article 10**

1. Parties share a long-term vision on the importance of fully realizing technology development and transfer in order to improve resilience to climate change and to reduce greenhouse gas emissions.
2. Parties, noting the importance of technology for the implementation of mitigation and adaptation actions under this Agreement and recognizing existing technology deployment and dissemination efforts, shall strengthen cooperative action on technology development and transfer.
3. The Technology Mechanism established under the Convention shall serve this Agreement.
4. A technology framework is hereby established to provide overarching guidance to the work of the Technology Mechanism in promoting and facilitating enhanced action on technology development and transfer in order to support the implementation of this Agreement, in pursuit of the long-term vision referred to in paragraph 1 of this Article.
5. Accelerating, encouraging and enabling innovation is critical for an effective, long-term global response to climate change and promoting economic growth and sustainable development. Such effort shall be, as appropriate, supported, including by the Technology Mechanism and, through financial means, by the Financial Mechanism of the Convention, for collaborative approaches to research and development, and facilitating access to technology, in particular for early stages of the technology cycle, to developing country Parties.
6. Support, including financial support, shall be provided to developing country Parties for the implementation of this Article, including for strengthening cooperative action on technology development and transfer at different stages of the technology cycle, with a view to achieving a balance between support for mitigation and adaptation. The global stocktake referred to in Article 14 shall take into account available information on efforts related to support on technology development and transfer for developing country Parties.

### **Article 11**

1. Capacity-building under this Agreement should enhance the capacity and ability of developing country Parties, in particular countries with the least capacity, such as the least developed countries, and those that are particularly vulnerable to the adverse effects of climate change, such as small island developing States, to take

effective climate change action, including, inter alia, to implement adaptation and mitigation actions, and should facilitate technology development, dissemination and deployment, access to climate finance, relevant aspects of education, training and public awareness, and the transparent, timely and accurate communication of information.

2. Capacity-building should be country-driven, based on and responsive to national needs, and foster country ownership of Parties, in particular, for developing country Parties, including at the national, subnational and local levels. Capacity-building should be guided by lessons learned, including those from capacity-building activities under the Convention, and should be an effective, iterative process that is participatory, cross-cutting and gender-responsive.
3. All Parties should cooperate to enhance the capacity of developing country Parties to implement this Agreement. Developed country Parties should enhance support for capacity-building actions in developing country Parties.
4. All Parties enhancing the capacity of developing country Parties to implement this Agreement, including through regional, bilateral and multilateral approaches, shall regularly communicate on these actions or measures on capacity-building. Developing country Parties should regularly communicate progress made on implementing capacity-building plans, policies, actions or measures to implement this Agreement.
5. Capacity-building activities shall be enhanced through appropriate institutional arrangements to support the implementation of this Agreement, including the appropriate institutional arrangements established under the Convention that serve this Agreement. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall, at its first session, consider and adopt a decision on the initial institutional arrangements for capacity-building.

## **Article 12**

Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement.

## **Article 13**

1. In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established.
2. The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.
3. The transparency framework shall build on and enhance the transparency arrangements under the Convention, recognizing the special circumstances of the least developed countries and small island developing States, and be implemented in a facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty, and avoid placing undue burden on Parties.
4. The transparency arrangements under the Convention, including national communications, biennial reports and biennial update reports, international assessment and review and international consultation and analysis, shall form part of the experience drawn upon for the development of the modalities, procedures and guidelines under paragraph 13 of this Article.
5. The purpose of the framework for transparency of action is to provide a clear understanding of climate change action in the light of the objective of the Convention as set out in its Article 2, including clarity and tracking of progress towards achieving Parties' individual nationally determined contributions under Article 4, and Parties' adaptation actions under Article 7, including good practices, priorities, needs and gaps, to inform the global stocktake under Article 14.
6. The purpose of the framework for transparency of support is to provide clarity on support provided and received by relevant individual Parties in the context of climate change actions under Articles 4, 7, 9, 10 and 11, and, to the extent possible, to provide a full overview of aggregate financial support provided, to inform the global stocktake under Article 14.
7. Each Party shall regularly provide the following information:

- (a) A national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice methodologies accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
  - (b) Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4.
8. Each Party should also provide information related to climate change impacts and adaptation under Article 7, as appropriate.
9. Developed country Parties shall, and other Parties that provide support should, provide information on financial, technology transfer and capacity-building support provided to developing country Parties under Article 9, 10 and 11.
10. Developing country Parties should provide information on financial, technology transfer and capacity-building support needed and received under Articles 9, 10 and 11.
11. Information submitted by each Party under paragraphs 7 and 9 of this Article shall undergo a technical expert review, in accordance with decision 1/CP.21. For those developing country Parties that need it in the light of their capacities, the review process shall include assistance in identifying capacity-building needs. In addition, each Party shall participate in a facilitative, multilateral consideration of progress with respect to efforts under Article 9, and its respective implementation and achievement of its nationally determined contribution.
12. The technical expert review under this paragraph shall consist of a consideration of the Party's support provided, as relevant, and its implementation and achievement of its nationally determined contribution. The review shall also identify areas of improvement for the Party, and include a review of the consistency of the information with the modalities, procedures and guidelines referred to in paragraph 13 of this Article, taking into account the flexibility accorded to the Party under paragraph 2 of this Article. The review shall pay particular attention to the respective national capabilities and circumstances of developing country Parties.
13. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall, at its first session, building on experience from the arrangements related to transparency under the Convention, and elaborating on the provisions in this Article, adopt common modalities, procedures and guidelines, as appropriate, for the transparency of action and support.
14. Support shall be provided to developing countries for the implementation of this Article.
15. Support shall also be provided for the building of transparency-related capacity of developing country Parties on a continuous basis.

#### **Article 14**

1. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the "global stocktake"). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science.
2. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall undertake its first global stocktake in 2023 and every five years thereafter unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
3. The outcome of the global stocktake shall inform Parties in updating and enhancing, in a nationally determined manner, their actions and support in accordance with the relevant provisions of this Agreement, as well as in enhancing international cooperation for climate action.

#### **Article 15**

1. A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.
2. The mechanism referred to in paragraph 1 of this Article shall consist of a committee that shall be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The committee shall pay particular attention to the respective national capabilities and circumstances of Parties.

3. The committee shall operate under the modalities and procedures adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session and report annually to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.

### **Article 16**

1. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Agreement.
2. Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Agreement. When the Conference of the Parties serves as the meeting of the Parties to this Agreement, decisions under this Agreement shall be taken only by those that are Parties to this Agreement.
3. When the Conference of the Parties serves as the meeting of the Parties to this Agreement, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Agreement, shall be replaced by an additional member to be elected by and from amongst the Parties to this Agreement.
4. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall keep under regular review the implementation of this Agreement and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Agreement and shall:
  - (a) Establish such subsidiary bodies as deemed necessary for the implementation of this Agreement; and
  - (b) Exercise such other functions as may be required for the implementation of this Agreement.
5. The rules of procedure of the Conference of the Parties and the financial procedures applied under the Convention shall be applied mutatis mutandis under this Agreement, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
6. The first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties that is scheduled after the date of entry into force of this Agreement. Subsequent ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall be held in conjunction with ordinary sessions of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.
7. Extraordinary sessions of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.
8. The United Nations and its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this Agreement and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure referred to in paragraph 5 of this Article.

### **Article 17**

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Agreement.
2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention, on the arrangements made for the functioning of the secretariat, shall apply mutatis mutandis to this Agreement. The secretariat shall, in addition, exercise the functions assigned to it under this Agreement and by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.

### Article 18

1. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve, respectively, as the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Agreement. The provisions of the Convention relating to the functioning of these two bodies shall apply mutatis mutandis to this Agreement. Sessions of the meetings of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Agreement shall be held in conjunction with the meetings of, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of the Convention.
2. Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Agreement, decisions under this Agreement shall be taken only by those that are Parties to this Agreement.
3. When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this Agreement, any member of the bureaux of those subsidiary bodies representing a Party to the Convention but, at that time, not a Party to this Agreement, shall be replaced by an additional member to be elected by and from amongst the Parties to this Agreement.

### Article 19

1. Subsidiary bodies or other institutional arrangements established by or under the Convention, other than those referred to in this Agreement, shall serve this Agreement upon a decision of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall specify the functions to be exercised by such subsidiary bodies or arrangements.
2. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement may provide further guidance to such subsidiary bodies and institutional arrangements.

### Article 20

1. This Agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations that are Parties to the Convention. It shall be open for signature at the United Nations Headquarters in New York from 22 April 2016 to 21 April 2017. Thereafter, this Agreement shall be open for accession from the day following the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.
2. Any regional economic integration organization that becomes a Party to this Agreement without any of its member States being a Party shall be bound by all the obligations under this Agreement. In the case of regional economic integration organizations with one or more member States that are Parties to this Agreement, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Agreement. In such cases, the organization and the member States shall not be entitled to exercise rights under this Agreement concurrently.
3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Agreement. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

### Article 21

1. This Agreement shall enter into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55 percent of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession.
2. Solely for the limited purpose of paragraph 1 of this Article, “total global greenhouse gas emissions” means the most up-to-date amount communicated on or before the date of adoption of this Agreement by the Parties to the Convention.
3. For each State or regional economic integration organization that ratifies, accepts or approves this Agreement or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled,

this Agreement shall enter into force on the thirtieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

4. For the purposes of paragraph 1 of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its member States.

#### **Article 22**

The provisions of Article 15 of the Convention on the adoption of amendments to the Convention shall apply mutatis mutandis to this Agreement.

#### **Article 23**

1. The provisions of Article 16 of the Convention on the adoption and amendment of annexes to the Convention shall apply mutatis mutandis to this Agreement.
2. Annexes to this Agreement shall form an integral part thereof and, unless otherwise expressly provided for, a reference to this Agreement constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

#### **Article 24**

The provisions of Article 14 of the Convention on settlement of disputes shall apply mutatis mutandis to this Agreement.

#### **Article 25**

1. Each Party shall have one vote, except as provided for paragraph 2 of this Article.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### **Article 26**

The Secretary-General of the United Nations shall be the Depositary of this Agreement.

#### **Article 27**

No reservations may be made to this Agreement.

#### **Article 28**

1. At any time after three years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from this Agreement by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Agreement.

#### **Article 29**

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

DONE at Paris this twelfth day of December two thousand and fifteen.

IN WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Agreement.

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KINGDOM OF CAMBODIA

Nation, Religion, King

## **Cambodia's Intended Nationally Determined Contribution**

### **Introduction**

Cambodia recognises the need for respecting the principles of the United Nations Framework Convention on Climate Change (UNFCCC), in particular the principle of ‘common but differentiated responsibilities and respective capabilities’ along with the right to the sustainable development of developing countries. A global limit of greenhouse gas emissions is also needed in order to achieve the ultimate objective of convention, which is “*to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*”. In response to the ‘Lima Call for Action’<sup>1</sup>, Cambodia is pleased to present its Intended Nationally Determined Contribution (INDC) to the UNFCCC, ahead of COP 21 in Paris, December 2015. This INDC is subject to revisions to meet national circumstances as the country continues along its development pathway.

Cambodia is a low emitter and highly vulnerable country to the negative effects of climate change. Our contribution is therefore necessarily aligned with our development priorities. The INDC includes both adaptation and mitigation actions based on national circumstances. Cambodia's INDC is composed of five sections:

- Section 1: National context, presenting national circumstances relevant to the INDC
- Section 2: Adaptation, covering Cambodia's vulnerability to climate change and prioritised adaptation actions
- Section 3: Mitigation, including Cambodia's intended contribution to reduce greenhouse gas emissions, with information to ensure clarity, transparency and understanding, and consideration of fairness and ambition
- Section 4: Planning and implementation processes, with indications of the institutions, policies, strategies, and plans that will support the implementation of the INDC
- Section 5: Means of implementation, with information on the support needed for the implementation of the INDC.

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<sup>1</sup> UNFCCC decision Decision -/CP.20

[https://unfccc.int/files/meetings/lima\\_dec\\_2014/application/pdf/auv\\_cop20\\_lima\\_call\\_for\\_climate\\_action.pdf](https://unfccc.int/files/meetings/lima_dec_2014/application/pdf/auv_cop20_lima_call_for_climate_action.pdf)

Cambodia is confident that through INDCs, which is a new, ‘bottom-up’ approach to addressing climate change, the *impasse* in the negotiations that have been experienced in the past years will be overcome. Cambodia also hopes that the new agreement to be finalised at COP 21 will be successful in limiting temperatures to a level that would prevent dangerous anthropogenic interference with the global climate system, and at the same time contribute to global poverty reduction and promote economic growth efforts.

## 1. National Context

Cambodia is highly vulnerable to the effects of climate change, in particular from floods, droughts, windstorms, and seawater intrusion. Agriculture, infrastructure, forestry, human health, and coastal zones are the most affected sectors. Cambodia’s main national development priority, enshrined in the National Strategic Development Plan (NSDP) for 2014-2018, is to reduce poverty while fostering economic growth at a steady rate of 7-8% per year<sup>2</sup>. Cambodia aims to progress from least-developed country (LDC) status towards a low and high middle-income developing country by 2018 and 2030 respectively. It is intended that this goal will be achieved by diversifying the economy, including through industrialisation and the development of physical infrastructure.

Efforts in addressing climate change in Cambodia cannot be separated from economic development and poverty alleviation goals. The agriculture sector is expected to grow at an annual rate of 5% in order to meet national economic growth and export targets, as well as to contribute to the population’s food security needs. At the same time, Cambodia has more than 57% forest cover, which the government endeavours to increase and maintain, to ensure livelihoods for forest-dependent communities and future generations. The pressure on resources and land is high, and whilst the latest available GHG inventory suggests that Cambodia was an overall net carbon sink in 2000<sup>3</sup>.

Despite the many challenges inherent in realising such strong ambitions, Cambodia is proud of the progress made in climate change policy, in particular since the accession to the UNFCCC in 1996. Explicit efforts have been made in mainstreaming climate change into national and sub-national planning. For example, Cambodia has developed and implemented the Climate Change Strategic Plan 2014 – 2023 (CCCSP), and associated action plans developed by each relevant ministry. These plans are Cambodia’s first ever comprehensive national policy documents that illustrate not only the country’s priority adaptation needs, but also provide roadmaps for the de-carbonisation of key economic sectors and the enhancement of carbon sinks. Further, Cambodia has developed a Green Growth Policy and Roadmap

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<sup>2</sup> Source: RGC (2014), National Strategic Development Plan 2014-18, Ministry of Planning. Available at: <http://www.mop.gov.kh/Home/NSDP/NSDP20142018/tabid/216/Default.aspx>

<sup>3</sup> According to the latest greenhouse gas inventory for 2000 in: RGC (2015), Second National Communication to the UNFCCC, Ministry of Environment (unpublished)



which sets the path to stimulating the economy through low carbon options, savings and creating jobs, protecting vulnerable groups, and improving environmental sustainability.

Cambodia has also made progress in integrating climate change in budgeting through the development of a climate change financing framework, in addition to producing regular climate public expenditure reviews and having improved tracking of climate finance in the Official Development Assistance (ODA) database. There is ongoing work in priority sectors to strengthen climate change-related budget submissions and in integrating climate change in their monitoring and evaluation systems. Climate finance modules are also being integrated in the public financial management training courses provided for government officials.

## 2. Adaptation

### 2.1. Vulnerability to Climate Change

Cambodia is one of the most climate vulnerable countries in the world<sup>4</sup>. As a least developed, agrarian country, Cambodia's vulnerability to climate change is mainly due to its geography, high reliance on the agriculture sector, and low adaptive capacity, including limited financial, technical and human resources. Over the past decade, Cambodia has witnessed more frequent and severe floods, droughts and windstorms which pose serious challenges to socio-economic development. As well as occurring more frequently, storms have resulted in increasingly high physical and economic impacts, in particular in rural areas. As an example, heavy rainfall in October 2013 resulted in flash floods, impacting over half a million people. More than half of Cambodia's provinces were impacted, with the Mekong region being particularly affected, as the river's water levels rose with the rainfall. An assessment indicated that the damage and loss caused by the 2013 floods was 356 million US\$<sup>5</sup>, of which 153 million US\$ was the estimated value of the destruction of physical assets (damage) in the affected areas, and 203 million US\$ the estimated losses in production and economic flows. Similarly, in 2012, drought was experienced by 11 out of the 24 provinces in Cambodia and negatively affected tens of thousands of hectares of rice growing areas.

Meteorological modelling predicts that temperatures will rise in the future and, in addition to the increased frequency of severe floods experienced over the last decade, rainfall patterns will become more unpredictable by 2050. Agriculture, infrastructure, forestry, human health, and coastal zones are the most vulnerable sectors to the impacts of climate change:

- **Agriculture:** The country's most agricultural production system is dependent either on rainfall or on the annual flooding and recession of the Tonle Sap Great Lake. The sector is therefore particularly sensitive to potential changes in local climate and monsoon regimes

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<sup>4</sup>Source: Royal Government of Cambodia (RGC, 2012), RGC (2006) and RGC (2015), Second National Communication to the UNFCCC, Ministry of Environment (unpublished)

<sup>5</sup>Cambodia 2013: Post-Flood Early Recovery Need Assessment Report, RGC.

- **Infrastructure:** the increasing occurrence and severity of floods exacerbated by climate change are resulting in high costs for the maintenance and upgrading of roads and irrigation infrastructure. This is particularly the case in urban areas where more and more assets and population are concentrated
- **Forestry:** Under emission scenarios SRESB1 and SRESA2 up to 2050 most lowland forest will be exposed to a longer dry period, particularly forest areas located in the northeast and southwest. More than 4 million hectares of lowland forest, which currently has a water deficit period of between 4 and 6 months, will become exposed to a greater water deficit period of between 6 to 8 months or more
- **Human health:** Climate change can have both direct and indirect impacts. Examples of direct impacts include death, injury, psychological disorders and damage to public health infrastructure. Examples of indirect impacts include changes in the geographical range and incidence of vector-borne diseases, water-borne and infectious diseases, malnutrition and hunger as a result of ecosystem disturbance
- **Coastal zones:** Coastal zone resources already face a number of pressures, including from over-fishing, over-exploitation of forest resources and mangrove ecosystems leading to increased erosion. Climate change adds to these existing challenges through sea level rise, shrinking arable land and decreasing availability of drinking water.

## 2.2 Priority Actions

Adapting to current and future effects of climate change is a priority for Cambodia. Cambodia firmly believes that climate change adaptation action requires an integrated, multi-sector approach to be effective and to be able to support national development objectives. Cambodia has therefore selected a number of priority actions, giving prominence to ones with climate change impact mitigation co-benefits, as follows:

- Promoting and improving the adaptive capacity of communities, especially through community based adaptation actions, and restoring the natural ecology system to respond to climate change
- Implementing management measures for protected areas to adapt to climate change
- Strengthening early warning systems and climate information dissemination
- Developing and rehabilitating the flood protection dykes for agricultural and urban development
- Increasing the use of mobile pumping stations and permanent stations in responding to mini-droughts, and promoting groundwater research in response to drought and climate risk
- Developing climate-proof agriculture systems for adapting to changes in water variability to enhance crop yields.
- Promoting climate resilient agriculture in coastal areas through building sea dykes and scaling-up of climate-smart farming systems

- Developing crop varieties suitable to Agro-Ecological Zones (AEZ) and resilient to climate change
- Promoting aquaculture production systems and practices that are adaptive to climate change
- Repairing and rehabilitating existing road infrastructure and ensuring effective operation and maintenance, taking into account climate change impacts
- Up-scaling the Malaria Control Program towards pre-elimination status of malaria
- Up-scaling of national programmes to address the risk of acute respiratory infection, diarrhoeal disease and cholera in disaster-prone areas. Including conducting surveillance and research on water-borne and food-borne diseases associated with climate change
- Strengthening technical and institutional capacity to conduct climate change impact assessments, climate change projections, and mainstreaming of climate change into sector and sub-sector development plans.

The implementation of each of the above actions and the context in current climate change strategies are presented in Table 1 in the Annex.

## 2. Mitigation

### 3.1 Contribution

Cambodia's contribution particularly aligns with the following requirement of the Lima Call for Action, paragraph 11:

- *“...the least developed countries and small island developing States may communicate information on strategies, plans and actions for low greenhouse gas emission development reflecting their special circumstances in the context of intended nationally determined contributions...”*

Cambodia wishes to propose a GHG mitigation contribution for the period 2020 – 2030, conditional upon the availability of support from the international community, in particular in accordance with Article 4.3 of the UNFCCC. Significantly, despite Cambodia's status as an LDC, Cambodia is implementing actions in accordance with our sustainable development needs that also address climate change:

- (i) **Energy industries, manufacturing industries, transport, and other sectors:** Cambodia intends to undertake actions as listed in Table 1, the impact of which is expected to be a maximum reduction of **3,100 Gg CO<sub>2</sub>eq** compared to baseline emissions of **11,600 Gg CO<sub>2</sub>eq** by 2030.
- (ii) **LULUCF:** Cambodia intends to undertake voluntary and conditional actions to achieve the target of increasing forest cover to 60% of national land area by 2030. In absence of any actions the net sequestration from LULUCF is expected to

reduce to **7,897 GgCO<sub>2</sub>** in 2030 compared to projected sequestration of **18,492 GgCO<sub>2</sub>** in 2010<sup>6</sup>.

Tables 1 and 2 detail the potential mitigation reduction in these sectors, along with the necessary corresponding actions to realise the mitigation potential identified.

**Table 1: Mitigation actions in key sectors – aggregate reductions by 2030**

| <i>Sector</i>            | <i>Priority actions</i>   | <i>Reduction as Gg CO<sub>2</sub>eq and % in the year 2030 compared to the baseline</i> |
|--------------------------|---|---|
| Energy Industries        | <p>National grid connected renewable energy generation (solar energy, hydropower, biomass and biogas) and connecting decentralised renewable generation to the grid.</p> <p>Off-grid electricity such as solar home systems, hydro (pico, mini and micro).</p> <p>Promoting energy efficiency by end users.</p> | 1,800 (16%)   |
| Manufacturing Industries | Promoting use of renewable energy and adopting energy efficiency for garment factory, rice mills, and brick kilns.  | 727 (7%)  |
| Transport                | <p>Promoting mass public transport.</p> <p>Improving operation and maintenance of vehicles through motor vehicle inspection and eco-driving, and the increased use of hybrid cars, electric vehicles and bicycles.</p>  | 390 (3%)  |
| Other                    | <p>Promoting energy efficiency for buildings and more efficient cookstoves.</p> <p>Reducing emissions from waste through use of biodigesters and water filters.</p> <p>Use of renewable energy for irrigation and solar lamps.</p>  | 155 (1%)  |
| <b>Total Savings</b>     |   | <b>3,100 (27%)</b>  |

<sup>6</sup>This information is based on an assessment undertaken for preparing the Second National Communication (SNC).

**Table 2: Contribution from the LULUCF sector**

| <i>Name of activity</i>   | <i>Description</i>  | <i>Estimated emission reductions</i> |
|---|---|--------------------------------------|
| Increasing the forest cover to 60% of national land area by 2030, and maintaining it after 2030 | <p>In accordance with the National Forest Programme (2010-2029), Cambodia is striving to increase and maintain the forest cover at 60% of the total land area, from an estimate of 57% in 2010. This will be achieved in particular through:</p> <p><u>Reclassification of forest areas to avoid deforestation:</u></p> <ul style="list-style-type: none"> <li>- Protected areas: 2.8 million hectares</li> <li>- Protected forest: 3 million hectares</li> <li>- Community forest: 2 million hectares</li> <li>- Forest concessions reclassified to protected and production forest: 0.3 million hectares</li> <li>- Production forest: 2.5 million hectares.</li> </ul> <p><u>Implementation of the FLEGT <sup>7</sup> programme in Cambodia</u></p> <p>The objective is to improve forest governance and promote international trade in verified legal timber.</p> | 4.7 tCO <sub>2</sub> eq/ha/year      |

### 3.2 Information to Facilitate Clarity, Transparency and Understanding

Table 3 provides additional information to assist the UNFCCC in compiling and comparing the contributions from all INDCs received by Parties to the convention.

**Table 3: Summary of information to facilitate clarity, transparency, and understanding**

| Information for the UNFCCC                    |     |              |
|---|-----|--------------|
| Time frames and/or periods for implementation |     |              |
| Timeframe                                     | for | 2020 to 2030 |

<sup>7</sup> FLEGT stands for Forest Law Enforcement, Governance and Trade. It aims to reduce illegal logging by strengthening sustainable and legal forest management, improving governance and promoting trade in legally produced timber.

| Information for the UNFCCC                                      |   |
|---|---|
| implementation  |   |
| <b>Scope and coverage</b>                                       |   |
| Scope of gases included in the contribution                     | Carbon dioxide (CO <sub>2</sub> ), methane (CH <sub>4</sub> ), nitrous oxide (N <sub>2</sub> O)   |
| Geographies covered by the contribution                         | All national territories  |
| <b>Assumptions and methodological approaches</b>                |   |
| <b>Methodology for estimating emissions and projections</b>     | <p><b>Historical GHG inventory:</b> The reported estimates of emissions of GHGs and removals of CO<sub>2</sub> are based on data reported in the draft Second National Communication (SNC) developed by the Government of Cambodia. The GHG inventory used Tier 1 methodologies set out in the IPCC 1996 Guidelines, IPCC default emission factors and country specific activity data from 2000.</p> <p><b>Baseline GHG projections:</b> In the energy sector, projections have been generated for the SNC using Long-range Energy Alternatives Planning (LEAP) modelling, using default emission factors and activity data from a wide range of sources. Projections for the land use, land use change and forestry (LULUCF) sector take into account forest and grassland conversions and land abandonment, and are based on methodologies in the Intergovernmental Panel on Climate Change (IPCC) Good Practice Guidance. All projections took into account current macroeconomic conditions, policy conditions, market conditions and events in other sectors.</p> <p><b>Mitigation options:</b> These were formulated based on previous needs analyses, experience from successful projects, pilot projects, feasibility studies, literature reviews and expert opinion.</p> |
| Approaches for land use, land-use change and forestry emissions | Though actions for LULUCF are presented as a conditional contribution, a precise list of actions and the GHG impacts will be updated after finalisation of the REDD+ Strategy (Reducing Emissions from Deforestation and Forest Degradation “Plus” Strategy).   |
| Global Warming Potentials (GWP)                                 | GWPs values used for estimating CO <sub>2</sub> e are taken from the IPCC Second Assessment Report  |
| <b>Reference point</b>  |   |

| Information for the UNFCCC                           |  |
|--|--|
| Business as Usual (BAU) emissions in the target year | 11,600 Gg CO <sub>2</sub> eq by 2030   |
| Projection methodology for low carbon scenarios      | A LEAP model was used to project the BAU scenario for energy sector, while COMAP was used for LULUCF, as indicated in the draft SNC. |

### 3.3 Fairness and Ambition

Cambodia recognises the need for all countries to present fair and ambitious INDCs, and acknowledges the objectives laid out in the Lima Call for Action.

As an LDC, Cambodia emits a small share of present global emissions and accounts for a fraction of past global emissions. Taking into account the important role of forestry in carbon capture, Cambodia was still a net sink in the year 2000. As per estimates in draft SNC, Cambodia's BAU per capita emissions in 2050 will be 2.59 tCO<sub>2</sub>eq, this is less than half of current world per capita emission. The actions proposed, if adequately supported through finance, technology transfer, and capacity building, will keep the per capita emissions to an estimated 2.04 tCO<sub>2</sub>eq by 2030 which is below world average for a 2°C pathway.

Cambodia, despite being an LDC, has for the first time presented a clear list of mitigation actions to limit growth in GHG emissions, making a significant deviation from BAU, and thus going beyond existing actions.

Cambodia seeks to maximise synergies between mitigation and adaptation, and sustainable development. Hence, the actions proposed are necessarily integrated with Cambodia's development priorities, whilst ensuring that growth shifts towards a low carbon development pathway, and align with efforts to increase our country's resilience.

## 4. Planning and Implementation Processes

The INDC has been developed under the coordination of the National Council for Sustainable Development. An INDC Preparation Team has been appointed, with representatives from relevant ministries that will be responsible for the implementation of the specific actions identified.

This INDC (and its future revisions) are to be an integral part of the climate change architecture of Cambodia. Hence its implementation will be aligned with that of Cambodia's national climate change policy, and not create unnecessary duplication.

There are a number of existing and planned domestic processes for delivering, supporting, and monitoring climate change policy in Cambodia, thereby facilitating the successful implementation of the actions captured in the INDC. It is clear that these strategies and plans will need to be revised once the timeframes expire, after having assessed the progress achieved under them.

Cambodia made extensive progress in developing processes for implementing climate change interventions over the last decade. The overarching development plan for the country, the National Strategic Development Plan (2014-2018), states the importance of implementing Cambodia's Climate Change Strategic Plan (2014-2023) and contains indicators to track implementation of climate change actions. Further, the INDC development is guided by the Green Growth Road Map (2009), developed with the aim to support the achievement of middle-income country status by 2030. The roadmap also has priority projects for the longer term i.e. 2020-2030.

Cambodia intends to support the initial delivery of the INDC mainly through the implementation of the Cambodia Climate Change Strategic Plan (CCCSP) (2014 – 2023). The following strategic priorities aim to develop Cambodia towards a green, low-carbon, climate-resilient, equitable, sustainable and knowledge-based society:

(1) The line ministries have developed Sectoral Climate Change Strategic Plans and Action Plans (SCCSPs and SCCAPs) are aligned with CCCSP and cover all the main sectors of relevance to climate change, where identified in the NAPA and National Communications under the UNFCCC. Cambodia is also actively mainstreaming climate change resilience into sub-national planning and finance systems.

(2) Specifically on adaptation, Cambodia has undertaken initiatives to mainstream adaptation into national development, and in specific sectors such as in the agriculture, forestry and human health sectors, as well as coastal zone management. In addition to the CCCSP and the SCCSPs and SCCAPs, Cambodia has developed the National Adaptation Programme of Action to Climate Change (2006), in which coping mechanisms to hazards and climate change impacts are identified, as well as key adaptation needs.

(3) The National Adaptation Plan (NAP) process is being used in Cambodia to strengthen the ongoing climate change adaptation processes through cross-sectoral programming and implementation at national and sub-national levels. It may in turn inform future climate change strategies, financing frameworks, and national development planning and budgeting.

(4) Forestry related actions would be implemented as part of the national REDD+ Strategy. Cambodia is developing an operational National Forest Monitoring System (NFMS), Reference Emission Level to more accurately quantify GHG impacts of actions in this sector. This will form the basis of implementing and accounting for the forestry actions post 2020. Further, Forest Reference Emission Levels and Forest Reference Levels



(FREL/FRL) and a Safeguards Information System (SIS) will be used to account for the emissions reduced via the implementation of activities identified from 2016-2020.

Cambodia has already taken steps to ensure that its monitoring and evaluation (M&E) system includes indicators to measure progress, including INDC implementation, both for adaptation and mitigation. The monitoring, reporting and verification (MRV) system will build on the greenhouse gas inventory. In particular, continued support to develop the REDD+ MRV system is required, in order to enable Cambodia to move towards the third phase of REDD+ where it will receive performance-based payments. M&E for adaptation is currently carried out at project-level. A national M&E framework will be developed, while activities to operationalise it in key sectors have already begun.

The Annex to this INDC summarises the prioritised actions on climate change mitigation and adaptation, and the proposed related planning and implementation processes. It is expected that there will be stock-taking of progress and lessons learned in 2018 for the development of the action plans for the subsequent period.

## 5. Means of Implementation

Cambodia requires support in the form of financing, capacity building, and technology transfer to implement the actions set out in this INDC. Detailed analysis at the start of the INDC implementation will be necessary in order to align it with that of the climate change action plans and refine the estimation of funding requirements, in particular post 2018. This analysis will determine the precise nature and level of support needed, in particular with respect to capacity building and technology transfer.

The assessment of support needs will build on the climate change financing framework that has been developed in conjunction with the climate change action plans. This framework included an analysis of financing sources, costing, analysis of climate change impacts on the economy, and recommendations on financing modalities for the implementation of the CCCSP.

According to the assessment of financial needs for priority activities up to 2018 included in the sectoral climate change action plans, Cambodia would require 1.27 billion US\$ to support the implementation of these activities. The assessment also took into account the climate finance absorption capacity of Cambodia to ensure that the proposed investments are effective.

The international finance support needed would be additional to what Cambodia is allocating to implement its sustainable development plans to realise the identified positive impacts of GHG emission reduction activities. The Climate Change Financing Framework estimated that in 2012, expenditure on climate related policies and actions represented 6.5% of public expenditure, or 1.31% of national GDP. In the National Strategic Development Plan there is a

plan to increase the ratio of climate expenditure on GDP from an estimated 1.39% in 2015 to 1.5% in 2018.

The support received will be channelled through bilateral and multilateral mechanisms, including market based mechanisms. Cambodia is for example making progress in readiness for direct access to the Green Climate Fund (GCF), which may become the principal vehicle for climate finance in the future. Dedicated climate change funding from international sources, either from bilateral/multilateral donors or through global climate funds, represents only 40% of total climate related investment. The strategy will also focus on traditional development funds, as the climate-relevant portion of these funds from domestic and international sources too are an important financing support. As stated above Cambodia is already participating in REDD+ mechanism with respect to forestry related actions.

Sectoral climate change action plans contain indications of capacity building needs. Through consultations carried out to develop the INDC, the development of MRV and M&E systems has been identified as a priority. Though, as explained above the work has already been initiated, more work is needed to develop the MRV based on identified indicators.

Cambodia has developed technology needs assessment for adaptation and mitigation, and technology needs also feature prominently in the sectoral climate change action plans. At the start of the INDC implementation phase Cambodia will also need to carry out a detailed technology needs assessment.

## Annex: Further Information Related to Climate Change Related Strategies and Policies

Cambodia intends to support the initial delivery of the INDC mainly through the implementation of the Cambodia Climate Change Strategic Plan (CCCSP) (2014 – 2023) (see table 1 below) through the following strategic priorities aims to develop towards a green, low-carbon, climate-resilient, equitable, sustainable and knowledge-based society.

The main CCCSP strategic objectives are to:

- Promote climate resilience through improving food, water and energy security
- Reduce sectoral, regional, gender vulnerability and health risks to climate change impacts
- Ensure climate resilience of critical ecosystems (Tonle Sap Lake, Mekong River, coastal ecosystems, highlands, etc.), biodiversity, protected areas and cultural heritage sites
- Promote low-carbon planning and technologies to support sustainable development
- Improve capacities, knowledge and awareness for climate change responses
- Promote adaptive social protection and participatory approaches in reducing loss and damage due to climate change
- Strengthen institutions and coordination frameworks for national climate change responses
- Strengthen collaboration and active participation in regional and global climate change processes.

The CCCSP sets out strategies and actions for different phases:

- In the immediate term (2013-2014): putting in place institutional and financial arrangements for the implementation of the CCCSP, development of national monitoring and evaluation (M&E) frameworks and indicators, and development of climate change action plans (2014 – 2018) by line ministries
- In the medium term (2013-2018): launch of high priority programmes with an initial focus on adaptation and gradual increase in mitigation actions, and accreditation of the Adaptation Fund and Green Climate Fund
- In the long term (2019-2023): the focus will be on research and learning, but its main objective will be to scale up successful initiatives and to continue mainstreaming climate change into national and sub-national programmes.

Table A1 provides a comprehensive list of climate change related strategies and policies under the CCCSP.

**Table A1: INDC planning and implementation processes and their link to existing climate change strategies and plans**

| Priority actions  | Existing climate change strategy and plan  |
|---|--|
| <i>Adaptation</i>   |  |
| Promoting and improving the adaptive capacity of communities and restoring the natural ecology system to respond to climate change  | Implementation of Climate Change Action Plan for Environment and Protected Area (2014-2018)  |
| Implementing measures of management and protection of areas to adapt to climate change  | Implementation of Climate Change Action Plan for Environment and Protected Area (2014-2018)  |
| Strengthening climate information and early warning systems   | Implementation of Climate Change Action Plan for Water Resources and Meteorology (2014-2018)   |
| Developing and rehabilitating the flood protection dykes for agricultural/urban development   | Implementation of Climate Change Action Plan for Water Resources and Meteorology (2014-2018)   |
| Increasing the use of mobile pumping stations and permanent stations in responding to mini-droughts, and promoting groundwater research in response to drought and climate risk | Implementation of Climate Change Action Plan for Water Resources and Meteorology (2014-2018)   |
| Developing climate-proof tertiary-community irrigation to enhance the yields from agricultural production of paddy fields   | Implementation of Climate Change Action Plan for Rural Development (2014-2018)   |
| Promoting the climate resilience of agriculture through building sea dykes in coastal areas and scaling-up of climate-smart farming systems                                     | Implementation of Climate Change Action Plan for Water Resources and Meteorology (2014-2018); and Climate Change Action Plan for Agriculture, Forestry and Fisheries (2014-2018) |
| Developing crop varieties suitable to Agro-Ecological Zones (AEZ) and resilient to climate change (include coastal zones)   | Implementation of Climate Change Action Plan for Agriculture, Forestry and Fisheries (2014-2018)   |
| Promoting aquaculture production systems and practices that are adaptive to climate change  | Implementation of Climate Change Action Plan for Agriculture, Forestry and Fisheries (2014-2018)   |
| Repairing and rehabilitating existing road infrastructure and ensuring effective operation and maintenance, taking into account climate change impacts                          | Implementation of Climate Change Action Plan for Public Works and Transport (2014-2018)  |

| Priority actions  | Existing climate change strategy and plan  |
|---|--|
| Up-scaling the Malaria Control Program towards pre-elimination status of malaria  | Implementation of Climate Change Action Plan for Public Health (2014-2018)                             |
| Up-scaling of national programmes on acute respiratory infection, diarrhoeal disease and cholera in disaster-prone areas, including conducting surveillance and research on water-borne and food-borne diseases associated with climate variables   | Implementation of Climate Change Action Plan for Public Health (2014-2018)                             |
| Strengthening technical and institutional capacity to conduct climate change impact assessments, climate change projections, and mainstreaming of climate change into sector and sub-sector development plans   | Implementation of recommendations from the draft SNC   |
| <b>Mitigation</b>   |  |
| <b><u>Energy Industries</u></b><br>Grid connected renewable energy generation (solar energy, hydropower, biomass and biogas) and connecting decentralised renewable generation to the grid<br><br>Off-grid electricity such as solar home systems, hydro (pico, mini and micro)<br><br>Promoting energy efficiency by end users | Implementation of Climate Change Action Plan for Manufacturing Industry and Energy Sectors (2014-2018) |
| <b><u>Manufacturing Industries</u></b><br>Reducing emissions as a result of rice milling, garment, and brick works  | Implementation of Climate Change Action Plan for Manufacturing Industry and Energy Sectors (2014-2018) |
| <b><u>Transport Sector</u></b><br>Motor vehicle inspection, public transport and improving efficiency of vehicles   | Implementation of Climate Change Action Plan for Transport Sector (2014-2018)                          |
| <b><u>Other Sectors</u></b><br>Efficient cookstoves, biodigesters, water filters  | Implementation of Climate Change Action Plan for Manufacturing Industry and Energy Sectors (2014-2018) |
| <b><u>Forestry</u></b><br>Increasing forest cover to 60% of national land   | Implementation of: National Forest Programme 2010-29; Climate Change                                   |

| Priority actions                                   | Existing climate change strategy and plan  |
|--|--|
| area, and maintaining that level from 2030 onwards | Action Plan for Agriculture, Forestry and Fisheries Sector (2014-2018); REDD+ Strategy |

## **Submission Form**

### Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia

Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission:

*29th September 2016*

Submitted by (provide individual and STWG contact information):

*Sarah Brook, sbrook@wcs.org, expert to STWG 3/5*

1. Issue:

*On behalf of a number of the experts to and members of STWG 3/5, I submit draft legislative provisions and a supporting document explaining our recommended provisions*

2. Reference to Code Book and Chapter Title (if applicable):

*Book 5, Title 3, Wildlife Protection, Conservation and Management*

3. Comparative Experience (if any):

*The supporting document analyses existing Cambodian legislation as relates to wildlife and recommends consolidating/strengthening this in the Title*

4. Recommendation:

*See attachments.*

5. Proposed Language to be Inserted into the Draft Code (if any):

*See attachments, full draft of the Title included.*

6. Cambodian Laws to be Abrogated or Modified (if any):

*This affects the Law on Forestry, Law on Natural Protected Areas, Law on Fisheries, Sub-decree on CITES and Law on Customs*

7. Drafting Team Analysis/Response (to be included in public database):

## Recommended Legislation

### Book 5: Conservation and Protection of Biodiversity and Cultural Heritage

#### Title 3: Wildlife Protection, Conservation and Management

##### DEFINITIONS

**Animal** - includes, whether live or dead, amphibians, birds, mammals, reptiles and their young, offspring, and eggs and any parts or products or the dead body thereof

**Commented [SB1]:** Does not apply to fish as this would have significant ramifications on aquaculture/fishing industry. FiA Law currently covers all aquatic species.

**Animal part** - any part, component or product of any wildlife, whether captive or wild, and includes an article or object in which the whole or any part of such animal has been used

**Biobank** - a facility with a large collection of biological data and tissue samples amassed for research purposes

**Captive breeding** - animals that are alive or dead, and born or otherwise produced in a controlled environment. The term "captive breeding" can be applied to any wild animal breeding venture, whether for conservation or commercial purposes.

**Captivity** - the condition of being confined within an enclosure, cage, building or otherwise

**Commercial purposes** - hunting/raising/selling/trading wildlife with the primary purpose of gaining income or economic benefits from such activities. In terms of hunting, any other use of wildlife other than direct consumption by the hunter and his/her immediate family (spouse and children) should be deemed commercial use.

**Conservation breeding purposes** - wild animals, or descendants of wild animals are raised or bred in captivity for the primary purpose of avoiding extinction of the species in the wild and not for commercial purposes, through establishing and maintaining a secure captive population of globally threatened species, which may involve reintroduction of captive-bred animals to the wild. Conservation breeding programmes are scientifically managed to ensure maximum genetic retention and are conducted under the auspices of accredited bodies such as regional zoological associations or IUCN Species Specialist Groups.

**Customary use/ Subsistence Use** - legal hunting to meet only the food security needs of the family, not for sale, gifting or trade. Only Least Concern species can be hunted for subsistence/customary use of local communities and indigenous ethnic minority groups, and only via a permit, which specifies the individual's name, address, age and protected area, or other area, in which they can legally hunt.

**Disease** - any impairment that interferes with or modifies the performance of an individual's normal functions. Diseases can be caused by an infectious agent (including virus, prion, bacterium, fungus, and parasites), physical causes, toxic chemical, biological toxins, and genetic or physiological causes.



**Habitat** - includes land, water, vegetation or air, which is the natural home of any wild animal

**Harassing** - to disturb or otherwise interfere with the natural behaviour of any animal

**Health surveillance** – the process of generating, collecting, analyzing and exchanging health information to protect, promote and support decisions affecting the health of wildlife, humans and livestock and their associated social values.

**Hunting** - includes harassing, capturing, killing, poisoning, pursuing, snaring, shooting, trapping, baiting, netting and luring of any wild animal and any attempt to engage in such conduct, and wounding, injuring or destroying or taking any part of the animal or its offspring, collecting, damaging or disturbing the eggs or nests

#### **Local community and indigenous ethnic minority groups**

**Meat** - includes blood, bones, sinew, eggs, fat and flesh, whether raw or cooked of any animal

**Native** - any wild animal which lived or still lives, or has any part of its distribution or regular migration in the geographic region of Cambodia and not as a result of introduction, whether or not intentional

**Non-native** - any species not native to Cambodia but was introduced by humans either accidentally or deliberately, this definition includes live and dead wild animals and animal parts and trophies, including of species not introduced to Cambodia (e.g. trafficked wildlife and wildlife products)

**Organised criminal group** - a group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more offences to which this Title applies, in order to obtain, directly or indirectly, a financial or other material benefit.

**Permit** - a permit granted under this [legislation] or any rule made thereunder

**Permitted means of hunting** - discriminate methods that target individual animals of a particular species slingshots, bows and arrows, crossbows

**Private collections** - the keeping of wildlife in captivity that is not open to the public and is usually not primarily for conservation purposes

**Prohibited means of hunting** - indiscriminate methods that affect multiple individuals and species, or illegal weapons/equipments; including but not limited to snares, traps, guns, explosives, ammunition, poisons and chemicals (including pesticides outside of agricultural areas), nets used on land, bait, sound recordings or other lures, bird lime/glue, hunting with domestic dogs, any equipment that uses electrocution, for the purpose of catching, trapping, collecting, injuring or killing animals.

**Rescue centre** - keeping of wildlife in captivity that have been rescued or confiscated from illegal situations, for the primary purposes of: 1) rehabilitating the animals, 2)

**Commented [SB2]:** Who qualifies for "local community" in particular needs to be much clearer defined than in existing laws. At present, anything goes...

**Commented [SB3]:** Define the period of time? Other countries use "A prolonged or indefinite period of time", "Ongoing", "continuing" "systematically and persistently committed on a continuous basis", etc.

**Commented [SB4]:** Non-dangerous is how it is currently termed in the forestry law, but a better description would be "targeted" if this term here is not preferred

**Commented [SB5]:** Need to identify what other methods are permitted for local community members with hunting permits. Arms/weapon law prevents civilians from using firearms, explosives/ammunition and chemical weapons/poisonous substances that might harm humans or the environment. Need to permit methods that target individuals only, not multiple animals at any one time (e.g. prevent snares, baits, nets, etc)

releasing the animals back to the wild once healthy, 3) providing long-term care for animals that either cannot be returned back to the wild, or need to be bred for conservation purposes.

**Trophy** - the whole or any part of any captive or wild animal and includes but is not limited to:

- rugs, skins and mounted specimens, including whole or part of animals and taxidermy specimens and all or part of animals in wine or other substance
- antler, horn, rhinoceros horn, ivory, hooves, feather, nail, tooth, musk, hair, eggs and nests

**Wildlife** - any wild animal and aquatic or terrestrial vegetation which forms part of any habitat,

**Wild animal** - An animal that is not domesticated. In this Title "Wild Animal" may refer to wild species that are in the wild or captivity.

**Wildlife farming** - raising, keeping and breeding of wild animals in captivity with the primary purpose of selling, trading and gaining income from these animals and their parts or trophies

**Wildlife health** – the state of a wild animal or captive wildlife that is able to fulfill its physical, behavioral, and social needs and be resilient to natural or anthropogenic changes in biological and environmental determinants, including but not restricted to diseases.

**Zoological institutions** - facilities holding wild animals in captivity that are open to the public and typically operate primarily for commercial purposes

**Zoonosis** - any disease and/or infection that is likely to be transmitted between animals and humans.

## Chapter 1. GENERAL PROVISIONS

### Article 1.

This Title defines the framework of management for all wildlife, within and outside of the protected area system, throughout the Kingdom of Cambodia. This Title includes all live, dead and captive wildlife and species non-native to Cambodia.

The purpose of this Title is the conservation of biodiversity, the protection and management of wildlife, and the prevention of wildlife crime.

All species of wildlife in the Kingdom of Cambodia are state property and a component of natural resources, including all mammals, birds, reptiles, amphibians, fish, invertebrates and their eggs or offspring. Such wildlife is under the management, research, protection and conservation of the Ministry of Environment, except for fish, which are under the management, research and conservation of the Fisheries Administration.

Commented [SB6]: Taken from the Law on Forestry

## Chapter 2. RESPONSIBLE INSTITUTIONS

### Article 2.

All Ministries shall seek to conserve Scheduled wildlife and shall utilise their authorities in the furtherance of this Title.

The Ministry of Environment and the Ministry of Agriculture, Forestry and Fisheries, have the overall jurisdiction and responsibility for wildlife in the Kingdom of Cambodia.

The Ministry of Environment has the management jurisdiction for all wildlife in the Kingdom of Cambodia, whether inside or outside of protected areas.

The Ministry of Agriculture, Forestry and Fisheries, has the management jurisdiction to cooperate with the Ministry of Environment outside of protected areas in the prevention of wildlife crime and is the CITES Management Authority for the Kingdom of Cambodia.

**Commented [SB7]:** The FiA Law and fisheries needs a bit more consideration here

### Article 3.

All relevant departments of the Ministry of Environment manage wildlife pursuant to the policies of the Royal Government of Cambodia.

The Ministry of Environment has the following main duties:

- To prepare guidelines and procedures for effective enforcement of this Title
- To develop and implement strategies, management plans and action plans to conserve threatened species in line with international conventions
- To prevent wildlife crimes both inside and outside of the protected area system, including at international import-export points, stocking, transportation and trading places
- To actively enforce this Title, laws and regulations, investigate, file and monitor complaints to the court on all wildlife offences committed in the Kingdom of Cambodia
- To create and manage accurate record keeping and databases on all wildlife crimes and criminals within the Kingdom of Cambodia
- To use existing counter wildlife trafficking networks, and develop additional strategies where necessary, in order to combat wildlife crimes occurring in other countries and wildlife criminals that may be using the Kingdom of Cambodia as a source, end destination or a conduit to other countries
- To develop and implement research, monitoring, protection and conservation programmes for wildlife, including on the status of threatened species, habitats and ecosystems
- To prepare guidelines and oversee the issuance and implementation of hunting permits within and outside of protected areas
- To provide oversight, monitoring and regulation of the operation of zoological facilities, conservation breeding centres, and commercial wildlife farming facilities
- To develop and maintain wildlife health surveillance strategies in collaboration with other relevant government agencies, and facilitate rapid responses to cases and outbreaks of wildlife diseases and other health issues

**Commented [SB8]:** Its not clear which department this will be, some responsibilities are currently split between GDANCP and GSSD

**Commented [SB9]:** Note that rescue centres aren't included here, Phnom Tamao is under the jurisdiction of FA

- To coordinate and collaborate with other government agencies, civil society, non-government organisations and participate in international cooperations in the fulfillment of this mission
- To promote public education and outreach programmes that demonstrate the importance of the protection, conservation and sustainable management of wildlife

#### **Article 4.**

The Provincial Departments of Environment and Protected Areas staff, have the following main duties:

- To help develop and implement strategic plans, management plans and action plans to conserve wildlife
- To prevent wildlife crimes
- To enforce this Title through investigations, and file complaints to the court on all wildlife offences committed in the Kingdom of Cambodia
- To regularly maintain a database of all wildlife offences and offenders following guidelines from the Ministry of Environment
- To receive and consider hunting applications for local communities and indigenous ethnic minority groups in accordance with guidelines from [relevant department]
- To issue hunting permits for local communities and indigenous ethnic minority groups that meet the guidelines from [relevant department]
- To monitor the implementation of hunting permits and suspend or revoke the permits of persons caught in violation of this Title
- To regularly maintain a database of hunting permits and hunters, for the purpose of monitoring, evaluation and regulation, and to submit regular copies of the database to the Ministry of Environment
- To implement wildlife health surveillance strategies, in collaboration with other relevant government agencies, and respond rapidly to cases and outbreaks of wildlife diseases and other health issues
- To coordinate and collaborate with other government agencies, civil society and non-government organisations in the fulfillment of this mission
- To manage and relocate all confiscated wildlife in accordance with approved procedures

#### **Article 5.**

All agencies with a responsibility to prevent crime, including but not limited to: The Fisheries Administration of the Ministry of Agriculture, Forestry and Fisheries, The Forestry Administration of the Ministry of Agriculture, Forestry and Fisheries, The CITES Management Authority of Cambodia, The General Department of Customs and Excise of the Ministry of Economy and Finance, The National Police and Military Police of the Ministry of Interior, have the responsibility to coordinate, collaborate and share information, as required by Ministry of Environment guidelines, with the Ministry of Environment on offences involving wildlife throughout the Kingdom of Cambodia, including but not limited to:

- National and international investigations of wildlife crime and wildlife criminals, including offences committed by individuals, legal entities and organized criminal groups
- Seizures of wildlife, wild animals and animal parts and trophies, made under the Law on Customs, Law on Forestry, the sub-decree on prohibited and restricted goods and this Title
- All court cases involving wildlife, wild animals and animal parts and trophies

The Ministry of Environment has the right to establish and lead an inter-agency Wildlife Crime Taskforce, or similar, for the purpose of reducing and preventing wildlife crime and to coordinate collaborative efforts across law enforcement agencies, including internationally.

### Chapter 3. CLASSIFICATION OF WILDLIFE SPECIES

#### Article 6. The Classification of wildlife species both native and non-native to Cambodia

**Schedule 1** - All species, including those non-native to Cambodia, listed as Extinct in the Wild, Critically Endangered or Endangered on the IUCN Red List of Threatened Species, and species of natural or cultural heritage or significant economic importance to Cambodia (see annex x for list of species). All species non-native to Cambodia listed on Appendix 1 of CITES are also included in Schedule 1 (e.g. African elephants, rhinoceroses).

**Commented [SB10]:** Lists to be developed

**Schedule 2** - All species, including those non-native to Cambodia, listed as Vulnerable, Near Threatened, Data Deficient or Not Evaluated, on the IUCN Red List of Threatened Species and all species non-native to Cambodia and listed as Appendix 2 of CITES (see annex x for list of species).

**Schedule 3** - All species, including those non-native to Cambodia, listed as Least Concern on the IUCN Red List of Threatened Species, unless specified in Schedule 4, and all species non-native to Cambodia and listed on Appendix 3 of CITES (see annex x for list of species).

**Schedule 4** - All species considered common in Cambodia as approved by the National Wildlife Advisory Board (see annex x for list of species)

**Commented [SB11]:** TBD. These species would essentially be exceptions to the IUCN Red List categorisation (likely widespread Least Concern species about which we are not too concerned re trade). E.g. rats, pigeons, doves, etc

In instances where a species may be classed under different schedules according to the IUCN Red List and CITES Appendices, the higher schedule applies. Any newly described species without an IUCN categorization will be assigned to Schedule 1 unless otherwise categorized by the National Wildlife Advisory Board.

#### Article 7. Process for updating the classifications of wildlife species that are native and non-native to Cambodia

**Commented [SB12]:** Remove this section and put into supporting legislation instead?

The Ministry of Environment shall establish a National Wildlife Advisory Board composed of wildlife experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, scientific and educational institutions and non-governmental

organisations. This board will be established and its function further defined by [supporting legislation - Prakas].

The National Wildlife Advisory Board shall meet no less than every year, to review and update the classifications of wildlife species that are native and non-native to Cambodia.

The updated classifications of wildlife species will be based on the categorization of species on the IUCN Red List of Threatened Species and on the Appendices of CITES.

Any species not automatically included on Schedule 1, based on their IUCN Red List status, could be upgraded to Schedule 1 by the advisory board on the basis of:

- Important cultural or natural heritage value to the people and Kingdom of Cambodia
- Written request from Collaborative Management Teams of CMPZs
- High levels of threat to the Cambodian population of the species
- The status of the Cambodian population of the species meeting IUCN criteria for Critically Endangered or Endangered

These updates must be approved by Prakas and distributed to relevant ministries, sub-national law enforcement agencies, protected areas, and provincial courts.

No species can be down-listed from Schedule 1, 2, or 3, without a corresponding change in its current listing on the IUCN Red List of Threatened Species.

#### **Article 8. The National Wildlife Advisory Board shall:**

- Update the classifications of all wildlife species following the process outlined in article 7
- Review, make recommendations for necessary changes, and approve species management and recovery plans for implementation, on the basis of scientific reports and data
- Review, evaluate and make recommendations for necessary changes, all EIAs and SEAs that have identified adverse impacts on Schedule 1, 2 and 3 species, on the basis of scientific reports and data
- Help to resolve any conflicts or complaints around scheduled species and actions that might result in extinction
- Review and reject or approve applications for special exceptions on hunting of wildlife under articles 11-14 of chapter 5 of this Title.
- Review and reject or approve applications for non-lethal capture of wildlife for conservation breeding purposes
- Issue recommendations, based on scientific understanding, on hunting quotas for local communities/indigenous groups subsistence/customary use
- Review and reject or approve applications for keeping Schedule 1 and 2 species in captivity outside of licensed facilities as detailed in Chapter 11 of this Title

### **Chapter 4. PROHIBITIONS ON HUNTING**

#### **Article 9. Prohibitions on hunting in all public and private lands and state land outside of the protected area network**

**Commented [SB13]:** Possible composition: 6 from government (GDANCP, GSSD, NCSD, FA, FiA, CITES MA), 6 NGO (IUCN, WCS, WWF, CI, WA, BL), 2 scientific (RUPP, RUA)?

Hunting of all species listed on Schedules 1, and 2 is prohibited in all areas, including within protected areas, corridors, and in all areas outside of the protected area network, except under special circumstances defined under chapter 5 of this Title.

Hunting of all species on Schedules 1, 2, 3 and 4 using prohibited means is prohibited.

Production, possession, manufacturing, purchase, transport and use of snares, traps, home-made guns, poisons and other prohibited means of hunting is prohibited at all times in all locations, with the exception of the removal, seizure or confiscation of these items by law enforcement officers.

It is prohibited to hunt, pursue, or harass any wildlife from or by means of a vehicle, including but not limited to, on water or land, or by aircraft, or to use an aircraft, motor vehicle, boat or other mechanized vehicle for the purpose of driving or stampeding any wild animals.

Hunting of species listed on Schedule 3 and 4 outside of the protected area network is permitted by local communities for subsistence/customary use by persons holding a valid permit, in line with Chapter 6 of this Title.

Hunting of species listed on Schedules 1, 2, 3 and 4, for commercial purposes is prohibited.

#### **Article 10. Prohibitions on Hunting Inside Protected Areas and CMPZs**

All hunting of species listed on Schedules 1, 2, 3 and 4 is prohibited within the Core Zones and Conservation Zones of protected areas and CMPZs. These zones must remain inviolate to hunting to protect species populations and reduce disturbance to wildlife. These zones will act as a reservoir or source of animals, which may disperse into other zones.

Hunting of Schedule 3 and Schedule 4 species for customary use/subsistence use of local communities and indigenous ethnic minority groups living within or adjacent to protected areas and CMPZs is permitted in the Sustainable Use Zone and Local Community Zone only, using permitted means only, and only by persons holding a valid hunting permit.

Hunting quotas for local communities and indigenous groups will be assigned by the Provincial Department of Environment and Protected Area Director, following guidelines issued by the Ministry of Environment. Quotas will be listed on individual hunting permits.

Hunting of Schedule 3 and 4 species, by any person or entity other than local communities and indigenous ethnic minority groups holding individual valid hunting permits, is prohibited inside protected areas at all times.

Hunting of any wildlife for commercial purposes is completely prohibited at all times in all protected areas and CMPZs.

Hunting using prohibited means is completely prohibited in all zones of Protected Areas and CMPZs.

Hunting of Schedule 3 and Schedule 4 species for crop protection purposes, within 20m of farmland, is allowed in the Community Zone only via permitted means of hunting,

through the issuing of a permit from the Provincial Department Of Environment and Protected Area Director. Hunting of Schedule 1 and 2 species for crop protection purposes inside the Community Zone is prohibited.

It is prohibited to possess, erect, maintain, transport or bring any equipment that could be used to hunt animals via prohibited means into all zones of protected areas and CMPZs, including but not limited to wire, bicycle or motorbike brake cable, electrocution equipment.

Anyone transporting or in possession of a Schedule 3 or Schedule 4 species inside a protected area must have a valid hunting permit.

Capture of wildlife for the purpose of establishing or maintaining a wildlife farm, a zoological institution, private collection, is completely prohibited from protected areas and CMPZs.

Capture of wildlife for the purpose of establishing or maintaining a conservation breeding facility is permitted under Article 12 of this Title, which must be approved in advance by the National Wildlife Advisory Board and Ministry of Environment.

All domestic dogs, hunting dogs and livestock are prohibited from the Core Zones and Conservation Zones of protected areas and CMPZs.

## **Chapter 5. SPECIAL EXCEPTIONS ON HUNTING OF WILDLIFE**

### **Article 11. Lethal control**

The Protected Area Director or official of the Nature Conservation and Protection Administration may, if he is satisfied that any wild animal has become dangerous to human life or is so injured or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit an official of the Ministry of Environment or Department of Environment to hunt such animal.

A decision regarding lethal control shall follow established guidelines in consideration of safety, animal welfare, and value of the animal for species conservation.

Methods of lethal control shall follow established guidelines ensuring animal welfare and minimizing risks to other animal or human life.

Any wild animal killed or wounded due to danger to human life or being beyond recovery shall be the property of the State and must be destroyed following approved methods outlined in Chapter 12.

For a species listed on Schedule 1 or 2, authorisation for lethal control must be granted by the Director of the Administration for Nature Conservation and Protection.

For a species listed on Schedule 3 or 4, authorisation for lethal control must be granted by the Director of the Protected Area.

Non-native species to Cambodia listed under Schedule 1 or Schedule 2 and which pose a threat to native Cambodian biodiversity may be controlled in the wild, or on private property, if identified as a required action or threat under Species Management and



Recovery Plans or following approval, in writing, from the National Wildlife Advisory Board.

#### **Article 12. Non-lethal capture for conservation purposes**

Non-lethal capture of any wildlife listed on any Schedule of this Title, for conservation breeding or conservation management purposes ("special exceptions"), via any means must be approved by the National Wildlife Advisory Board and the Ministry of Environment via the issuance of a specific permit in writing. Permit applications must demonstrate the benefit(s) to the species in question and compliance with approved procedures, regarding animal welfare, capture, transportation and husbandry protocols.

For the purpose of the above point, "conservation breeding or conservation management" refers to:

1. Translocation of any wild animal to an alternative suitable habitat, for the purpose of reintroduction, re-stocking or supplementation of wild populations or to prevent the inevitable extinction of a wild population
2. Research or population management of wildlife, without killing or destroying wild animals
3. Capture of wild animals for the explicit purpose of establishing and maintaining a secure conservation breeding population of a globally threatened species in a registered conservation breeding facility, and to produce captive bred animals for release back into the wild. Such capture must be endorsed by both the National Wildlife Advisory Board and the relevant IUCN-SSC Specialist Group Chair.

Translocation and capture of wild animals for conservation breeding or conservation management of Schedule 1 and Schedule 2 species will only be permitted by the Ministry of the Environment if these activities are in accordance with approved Species Management and Recovery Plans or recommendations of the National Wildlife Advisory Board.

Health monitoring and quarantine procedures for the translocation of wildlife or transfer of wild animals between a captive and wild population shall follow approved procedures.

#### **Article 13. Specimen collection**

Hunting, taking or collection of any wildlife for education or collection of specimens for scientific research must be approved by the National Wildlife Advisory Board and by the Ministry of Environment following the issuance of a permit for the specified activity, including:

1. For museums, universities, non-profit organisations, and similar institutions
2. For development of biobanks

The method of specimen collection must follow guidelines established by the Ministry of Environment for the capture, handling and sampling of wildlife, and must ensure animal welfare and reduce the risk of disease.

**Article 14. Zoological institutions and private collections**

All zoological institutions, including private collections must hold a valid permit for the facility and all of the animals in the collection.

It is prohibited to hunt, capture or collect from the wild any species listed on Schedules 1 and 2 for zoological institutions or private collections, unless approved under article 12 of this Title.

Applications to capture from the wild any species listed on Schedule 3 or 4 for the purpose of zoological institutions or private collections will be reviewed and if appropriate, approved, by the National Wildlife Advisory Board and GSSD of the Ministry of Environment.

No permit will be issued to any zoological institution or private collection involved in illegal hunting and trade of wild animals, or without valid permits or legal documentation for the animals in their facility.

The Ministry of Environment has the right to suspend permits, close down facilities and confiscate animals if they do not comply with the provisions of this Title and regulations issued by the Ministry of Environment.

**CHAPTER 6. HUNTING PERMITS****Article 15. Hunting permits applications and issuance**

Hunting of wildlife listed on Schedules 3 and 4 is prohibited without a valid permit.

Hunting permits must be carried on persons at all times whilst hunting, and produced for inspection as required.

A hunting permit gives permission to the identified user to hunt in a particular location (i.e. in the Sustainable Use and Community Zones of a named protected area).

Only one hunting permit will be granted per household.

Individuals wishing to obtain a hunting permit must submit a written application to the Provincial Department Of Environment.

Hunting applications for Sustainable Use Zones and Community Zones of protected areas and CMPZs will be reviewed, and if appropriate, approved and permits issued by the Director of the Provincial Department Of Environment and Director of the relevant protected area.

Hunting applications for areas outside of the protected area network will be reviewed, and if appropriate, permits issued by the Director of the Provincial Department Of Environment.

No hunting permit will be issued to any person involved in any incidents of illegal hunting.

No hunting permit will be issued to any person that the Provincial Department Of Environment or Protected Area Director has reasonable cause to believe, or evidence to

prove, that the individual has participated in or had any involvement with commercial hunting and illegal trade of wildlife.

A hunting permit may be granted, revoked, or refused, or conditions or restrictions imposed as the Director of Provincial Department Of Environment and Director of the Protected Area sees fit.

Transfer of hunting permits from one person to another is prohibited.

A hunting permit is valid for 1 year, thereafter it will be reviewed and renewed annually.

Where a hunting permit is lost, the holder of a permit must immediately inform the Provincial Department Of Environment, and Director of the Protected Area if appropriate, and cease all hunting activities until a replacement permit is issued.

All Provincial Departments of Environment and protected areas will manage a database for hunting permits and hunters, for the purpose of monitoring and regulating these activities. Copies of the database will be sent to the Ministry of Environment every month.

Holders of a hunting permit may be required to provide samples or parts of the harvested wildlife to authorities, as part of wildlife health monitoring activities. No financial compensation shall be provided in exchange for wildlife samples or parts.

#### **Article 16. Suspension Or Cancellation Of Permits**

The Protected Area Director or Director of the Provincial Department Of Environment may suspend or revoke any hunting permit granted under this Title, to be recorded in writing.

A hunting offence against a Schedule 1 species will result in a hunting permit being revoked for 5 years, in addition to penalties applied in Chapter 16.

A hunting offence against a Schedule 2 species will result in a hunting permit being revoked for 1 year, or for the remaining period of the permit if less than 6 months with new permit applications being denied for the remaining time, in addition to penalties applied in Chapter 16.

A hunting offence against a Schedule 3 species will result in a hunting permit being revoked for 6 months, or for the remaining period of the permit with new permit applications being denied for the remaining time, in addition to penalties applied in Chapter 16.

Any person involved in more than 3 cases of illegal hunting or trade of wildlife will result in the cancellation of the hunting permit indefinitely.

### **Chapter 7. PROHIBITION OF TRADE, TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES, ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS**

#### **Article 17. Prohibited activities**

All trade, transport, shipment, import, export, re-export, possession, sale, purchase, transferral, storing, gifting, consumption, farming and any other commercial uses, of

wildlife, wild animals, trophies, meat, animal parts and any other derivatives of species listed on Schedule 1, Schedule 2, Schedule 3 and Schedule 4 is prohibited.

Offering or advertising for sale any wildlife, wild animals, trophies, animal parts, meat or derivatives listed on Schedule 1, Schedule 2, and Schedule 3 is prohibited.

Counterfeit products advertised as being made from wildlife, wild animals, animal parts, meat or trophies is also considered an offence and will be treated the same as offences involving genuine wild animals, animal parts, meat or trophies.

No person, organisation, company or other entity, shall purchase, receive or acquire any wildlife or wild animals, on Schedule 1, Schedule 2, Schedule 3, or Schedule 4, or any animal parts, trophies, or meat, otherwise than from a person authorised to sell or otherwise transfer the same under the special exceptions outlined in chapter 5 of this Title.

No person, organisation, company or other entity, shall include in their business:

- i) a manufacturer of, or dealer, of wildlife, wild animals, trophies or animal parts listed on Schedule 1, 2, or 3
- ii) a taxidermist with respect to any wildlife, wild animals or any animal parts or trophies of wild animals listed on Schedule 1, 2, or 3
- iii) a dealer in trophies derived from any wildlife listed on Schedule 1, 2, or 3
- iv) a dealer in any captive wild animals listed on Schedule 1, 2, or 3
- v) a dealer, cook or server of meat derived from any wildlife or wild animal listed on Schedule 1, 2, or 3
- vi) an importer, exporter or re-exporter of wildlife, wild animals, animal parts, meat or trophies listed on Schedule 1, 2, or 3

## **Chapter 8. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)**

### **Article 18.**

Referring to the sub-decree on International Trade in Endangered Wild Animal and Plant Species (2006), CITES Management Authority of Cambodia, this chapter applies to:

- The species of flora and fauna listed in:
  1. Appendix 1 of CITES, equivalent to a Schedule 1 species
  2. Appendix 2 of CITES, equivalent to a Schedule 2 species
  3. Appendix 3 of CITES, equivalent to a Schedule 3 species

### **Article 19. Prohibited activities**

No person without a CITES permit may:

- Import or bring into the country from a foreign country a species of flora or fauna listed on the Appendices of CITES to which this chapter applies
- Export or take out of the country to a foreign country a species of flora or fauna listed on the Appendices of CITES to which this chapter applies
- Re-export, convey or transport through the country to a foreign country a species of flora or fauna listed on the Appendices of CITES to which this chapter applies

## **Chapter 9. INTERNATIONAL COOPERATION**

### **Article 20.**

In order to carry out the provisions of this Title, the Ministry of Environment shall encourage:

- The entering into of bi-lateral and multi-lateral agreements to provide for such conservation of scheduled species,
- Cooperation with foreign countries and international organisations to develop personnel resources and programmes which promote the conservation of native wildlife and biodiversity,
- Cooperation with foreign countries and other law enforcement agencies for the purposes of carrying out research and investigations to prevent, identify and combat offences to which this Title applies.

### **Article 21.**

Notwithstanding any other law, the Ministry of Environment may cooperate and provide personal or other information to a foreign law enforcement authority of another State and, where relevant, international regional organizations, for the purpose of preventing, identifying and combating the offences covered by this Title in either jurisdiction

### **Article 22.**

The Ministry of Environment may also cooperate with a foreign law enforcement authority or international regional organization, with regard to:

- Providing items, substances, documents or records for analytical or investigative purposes,
- Seconding or exchanging personnel, including by making experts available and the posting of liaison officers,
- Joint investigations,
- Prosecution of judicial proceedings,
- Other administrative assistance.

The Ministry of Environment may negotiate and conclude agreements with foreign law enforcement authorities or international regional organizations, for the purposes of enhancing law enforcement cooperation to prevent, identify and combat the offences to which these legal provisions apply.

## **Chapter 10. SPECIES MANAGEMENT AND RECOVERY PLANS**

**Article 23.**

Species Management and Recovery Plans must be developed for all Schedule 1 species, and Schedule 2 species native to Cambodia where possible. Plans should cover a 10-year period and a single plan can cover multiple species e.g. large waterbirds, migratory shorebirds, vultures, bear spp. *etc.*

Species Management and Recovery Plans must define the necessary conservation and management actions required to ensure viable populations of these species remain in Cambodia including identification of threats (both direct and indirect) and the actions required to mitigate these threats and secure populations. Plans must identify important sites for the conservation of species and should prescribe site and landscape-specific management actions necessary to achieve the plan's goal for the conservation and survival of the species.

Species Management and Recovery Plans must include objective, measurable criteria which when met, would result in improved conservation status of the target species and estimates of the time and financial resources required to carry out those measures.

Actions under Species Management and Recovery Plans can include translocations, ex-situ conservation and conservation breeding, and conservation reintroductions. Plans should identify appropriate sites for the release of confiscated animals.

Species Management and Recovery Plans must be referred to in all Environmental Impact Assessments that impact sites identified as important for Schedule 1 and/or Schedule 2 species and must demonstrate that the project will not have a negative impact on the population of the species and implementation of the Species Management and Recovery Plan.

Species Management and Recovery Plans will be developed by relevant experts in collaboration with the Administration for Nature Conservation and Protection and GSSD, reviewed and approved by the National Wildlife Advisory Board.

**Article 24.**

The Ministry of Environment, in cooperation with all relevant stakeholders, shall be responsible for the implementation of a monitoring system to monitor effectively the status of all Schedule 1 and Schedule 2 species which have recovered to a point which in accordance with the provisions of this Title, have been removed from Schedule 1 or Schedule 2.

The Ministry of Environment shall report to the National Assembly on the status of Schedule 1 and Schedule 2 species.

**Article 25.**

All Ministries responsible for granting permissions for any projects within the distribution range of species listed on Schedule 1 and Schedule 2 must refer to Species Management and Recovery Plans and Protected Areas Management Plans prior to granting any license or concession.

**Article 26.**

The Ministry of Environment shall, in cooperation with other relevant stakeholders, monitor effectively, the status of all native species on Schedule 1 and Schedule 2, until no less than 5 years after the status of the species has been changed to Schedule 3 or 4 in accordance with the procedures outlined in Chapter 3 of this Title.

The Ministry of Environment shall report back to the National Assembly on the status of Schedule 1 and Schedule 2 species.

#### **Article 27.**

The Ministry of Environment shall develop policies and guidelines on the payment of compensatory mitigation for damage done to wildlife, by companies, individuals or other legal entities. Such payments will be used to implement species recovery and management plans.

### **Chapter 11. MANAGEMENT OF CONSERVATION BREEDING, WILDLIFE RESCUE CENTRES, PRIVATE COLLECTIONS AND ZOOLOGICAL INSTITUTIONS**

#### **Article 28.**

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions must be registered with the Ministry of Environment or Ministry of Agriculture, Forestry and Fisheries, and hold a valid operational permit.

It is prohibited to keep in captivity (as pets, display, or working animals) any individuals of native Schedule 1 or Schedule 2 species outside licensed and managed conservation breeding, wildlife rescue centres or Zoological Institutions, unless the species is provided with specific exemption by the **National Wildlife Advisory Board**.

**Commented [D14]:** i.e. Asian elephant or possibly IUCN listed species from outside KH that are legitimate pets

Species listed on Schedule 3 may be kept in captivity by individuals or organisations with valid permits issued by the relevant authorities and provided proper standards of care are met and animal welfare is not compromised, in accordance with guidelines issued by the Ministry of Environment.

Schedule 4 species may be kept in captivity by individuals or organisations without permits provided proper standards of care are met and animal welfare is not compromised, in accordance with guidelines issued by the Ministry of Environment.

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions wishing to keep multiple species must obtain the necessary permits for all species.

#### **Article 29.**

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions will be subject to regular inspections by regulatory authorities. The Ministry of Environment and other law enforcement agencies, reserve the right to temporarily suspend or revoke operational permits, and confiscate any wild animals in captivity, if satisfactory conditions for keeping wild animals are not being met.

All conservation breeding facilities, wildlife rescue centres, private collections and zoological institutions, are responsible for recording births, deaths and transfers of all animals listed on Schedule 1, 2 and 3. This information must be shared with authorities during annual inspections and any individuals not accounted for will be considered illegally hunted.

The Ministry of Environment shall be notified in advance of any transfers or translocations of species listed on Schedule 1 and 2 between facilities, a Transportation Permit must be carried at all times. Movements of animals between breeding centres must be accurately recorded and traceable.

Animal parts, meat or trophies from wild animals which have died in captivity need to be disposed of following the guidelines referred to in chapter 12 of this Title. Keeping whole bodies, or parts of dead animals at conservation breeding facilities, wildlife rescue centres, private collections, zoological institutions, or other facility is prohibited.

All wild animals held in captivity, including by individuals, zoological institutions, private collections, rescue centres and conservation breeding facilities, must be cared for in a humane and appropriate manner to ensure animal welfare is not compromised.

Where diet, cages and enclosures, husbandry, hygiene, health or other requirements of wild animals are not being adequately met following approved international standards where possible, the Ministry of Environment, or other law enforcement agency, reserves the right to confiscate the wild animals in question.

Any facilities, undertaking breeding of Schedule 1 or Schedule 2 animals, must ensure maximum retention of genetic diversity and natural behaviour through: including but not limited to, the establishment of a studbook for the relevant species detailing all individuals of the breeding programme, provision of suitable husbandry and enclosures and acceptable standards of animal welfare in accordance with guidelines issued by the Ministry of Environment. All breeding events and bloodlines must be accurately recorded with founding animals and their offspring clearly identifiable. All individuals of these species are to be permanently marked in order to facilitate tracking of parentage and origin.

The Ministry of Environment shall develop and manage a national database for the monitoring and management of captive wild animals and facilities.

#### **Article 30.**

It is prohibited to release captive-bred wild animals, or wildlife that has spent a considerable amount of time in captivity, back into the wild without permission from the Ministry of Environment. Doing so will be considered a hunting offence against the scheduled species in question.

Where animals have undergone a period of time in captivity or have been captive born and are subsequently being considered for release, IUCN protocols shall be upheld wherever possible. Health checks must be conducted prior to release, a suitable release site identified and prepared, acclimation of the animals to the release site, and post-release monitoring implemented if necessary.



Failure to comply with any provisions of this Chapter will be treated as per hunting or trading of the respective species.

## **Chapter 12. MANAGEMENT OF CONFISCATED WILDLIFE, WILD ANIMAL PARTS, MEAT AND TROPHIES**

### **Article 31.**

All wildlife, wild animals, trophies, meat and animal parts confiscated under this Title must either be:

- a) in the case of live, native wild animals, assessed for health and suitability prior to being released into its natural habitat if appropriate to do so, or sent to an approved rescue centre, or humanely euthanized,
- b) in the case of dead wild animals and animal parts, destroyed, maintained or stored following the approved procedures.
- c) in the case of live non-native species, sent to an approved rescue centre pending repatriation where applicable

### **Article 32.**

All staff involved in the confiscation of live wildlife, wild animals, meat, trophies and animal parts shall follow appropriate biosafety procedures to avoid any contamination of other animals or humans with dangerous infectious or non-infectious agents.

The transportation of confiscated wild animals shall follow approved procedures.

Confiscated items may be subject to sampling for wildlife health monitoring purposes, following health monitoring strategies and protocols established by the Ministry of Environment in coordination with other relevant government and non-government agencies.

### **Article 33.**

In instances where confiscated items need to be maintained as evidence for court cases, all dead wildlife, trophies, and animal parts or other derivatives of wild animals listed on Schedule 2, 3, and 4, must be kept secure at an institution deemed suitable by the Ministry of Environment following appropriate management and security protocols until such time as the court case is completed.

Once a court case has been completed, all dead wildlife, wild animals, trophies, animal parts and other derivatives of wildlife listed on Schedule 2, 3 and 4 maintained as evidence must be returned to the Ministry of Environment and destroyed in accordance with the approved procedures.

All seizures of wildlife, wild animals, trophies and animal parts listed on Schedule 1 must be immediately transferred to the responsibility of national level Ministry of Environment, to implement appropriate security and destruction protocols that meet government guidelines (e.g. ivory, rhinoceros horn, pangolin scales, tiger parts) and to maintain regularly updated national inventories of these products to help prevent illegal trafficking.

**Article 34.**

Procedures and protocols for the confiscation, maintenance, security, storage, transportation and destruction, or repatriation of wildlife, wild animals, animal parts, trophies seized under this legal instrument will be developed by the Ministry of Environment in supporting legislation, in coordination with other relevant government agencies.

**Chapter 13. MANAGEMENT OF WILDLIFE FARMS****Article 35.**

It is prohibited under this Title or any other, to establish wildlife farms, or any other facility that will breed wild animals, without a permit from the Ministry of Environment.

It is prohibited, under any circumstances, to raise, keep, breed, stock and maintain any wild animals on Schedules 1 and 2 in wildlife farms or any other captive facility for commercial purposes.

It is prohibited, under any circumstances, to raise, keep, breed, stock and maintain any wild animals in wildlife farms or any other captive facility inside protected areas.

It is prohibited to introduce wild-caught animals into wildlife farms. Wildlife farms shall only obtain or purchase animals from other farms that have a valid permit.

Permitted operators shall only keep the species for which they obtained permission from the Ministry of Environment.

**Article 36.**

The Ministry of Environment has the authority to develop, issue and enforce guidelines for the establishment, operation, maintenance, inspection, monitoring and regulation of all facilities in the Kingdom of Cambodia that raise, breed, keep, stock and maintain wildlife and wild animals for commercial purposes.

The Ministry of Environment has the authority to inspect, monitor, regulate, revoke the permits of, close and file cases to the court regarding any existing wildlife farms that may be engaged in hunting or trade offences as outlined in chapters 5, 7, and 8 of this Title, or that fail to satisfy the regulatory guidelines issued by the Ministry of Environment or other relevant government agencies.

**Article 37.**

All wild animals on wildlife farms must be individually identified at all times.

The wildlife farm operator shall maintain, accurate inventory records in a form acceptable to the Ministry of Environment, indicating with respect to each animal kept:

- (a) the animal's species;
- (b) the animal's unique identification, including any changes in unique identification and the date the change occurred;
- (c) the animal's sex;
- (d) the animal's date of birth;

- (e) if the animal was not born on the operator's wildlife farm:
  - (i) the date on which the wildlife farm operator acquired the animal;
  - (ii) the name and address of the person from whom the animal was acquired; and
  - (iii) the location of the farm from which the animal was acquired;
- (f) the animal's date of death, the cause of death, if known, and any test results;

and

- (g) where the animal is removed from the operator's wildlife farm:
  - (i) the date of removal;
  - (ii) the location to which the animal was moved; and
  - (iii) the name and address of the person acquiring the animal.

**Commented [SB15]:** Perhaps remove and develop supporting legislation in more detail?

#### **Article 38.**

Regarding the sale of farmed wildlife and wild animal products:

- 1) No wildlife farm shall sell or trade live animals to anyone other than a permitted wildlife farm.
- 2) No wildlife farm shall purchase or trade live or slaughtered animals from anyone other than a permitted wildlife farm.
- 3) Any commercial transaction involving animals from wildlife farms shall be recorded and produced for inspection as required.

#### **Article 39.**

Appropriate quarantine and health monitoring must precede any introduction of new animals to the farm.

If an animal is found dead on the farm, the wildlife farm operator shall immediately report the death to the Provincial Department of Environment. Dead animals shall be inspected, sampled and disposed of according to guidelines established by the Ministry of Environment in collaboration with other governmental and non-governmental agencies.

The Ministry of Environment may request mandatory surveillance of diseases of special concern.

- 1) The Ministry shall maintain and publish a list of diseases of special concern for which surveillance is mandatory in wildlife farms, and develop corresponding protocols in collaboration with relevant ministries,
- 2) The wildlife farm operator shall immediately report to the Provincial Department of Environment when a wild animal is known or suspected to carry a disease of special concern, and when a wild animal is known or suspected to have been in contact with another diseased animal.
- 3) No person shall keep, hide, transport, sell, give or consume any farmed wild animal that is known or suspected to carry a disease of special concern or have died of unknown cause on the farm.
- 4) The wildlife farm operator shall abide by the protocols established by the Ministry of Environment,

- 5) Failure to comply with the disease surveillance protocols may result in temporary or permanent closure of the farm

**Article 40.**

The Ministry of Environment, in consultation with governmental and non-governmental agencies, shall establish minimum requirements for farm facilities and enclosure.

The Ministry of Environment may control at any time the compliance of a wildlife farm to these requirements

Operators who failed to comply with the established requirements may see their permit withdrawn or cancelled and additional penalties applied under Article 59.

**Article 41.**

The permitted wildlife farm operator shall at all times provide appropriate care to the farmed wildlife animals:

- 1) Every wildlife farm operator shall ensure the animals have adequate shelter, food and water.
- 2) The handling of animals shall be carried out in accordance with generally accepted practices in regard to management, husbandry, slaughter, and animal welfare.
- 3) In case the operator fails to provide adequate care and handling of animals, the Ministry of Environment and Provincial Department of Environment may withdraw or cancel a wildlife farming permit, and temporarily or permanently close the wildlife farm.

**Article 42.**

No wildlife farm operator shall allow captive wild animals to roam free, escape from captivity or be released to the wild. In case of escape from captivity, the farm operator shall:

- 1) notify the Provincial Department of Environment within 24 hours;
- 2) make all reasonable efforts to restore the escaped animals to captivity.

**Article 43.**

The slaughter of farmed wild animals shall be conducted in a humane manner. The Ministry of Environment shall produce guidelines for the slaughter of farmed wild animals in collaboration with the Department of Animal Health and Production.

**Article 44.**

Every wildlife farm operator shall transport, or cause to be transported, all animals according to [relevant legal document and guidelines produced by the Department of Animal Health and Production].

**Article 45.**

Despite anything in the Title or regulations,

- (a) the Ministry of Environment shall not be liable for injury or property damage caused by farmed wildlife or by the escape from captivity of farmed wildlife; and
- (b) the Ministry of Environment shall not be liable for the loss or death of any game animal through escape from captivity or death from disease, notwithstanding that the Ministry of Environment may have required a farmed wildlife animal to be destroyed due to escape or disease.

**Article 46.**

Any wildlife farm operator on the date these regulations come into effect shall

- (a) apply for a permit within [number of days] days;
- (b) comply with the requirements of these regulations relating to the operation of wildlife farms.

**Article 47.**

Any person who fails to comply with these regulations or hinders or obstructs a representative of the Ministry of Environment in carrying out their functions pursuant to these regulations is guilty of an offence and is liable on summary conviction to a fine of [fine amount].

**Chapter 14. WILDLIFE HEALTH SURVEILLANCE****Article 48.**

The Ministry of Environment shall establish a strategy for wildlife disease surveillance and wildlife health monitoring in coordination with other governmental agencies and non-governmental organisations.

The Ministry of Environment shall investigate, document and respond to all wildlife mortality events and disease outbreaks in coordination with other governmental agencies and non-governmental organisations.

The Ministry of Environment shall communicate the outcomes and findings of wildlife health surveillance and disease outbreak investigations to counterparts in animal and public health in a timely manner, as well as to relevant international health organizations, particularly in the case of zoonotic diseases.

**Article 49.**

Prior to wildlife translocation or any transfer of animals between captive and wild populations, wildlife animals shall be quarantined and inspected by an authorized person who will confirm in writing that:

- (a) the animals have been held in quarantine for not less than fourteen days and inspected prior to release;
- (b) the animals did not exhibit any signs of disease or injury;
- (c) the animals have been positively and uniquely identified;
- (c) the animals have been tested and are free from diseases of special concern for that species.

**Article 50.**

The Provincial Department of Environment and the Ministry of Environment shall be informed immediately in case a wild animal becomes diseased or dies during the course of a quarantine.

**Chapter 15. LAW ENFORCEMENT AND PROCEDURES TO RESOLVE OFFENCES**

**Commented [SB16]:** Alternatively we could just add a provision providing MOE with the mandate to be responsible for Wildlife Health Surveillance, and more detailed regulations to be developed later

**Article 51.**

Wildlife offences are criminal offences specifically defined by this Title.

Officials of the Ministry of Environment and Department of Environment having duties as Judicial Police officers have the authority to investigate, prevent, and crackdown on wildlife offences anywhere within Cambodia and to file such cases with the court.

Judicial Police officers of Ministry of Environment and Department of Environment have the duty to detect felonies, misdemeanors and crimes, to identify and arrest offenders, collect evidence and to conduct investigations.

Operations by Ministry of Environment and Department of Environment officials who are commissioned as Judicial Police officials shall be carried out in accordance with the law on criminal procedures of the Kingdom of Cambodia.

**Article 52.**

After an arrest is made, any confiscated evidence shall be managed in accordance with the procedures of the Ministry of Environment as outlined in chapter 12. Evidence must be stored securely and appropriately at an institution deemed suitable by the Ministry of Environment.

**Article 53.**

Local authorities, armed forces, Customs officials, police, the Forestry Administration, Fisheries Administration, and the public shall facilitate the process of providing information, and assist in the investigation, prevention, and suppression of wildlife offences, or in the temporary custody of any seized evidence so that it can be made available at the request of the Ministry of Environment.

Officials of the Ministry of Environment and Department of Environment, or designated officials to enforce the law, in cooperation with local authorities and other enforcement agencies, shall take prompt action to investigate any case of offences against wildlife.

**Article 54.**

Officials of the Ministry of Environment and Department of Environment, in their role as Judicial Police Officials, shall have the authority to use weapons and authority to use self-defense against physical violence by offenders, while performing their mission. The weapons shall be managed by the Ministry of Interior.

**Article 55.**

The filing of offences against wildlife shall be in accordance with the Criminal Procedures in force.

The Ministry of Environment and the Ministry of Justice shall make a joint Prakas on the procedures for recording offences against wildlife.

**Article 56.**

Evidence or offending items of wildlife offences shall be defined as follows:

1. Wildlife, wild animals, trophies and other wild animal derivatives
2. Equipment and means of transport used for committing illegal activities, including materials that may be used for prohibited means of hunting

3. Equipment and records used in the business of wildlife crime (including, inter alia, telephones, financial records, bank records)
4. Assets considered likely to have been purchased through the proceeds of wildlife offences
5. Documents or other testimony by witnesses to the illegal activities or the intent to commit such an offense

Evidence as stated in point 1 above shall be seized and managed following the stipulations of Chapter 12 of this Title and any other guidelines issued by the Ministry of Environment. Evidence of equipment as stated in point 2, including inter alia, those identified as prohibited means of hunting, and means of transport, shall be seized and managed following the guidelines issued by the Ministry of Environment.

**Article 57.**

Officials of the Ministry of Environment and Department of Environment have the authority to impose restrictions on the activities of a person, or temporarily stop a company's activity, that has offended against the provisions of this Title until the case is resolved.

**Article 58.**

Any person, company or other entity who disagrees with a decision made by the Ministry of Environment, in exercising its powers under this Title or by virtue of the powers granted to it, has the right to make a written complaint to the Head of the Ministry of Environment within at most thirty (30) days as of the date a decision by the Provincial Department Of Environment or the court is received.

The Head of the Ministry of Environment shall make decisions on this complaint within at most thirty working (30) days as of the date the complaint is received.

**Commented [SB17]:** These timings are based on the PA Law but could perhaps be revised

If upon the complaint, a decision made by the Head of the Ministry of Environment is still not acceptable by the plaintiff, he/she can file a complaint to court within thirty (30) days at most.

Any complaint made under this article shall not affect the authority of, or prevent the process of enforcement by Ministry of Environment officers under this Title.

## **Chapter 16. OFFENCES AND LEGAL PENALTIES**

**Article 59.**

Punishments for wildlife offences include imprisonment, fines by court procedures, transactional fines, confiscation of evidence, payment of restoration damages, termination and suspension of permits.

If the offender refuses to pay the fines or restoration damages, then the Department of Environment/Ministry of Environment may file a court proceeding on the offence.

Offences are divided into four categories:

- A **Class 1 Offence** is considered a serious crime and will receive the highest penalty possible of 5-10 years' imprisonment, and/or fines from fifty million riels (50,000,000) to two hundred million riels (200,000,000)
- A **Class 2 Offence** shall receive a penalty of 1-5 years' imprisonment and/or fines from ten million riels (10,000,000) to one hundred million riels (100,000,000)
- A **Class 3 Offence** shall receive a penalty of six months' to 1 year's imprisonment plus fines from two million riels (2,000,000) to ten million riels (10,000,000)
- A **Class 4 offence** shall receive a penalty of fines from four hundred thousand riels (400,000) to two million riels (2,000,000) or three times the value of the goods, where this exceeds the aforementioned fine

**Commented [SB18]:** This prison term is consistent with the Forestry Law, stronger than the PA Law and fits UNODC's definition of a "serious crime" - at least 4 years in prison.

The fines named herein shall be increased every 3 years in line with inflation starting from the date this Title enters into force.

All offences against this Title shall result in the immediate confiscation of the offending items, and managed as specified in chapter 12 of this Title.

#### **Article 60. Hunting offences**

- All hunting offences listed under any or all of chapters 4, 5, 11, 13 of this Title against a Schedule 1 species is considered a Class 1 Offence
- All hunting offences listed under any or all chapters 4, 5, 11, 13 of this Title against Schedule 2 species is considered a Class 2 offence
- All hunting offences listed under any or all chapters 4, 5, 11, 13 of this Title against Schedule 3 species is considered a Class 3 offence
- All hunting offences listed under any or all chapters 4, 5, 11, 13 of this Title against Schedule 4 species is considered a Class 4 offence
- Production, possession, erection, maintenance, manufacturing, purchase and transport of snares, traps, home-made or manufactured guns, poisons and other prohibited means of hunting, including any materials that could be used to make equipment to hunt animals via prohibited means is prohibited and considered intent to commit an offence against a Schedule 1 species and is thus considered a Class 1 Offence

#### **Article 61. Permit offences**

- Failure to carry or produce a valid hunting, or other, permit issued under Chapter 6 of this Title when within the Core Zones and Conservation Zones of a protected area is considered a Class 2 offence.
- Transfer of a hunting permit to another person not named as the permit holder is considered a Class 4 offence and will result in the suspension of the permit for 1 year in addition to penalties applied under article 59 of this Title.



**Article 62. Trade, trafficking and commerce offences against wildlife**

Offences related to the trade, trafficking or commerce in wildlife, wild animals, trophies, animal parts and all derivatives of wild animals, as listed in chapters 7 and 8 of this Title, will be subject to the following penalties:

- Any and all trade, trafficking and commerce offences against Schedule 1 species is considered a Class 1 offence and shall be subject to the penalties outlined in article 59
- Any and all trade, trafficking and commerce offences against Schedule 2 species is considered a Class 2 offence and shall be subject to the penalties outlined in article 59
- Any and all trade, trafficking and commerce offences against Schedule 3 species is considered a Class 3 offence and shall be subject to the penalties outlined in article 59
- Any and all trade, trafficking and commerce offences against Schedule 4 species is considered a Class 4 offence and shall be subject to the penalties outlined in article 59
- When a person, company or other legal entity is already convicted for a crime under this article of this Title and committed a new crime within a period of 5 years, the maximum term of imprisonment and fine imposed for the new crime is doubled

**Commented [SB19]:** Recidivism is in the Criminal Code, this is consistent with the appropriate articles

**Article 63. Wildlife farming, zoological institutions, private collections and other offences involving wildlife in captivity**

Offences related to the establishment, operation and maintenance of wildlife farms, zoological institutions, private collections and other captive facilities, including but not limited to the capture, keeping, raising, breeding, or maintenance of wildlife in captivity without a permit, or violation of government guidelines on such facilities, shall be subject to the penalties outlined in article 59, dependent on the Schedule of the species involved.

**Article 64. Enforcement offences**

Assaulting, obstructing, impeding or interfering with any enforcement officer in the performance of his/her functions under this Title, causing the disappearance, damaging or destroying of any item seized under the Title or destroying any item to prevent the seizure thereof, shall be considered a Class 1 offence.

Refusing an enforcement officer access to premises, hindering or delaying any enforcement officer in effecting entry, refusing an enforcement officer any information or failing to comply with an officer's request, relating to an offence under this Title or any other information shall be considered a Class 2 offence.

**Article 65. Offences By Companies**

Where an offence against this Title has been committed by a company, every person who, at the time of the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company as well as the company,

shall be deemed guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Where an offence against this Title has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, supervisor, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Where an offence against this Title has been committed by a company, the penalties applied shall be double the provisions outlined in article 59, as well as the following additional penalties:

1. **Dissolution**
2. Placement under judicial surveillance
3. Banning from pursuing one or several activities
4. Expulsion from public market places
5. Closure of an establishment having served to prepare or to commit the offence
6. Prohibition against operating an establishment opened to the public or utilized by the public
7. Confiscation of instruments materials or any objects which are used to commit the offence or were intended to commit the offence
8. Confiscation of objects or funds with which the offence was carried out
9. Confiscation of incomes or the properties earned by the offence
10. Confiscation of utensils, materials and moveable objects at the place where the offence was committed
11. Publication of the decision on the conviction in the media by all means of audio-visual communications

**Commented [SB20]:** Taken from the criminal code, with a few examples removed

The making of additional penalties shall follow the guidelines of the Criminal Code of the Kingdom of Cambodia.

#### **Article 66. Offences by organised criminal groups**

These provisions apply to preventing and combating serious crime where the offences involve an organised criminal group.

For the purposes of these provisions, an "organised criminal group" refers to a group of three or more persons, **existing for a period of time** and acting in concert with the aim of committing one or more offences to which this Title applies, in order to obtain, directly or indirectly, a financial or other material benefit.

Any person who takes an active part in criminal activities of an organised criminal group, knowing either the aim and general activity of the organized criminal group, or its intention to commit the crimes in question, commits an offence punishable by two times the penalties outlined in article 59.

#### **Article 67. Aiding, abetting, organizing or directing a serious crime**

A person who intentionally organizes, directs, aids, abets, facilitates, counsels or procures the commission of a serious crime involving an organized criminal group commits an offence.

The penalty for organizing or directing a serious crime shall be three times the penalties outlined in article 59.

The penalty for aiding, abetting, facilitating, counselling or procuring shall be two times the penalties outlined in article 59.

**Article 68. Conspiracy**

A person who agrees with one or more other persons to commit a crime under this legislation in order to obtain directly or indirectly, a financial or other material benefit, is subject to the provisions and penalties of this Title and is considered a Class 1 offence as outlined in article 59.

**Commented [SB21]:** Consistent with the Criminal Code

**Article 69. Proof of intent through circumstantial evidence**

For offences under this chapter, the knowledge, intention, aim, purpose or agreement referred to in each offence may be inferred from objective factual circumstances.

**Article 70. Penalties and sentencing considerations**

In sentencing a person convicted of an offence to which these provisions apply, a court may take into account the following:

- The seriousness of the offence
- Any previous convictions for an offence covered by this Title or in another country
- Any previous convictions for an offence of any other law in the Kingdom of Cambodia
- Any other criminal allegations against the defendant at the time of the proposed offence under this legislation
- Whether the person, company or other entity has voluntarily cooperated by providing information or otherwise assisted law enforcement authorities to investigate and prosecute other offences to which this Title applies

**Article 71.**

Revenue collected from fines under this Title shall be used to support the conservation of wildlife and biodiversity in the Kingdom of Cambodia, including the implementation of Species Management and Recovery Plans, or any other use as approved by the National Wildlife Advisory Board and Ministry of Environment.

**Chapter 17. REWARDS**

The [authorized person] may order such financial rewards he thinks fit to be paid to any person for services rendered in connection with the detection of any offence under this Title or any of its subsidiary legislation, or in connection with any seizures made under this Title.

**Chapter 18. REGULATIONS**

The Minister may make such regulations as may be expedient or necessary for better carrying out the provisions of this Title or for prescribing anything that may be, or is required to be, prescribed under this Title.

Regulations may be made in respect of, but not limited to, the following:

- The administration and management of wildlife inside and outside of protected areas,
- Management of hunting applications and permits and issuance of quotas,
- The conditions under which wildlife may be kept in captivity, including zoological facilities, rescue centres, wildlife farms and conservation breeding centres,
- The establishment, operation, maintenance, inspection, monitoring and regulation of wildlife farms, zoos, rescue centres, conservation breeding centres and any other facilities keeping wildlife
- Procedures for the effective enforcement of this Title
- Management of evidence confiscated under this Title, including of appropriate security protocols for products from Schedule 1 species,
- The fees payable under this Title,
- Procedures for the translocation, transportation, capture, handling and sampling of wildlife,
- Procedures for ensuring wildlife welfare,
- Establishment, operation and responsibilities of the National Wildlife Advisory Board,
- Procedures for recording offences against wildlife,
- Methods for lethal control and humane slaughter of wildlife,
- Payment of compensatory mitigation for damage done to wildlife, by companies, individuals or other legal entities,
- Monitoring of offences and offenders under this Title.

**Supporting information and analyses**  
**Book 5: Conservation and Protection of Biodiversity and Cultural Heritage**  
**Title 3: Wildlife Protection, Conservation and Management**

*This title has been developed by or received contributions from:*

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The recommendations for this title have drawn from both the Law on Forestry (2002) and the Protected Area Law (2008), in addition to international laws. It seeks to improve protections, conservation and management of wildlife. Here we provide the rationale and justification for the recommendations contained within each of the chapters of this title.

Given that wildlife occurs within and outside of protected areas, we recommend that the Environmental Code incorporate a new title on wildlife, that links to other relevant laws, including but not limited to the PA Law, Law on Customs and sub-decree on CITES.

## **DEFINITIONS**

The definitions of several key terms within both the Law on Forestry and PA Law were not clearly articulated and thus, this has made law enforcement challenging for PA staff (e.g. what exactly constitutes subsistence use/customary use, which is a legal use of wildlife? Where can the boundary be drawn between this form of use and hunting for commercial purposes, which is illegal?). The Title seeks to clearly define terms such as this, as well as which methods of hunting are clearly prohibited, to provide improved protections to wildlife and clearer rules/regulations that are easier to apply for law enforcement staff. The definitions are also updated to include key terms related to wildlife trafficking and organised crime, in recognition of the increasing frequency of these crimes globally.

## **Chapter 1. GENERAL PROVISIONS**

The general provisions give MOE the mandate for all wildlife in Cambodia, not only wildlife in protected areas as its jurisdiction currently stands. This change to MOE's jurisdiction is very important to ensure adequate protection for wildlife throughout the country and effective enforcement of this law. Currently only FA has the jurisdiction for wildlife outside of protected areas and is thus the lead agency as regards to wildlife trafficking. It would not be necessary or advised to remove this jurisdiction from FA but giving MOE this jurisdiction as well would strengthen the protection, conservation and management of wildlife throughout the country. Having multiple agencies with this responsibility will strengthen the response to wildlife crime, increase transparency and accountability.

This title covers all wildlife but clearly outlines that fish are under MAFF's jurisdiction. Currently all fish and "species that breed in water" are the responsibility of FiA, but the

application of this definition is problematic, inconsistent and not entirely correct as it is applied to species; crocodiles turtles and some tortoises for instance are under the responsibility of FiA, but where these occur in terrestrial areas it is important to ensure they are protected under this Title.

## **Chapter 2. RESPONSIBLE INSTITUTIONS**

This section outlines the responsibilities of all ministries to conserve wildlife, and that MOE and MAFF have overall responsibility, in recognition of MAFF's role with regards to wildlife outside of PAs and with regards to fisheries (i.e. wildlife trafficking, CITES MA, management of rescue centres). The section states again that MOE has responsibility for all wildlife (excluding fish) regardless of where it occurs - both inside and outside of the PA network and MAFF shall cooperate with MOE in its mission.

It remains to be decided which department should have the responsibility of wildlife outside of PAs as currently the biodiversity department is responsible for *ex situ* wildlife and GDANCP is responsible for wildlife inside PAs, so no department has the clear mandate for wildlife *in situ* outside of PAs and trafficked wildlife. This will need addressing. The chapter also outlines the role of Provincial Departments of Environment in protecting and conserving wildlife and highlights the crucial importance of inter-agency collaboration to enforce this law, to share information and to combat wildlife crimes effectively.

## **Chapter 3. CLASSIFICATION OF WILDLIFE SPECIES**

### **Existing legislation**

**The Law on Forestry (2002)** outlines prohibitions against wildlife species. Chapter 10, Article 48 states that all wildlife species (animals, not plants) will be divided into three categories: Endangered, Rare and Common species.

As proposed by FA, MAFF issued a Prakas (2007) on the classification of wildlife species within these categories (**Prakas No. 020**). All wildlife species are included except those that breed in water (fish and some reptiles and amphibians which are under the jurisdiction of FiA).

The Prakas defines the three categories as:

**Endangered** - all species with population densities and habitats that have declined in the last 10 years or over 3 generations. These species are highly important for scientific and economic value.

**Rare** - All species with low population densities, are rarely seen where they occur, or are endemic species (only occurring in Cambodia) and face a risk of extinction in the wild.

**Common** - all species which are fairly common, widespread, have a high breeding rate and a low level of threat in terms of social and economic demands. This group covers all species not listed as Endangered or Rare.

Offences against Endangered species are largely First Class offences (5-10 years in prison), Rare species are Second Class (1-5 years/10,000,000-100,000,000 riel), and offences against Common Species are largely subject to transactional fines, with a few

exceptions. Different offences have more lenient penalties but the maximum penalties have been presented here.

The **Law on Natural Protected Areas** appears to adopt a similar classification, referring to Rare and Endangered species within it, but there is no reference to Common species:

**Endangered species** - Animals or plants that could become extinct, caused by environmental change, either natural or due to human exploitation, loss of habitat, threat from other species, etc.

**Rare species** - those small in number but not vulnerable to immediate extinction. These species may be found in a particular habitat or more widespread over a larger area.

Article 61 then outlines offences against "rare, vulnerable and critically endangered plant or wildlife species" but vulnerable and critically endangered are not defined within the law itself. The PA Law reportedly uses the same species list as the Law on Forestry. Article 60 also mentions "regional wildlife flagship species" which are not defined.

Offences against wildlife species are classed as third grade under the PA Law.

#### **Article 6. Recommendations**

The current system of species classification is inconsistent between existing laws, not concordant with international uses of the same terms, not always defined in existing laws and suffers from subjectivity. Very importantly, neither of the current laws clearly outlines how to deal with offences against species that are not native to Cambodia (i.e. for wildlife trafficking cases where species have been trafficked through and seized in Cambodia, such as African elephant ivory, African rhinoceros horn etc., which appears to be happening on an increasing basis). The Environmental Code must contain clear provisions for the courts to know how to prosecute such cases.

It is recommended that the Ministry of Environment adopt the following species classifications based on the IUCN Red List of Threatened Species for the following reasons:

- It is a globally recognised classification system
- It is based on the best current scientific knowledge of the species' status globally (evidence-based) and employs a rigorous classification system, and is thus not prone to subjectivity or bias
- It is relatively constant, changing no more frequently than every 4 years and thus an expert group could meet and revise the classification list based on changes to the IUCN Red List of Threatened Species
- It can easily be applied to species both native and non-native to Cambodia (for wildlife trafficking cases)

*NB. Species can be referred to as "**globally threatened**" if they occur in any of the following categories: Extinct in the Wild, Critically Endangered, Endangered or Vulnerable.*

*Species categorised as Near Threatened, Least Concern and Data Deficient, cannot be considered "globally threatened".*

It is recommended that all wildlife is included in the Environmental Code and classified under this system, including some taxa (amphibians, reptiles) that are currently under the jurisdiction of FiA, although not fish.

### **IUCN Red List of Threatened Species Classifications**

**Extinct (EX)** - a species is extinct when there is no reasonable doubt that the last individual has died. A taxon is presumed extinct when exhaustive surveys in known and/or expected habitat, at appropriate times, throughout its historic range have failed to record an individual. Surveys should be over a time frame appropriate to the taxon's life cycle and life form.

**Extinct in the wild (EW)** - A species is extinct in the wild when it is known only to survive in cultivation, in captivity or as a naturalized population(s) well outside the past range. A species is presumed Extinct in the Wild when exhaustive surveys in known and/or expected habitat, at appropriate times, throughout its historic range have failed to record an individual. Surveys should be over a time frame appropriate to the taxon's life cycle and life form.

**Critically Endangered (CR)** - A species is Critically Endangered when the best available evidence indicates that it meets the criteria and is therefore considered to be facing an extremely high risk of extinction in the wild.

**Endangered (EN)** - A species is Endangered when the best available evidence indicates that it meets the criteria and is considered to be facing a very high risk of extinction in the wild.

**Vulnerable (VU)** - A species is Vulnerable when the best available evidence indicates that it meets the criteria and it is therefore considered to be facing a high risk of extinction in the wild.

**Near Threatened (NT)** - A species is Near Threatened when it has been evaluated against the criteria but does not qualify for CR, EN or VU now, but is close to qualifying for or is likely to qualify for a threatened category in the near future.

**Least Concern (LC)** - A species is Least Concern when it has been evaluated against the criteria and does not qualify for CR, EN, VU or NT. Widespread and abundant taxa are included in this category.

**Data Deficient (DD)** - a species is Data Deficient when there is inadequate information to make a direct or indirect assessment of its risk of extinction based on its distribution and/or population status. A species in this category may be well studied and its biology well known, but appropriate data on abundance and/or distribution are lacking. It is therefore not a category of threat, Listing in this category indicates that more information is required and acknowledges that future research will show that threatened classification is appropriate.

**Not Evaluated (NE)** - A species is Not Evaluated when it has not been evaluated against the criteria.



## **Article 7. Process for updating the classifications of wildlife species**

The establishment of a national advisory board for wildlife, composed of institutions and persons with relevant technical expertise, will enable an objective and efficient review of the classifications of wildlife species, increase transparency with regards to decision-making related to wildlife and provide technical guidance to MOE in the fulfillment of its mission. The board should meet every year, given the range of duties such a board could fulfill.

A number of species may which may not be highly threatened globally (i.e. by the IUCN Red List of Threatened Species) but could be highly threatened in Cambodia, or of particular cultural importance, may benefit from being listed on Schedule 1. The advisory board would have the authority to make such decisions.

Updates to the classification of wildlife species must be approved by Prakas (or other relevant legislation) and distributed to sub-national law enforcement agencies, protected areas, and provincial prosecutors and courts.

No species should be down-listed from Schedule 1, 2, or 3 without a corresponding change in its current listing on the IUCN Red List of Threatened Species, to ensure adequate protection is provided to species in accordance with their global threat status.

## **Chapter 4. PROHIBITIONS ON HUNTING**

This section is divided into prohibitions on hunting inside and outside of PAs to ensure these provisions are easily understood.

Much hunting of wildlife in Cambodia is no longer to meet the subsistence and food security needs of local communities, but instead is carried out to supply the commercial illegal trade in wildlife, with wild meat, trophies and other luxury wildlife products, for urban-based consumers. Much of this wildlife is being supplied from protected areas in Cambodia, to be consumed in nearby towns and cities, and wildlife is also frequently trafficked from Cambodia to neighbouring countries, especially to Vietnam and Thailand.

Reports from protected areas suggest that the scale and intensity of hunting has increased within recent years, particularly with dangerous and illegal methods of hunting such as snares, weapons and electrocution. Control of hunting needs to be significantly increased to avoid further extinctions of species in Cambodia (e.g. Kouphey is most likely extinct, tiger is functionally extinct and leopards are on the verge of extinction in Cambodia and many species's populations are much reduced). Consequently, a number of changes to existing laws are recommended with regards to hunting to clarify legal and illegal activities and strengthen and simplify provisions and penalties to make the laws and penalties easier for law enforcement teams and courts to apply.

It is crucially important that all wildlife species are afforded refuges from hunting, specifically within the Core Zone and Conservation Zones of protected areas and CMPZs. Cambodia's wildlife populations are already much reduced compared to natural densities and are subject to a number of different and inter-related pressures (hunting,

habitat loss, disturbance, small population size) that negatively impact species populations throughout their range in Cambodia. These zones can also act as a reservoir or source of animals, which may disperse into other zones where controlled hunting is allowed for individuals with legal permits, providing food security benefits for indigenous and local communities. Globally threatened species need to be protected from hunting from all areas in which they occur (i.e. including outside of the PA network).

With regards to hunting methods it is particularly important to control snaring. Although perhaps once a subsistence-level hunting method, it is now an extremely destructive non-discriminative form of commercial hunting that affects all terrestrial wildlife, regardless of their threat status. Snaring cannot be used to target non-threatened species, snaring catches anything and everything. Long lines of snares and large snares and traps for catching all terrestrial species are placed throughout protected areas and this is currently very difficult for PA staff to control. Snares are very commonly encountered but usually the perpetrator is absent (they are set and left unattended for days, if not weeks, in the forest) and unidentifiable, so penalties often cannot be applied. It is also not possible under current laws to penalise a person carrying/possessing snares in a protected area unless they also possess wild animals that they have hunted, meaning that current law enforcement efforts are not able to effectively deal with this threat. Removal of snares from the forest alone is not enough of a deterrent to prevent this practice and would be practically impossible for patrol teams to do. Patrol teams in Vietnam have removed tens of thousands of snares from two small protected areas since 2011 and snares continue to be replaced. Populations of terrestrial species in Vietnam are extremely low and many species may be beyond recovery. Thus, we recommend much stronger penalties against this practice in Cambodia as one of the most important measures to control illegal hunting and trafficking of wildlife. This includes a recommendation to prohibit the possession, transport and maintenance of any equipment that can be used to manufacture snares in protected areas, which will significantly strengthen the ability of law enforcement staff to control this persistent, widespread and extremely destructive threat.

In order to ensure that indigenous groups and local community members can still hunt non-threatened species within the Sustainable Use and Community Zones of PAs to meet their subsistence needs (if not engaging in illegal activities) and for crop protection purposes, the introduction of a permitting system to regulate hunting activities and to give law enforcement staff the ability to clearly recognise offenders is recommended.

It is recommended that the PDOE and Director of the PA manages and controls hunting permits, using a database of licensees, and hunting infractions to help manage permits and law enforcement activities. It is also recommended that MOE develop a transparent, fair, process, with support from development partners/NGOs, to identify local communities and indigenous ethnic minority groups eligible for subsistence hunting within PAs and determine appropriate hunting quotas of species on Schedule 3 and 4, with support from the National Wildlife Advisory Board.

Applying the precautionary principle, in order to ensure Cambodia retains its regionally and internationally important populations of wildlife, it is recommended that hunting for commercial purposes (i.e. sale, trade) is prohibited.

Bringing in hunting dogs to protected areas is currently prohibited under the PA Law and not mentioned in the Forestry Law. Hunting with domestic dogs is a widespread problem that is currently very challenging for law enforcement teams to deal with.

Hunting dogs can be worth several thousand dollars, particularly those used for hunting high value wildlife species such as pangolins and turtles. This kind of hunting is clearly not for subsistence use of local communities but to supply the illegal commercial wildlife trade. Many of these species are trafficked to neighbouring countries such as Vietnam, China and Thailand. Aside from specially trained hunting dogs, domestic dogs are also brought into PAs by community members as companion animals, which often hunt for themselves whilst they are there, causing further destruction and disturbance to wildlife. Furthermore, domestic dogs are also carriers of a number of diseases that can have severe impacts on wildlife populations, including Canine Distemper, rabies and sarcoptic mange. Canine distemper transmitted from domestic dogs is thought to have caused a crash in the Dhole *Cuon alpinus* population in Cambodia in 2011-2012 and is reported to have been associated with Dhole mortalities in a number of other countries. Consequently bringing dogs into the Core Zone and Conservation Zone of PAs needs to be completely prevented and stronger penalties applied to deter this common problematic practice.

## **Chapter 5. SPECIAL EXCEPTIONS ON HUNTING WILD ANIMALS**

This section provides the authority to the relevant officer to euthanize (effectively "hunt") a wild animal humanely should it be deemed beyond recovery and prolonging its life would bring unnecessary suffering, or should it be deemed a dangerous threat to human life.

All wild animals hunted under this chapter must be disposed of following approved methods to prevent wild animals under these provisions being subsequently consumed entering into the illegal trade in wildlife.

This section also regulates non-lethal capture of wildlife for conservation purposes, collection of specimens and zoological institutions to ensure adequate protections and management of wildlife.

## **CHAPTER 6. HUNTING PERMITS**

Hunting permits for indigenous or local communities to hunt within the Sustainable Use and Community Zones of PAs need to be regulated and issued by the Director of the PA and the Director of the PDOE. Outside of PAs the Director of the PDOE can perform this function. Hunting permits should be allocated to one PA per person only.

Permits should not be granted automatically but need to be reviewed on a case-by-case basis, renewed annually to ensure that permits are still required, and not re-issued to anyone caught conducting an illegal activity.

Permits need to be able to clearly identify the permit holder and need to be retained on the person of the permit holder whilst hunting/accessing the approved zones of the approved PA. Failure of a person inside a PA to present a permit is recommended to be treated as an offence.

It is recommended to establish a mechanism for suspending or cancelling permits of persons who have been involved in illegal activities, particularly hunting of scheduled species, to help prevent repeat offences. Permits should be confiscated and suspension

or cancellation of the permit should be in addition to normal penalties applied for the offence.

## **Chapter 7. PROHIBITION OF TRADE, TRAFFICKING OR COMMERCE IN WILD ANIMALS, TROPHIES, ANIMAL PARTS AND ALL DERIVATIVES OF WILD ANIMALS & Chapter 8. CITES**

### **Existing legislation**

The sub-decree on CITES (2006) defines provisions on the mechanisms and management of the export, import, re-export and introduction from the sea of wild animal and plant species listed on the appendices of CITES. Any person or organisation attempting to do the above for commercial purposes has to apply with the sub-decree.

Currently MAFF is the Cambodian CITES Management Authority, responsible for granting and issuing CITES permits, conducting inspections, monitoring international trade at border checkpoints, ports or international points of entry for exports and imports. Forestry Administration and Fisheries Administration are the Scientific Authorities responsible for terrestrial and aquatic species respectively. Scientific Authorities are responsible for assessing detriment determinations of wild animals and plant species (i.e. determining whether a species can be traded legally internationally with no detriment to wild populations).

CITES recommends that national legislation of Parties takes one of three forms: a) amend existing provisions in various legislative texts related to wildlife, natural resources, Customs, import/export and environment; b) include a CITES chapter or CITES provisions in comprehensive wildlife, biodiversity or environment legislation, or c) enact CITES-specific legislation.

Cambodia's sub-decree on CITES follows the latter option and largely follows the suggested format, using existing laws to apply penalties.

Violation of the sub-decree involving illegal cross-border trade of all wild animals and plant species listed in the CITES appendices as defined in the Forestry Law is considered a criminal offence. Offences and penalties are determined using the Forestry Law or other existing relevant laws (e.g. Law on Customs), depending on which agency detected the violation, or an agreement between the agencies if a joint seizure is made.

Currently, according to the Sub-Decree (131) on Forest and Non-Timber Forest Products Allowed for Export and Import, it is permitted to export legal sources of wildlife products, processed or not processed and wildlife specimens from the group of "Common" species. Export of these products at family or tourist scale (not defined) does not require a license or transport permit, export of these products following traditional style (not defined) by client or third party for commercial purposes are allowed without export license but a transport permit is required and issued by FA. Export of these products also require an export license issued by the Ministry of Commerce. The import of all kinds of endemic plants, wildlife and other flora and fauna which impact local genetic sources is "strictly banned" (article 9).

According to the Law on Customs, a person who commits a violation involving prohibited or restricted goods, is subject to administrative fines up to 3 times the value

of the goods or conveyance and to judicial penalties of confiscation of the goods, conveyance, and other things used to conceal smuggled goods, or imprisonment of the offender for 1-5 years, or to one of the above.

### **Recommendations**

The sub-decree on CITES is adequate but needs to be updated to refer to the Environmental Code (Title on Wildlife Protection, Conservation and Management) instead of the Forestry Law. Provisions regarding CITES should still be included within the Environmental Code, as the over-arching legal instrument for all environmental laws, and to harmonise and simplify penalties for CITES listed species (which may or may not be native to Cambodia), with Cambodian wildlife species.

Ideally the Law on Customs would also be updated to harmonise penalties for violations related to illegal trafficking of wildlife with those in the recommendations herein [refer to chapter 16]. Customs are usually the primary agency intercepting illegally trafficked wildlife at border points and thus the Law on Customs is often applied for wildlife trafficking cases rather than the Law on Forestry. It is exceedingly difficult to objectively quantify the value of seized items (the goods or conveyance), thus it is suggested that this measure is no longer used to apply penalties.

The sub-decree on CITES covers only international trade (i.e. trade crossing international borders) and does not regulate domestic trade or cover species not listed on the Appendices of CITES.

The Forestry Law states that it is prohibited to trade, transport or export-import Rare and Endangered species (article 49). It also states that it is prohibited to transport and trade Common species in an amount that exceeds customary use (article 50). However customary use is again not defined. The PA Law states that it is prohibited to stock, buy and sell wild animals and samples of all kinds (article 41).

In recognition of the recommended changes to the classification of wildlife species, a number of national provisions on domestic trade are recommended. It is recommended to prohibit commercial trade of globally threatened species.

It is recommended that advertising wild animals, animal parts and products, trophies and other derivatives of wildlife is also illegal, as well as the act of possessing and selling them, and to include provisions against online sale and trade of illegal wildlife and wildlife parts, products and derivatives. This will strengthen the ability of law enforcement agencies to prevent illegal trade of wildlife, much of which is increasingly conducted covertly and online.

Counterfeit wildlife products can drive the demand for illegal wildlife products and makes law enforcement (identification of counterfeit versus real products) very challenging. It is thus recommended to make the advertisement, sale and trade of counterfeit wildlife parts and products illegal under this title and subject to the same penalty as offences involving genuine wild species, parts and products.

Chapter 8 invokes the sub-decree on CITES and outlines the treatment of species listed under the Appendices of CITES for the Environmental Code. This replaces the referral

to the Law on Forestry in the sub-decree on CITES and clearly articulates prohibited activities regarding international trade of CITES listed species.

## **Chapter 9. INTERNATIONAL COOPERATION**

It is recommended to include provisions encouraging international cooperation for the purposes of enforcing this law and carrying out MOE's mission related to wildlife conservation, protection and management. Such a provision allows MOE to take part in joint, international wildlife trafficking investigations, as necessary, which may increasingly be needed.

## **Chapter 10. SPECIES MANAGEMENT AND RECOVERY PLANS**

It is recommended that management and recovery plans are developed for schedule 1 species, and Schedule 2 species where possible, to guide conservation and management of these species, in line with MOE's NBSAP and other policy instruments. Such plans can be developed by MOE with partner organisations and approved by the National Wildlife Advisory Board, detailing the activities which will lead to an improved status of these species in Cambodia.

It is also recommended to include a provision allowing MOE to develop policies and guidelines on the development of compensatory mitigation measures for damage done to scheduled species, such payments can help to fund conservation efforts, including the implementation of species recovery and management plans.

## **Chapter 11. MANAGEMENT OF CAPTIVE BREEDING, WILDLIFE RESCUE CENTRES AND ZOOLOGICAL INSTITUTIONS**

Chapter 11 contains stronger provisions for the regulation, monitoring and management of institutions keeping captive wildlife. There is presently a lack of regulations on this, so this chapter seeks to ensure such institutions do not further endanger scheduled species by restricting the category of species that certain facilities can hold, and all facilities holding captive wildlife must be registered and have a permit. It is relatively common in Southeast Asia for zoological institutions and private collectors to be involved in illegal wildlife trafficking, thus strong regulations and an effective monitoring system are required to combat this issue.

The chapter also deals with people keeping wildlife as pets, which is a significant issue and prevents the release of captive wildlife without permission from MOE and by institutions not following internationally recognised standards for such releases (with respect to disease risk, suitability of release sites, monitoring of released animals, among other things).

## **Chapter 12. MANAGEMENT OF CONFISCATED WILDLIFE, WILD ANIMAL PARTS AND TROPHIES**

The PA Law states (article 45) that after a court decision is made any confiscated evidence shall be managed in accordance with the procedures of GDANCP. These procedures are not stated within the PA Law and it is not clear whether they were developed..

Article 50 of the PA Law states that natural resources products and by-products which are seized and easily spoilt can be released, destroyed or kept for public benefit by GDANCP. Article 82 of the Forestry Law provides similar authority to Division level FA. "Public benefit" and "easily spoilt" are not defined in either law and thus could be subject to misuse. The recommended provisions therefore clarify how to deal with confiscations and recommend higher security protocols for very high value species, to reduce the possibilities of these products being returned to the illegal trade.

### **Chapter 13. MANAGEMENT OF WILDLIFE FARMS**

Although it is uncertain whether MOE will proceed with wildlife farming itself at present, it is prudent to include provisions in the law that permit farming of species that are not globally threatened, if the regulatory conditions can be met in future (supporting regulatory guidelines need to be developed). It is recommended that Cambodia does not permit the farming of globally threatened species and that wildlife farms are not established inside protected areas for multiple reasons. For more detail on the issues and challenges posed by wildlife farming, see the policy paper on wildlife farming developed by the conservation NGOs.

This section also provides MOE with the mandate to inspect, monitor and regulate existing wildlife farms, which are known to flout existing laws and regulations, helping to strengthen control and accountability of wildlife farms.

This chapter also outlines some of the regulatory conditions required to ensure wildlife farms can not engage in wildlife trafficking, and pay particular attention with regard to the need to ensure wildlife farms do not pose a disease risk to humans, wildlife or livestock. It is also important to ensure animal welfare standards are upheld and that a set of supporting regulations/guidelines are developed to outline what is required from these facilities with regards to husbandry, record keeping, hygiene, diet, etc.

### **Chapter 14. WILDLIFE HEALTH SURVEILLANCE**

Currently, wildlife health surveillance is not within the clear jurisdiction of the MOE and is covered to some extent by other government departments. Greater coordination between government departments is required to deal effectively with this issue and it is recommended that MOE has an important role to play. This chapter outlines some of the possible responsibilities and provisions of MOE.

### **Chapter 15. LAW ENFORCEMENT AND PROCEDURES TO RESOLVE OFFENCES**

The provisions in this section were taken directly from the PA Law, with a few additions/modifications where required. We recommend here clarifying the role of MOE's judicial police officers, the importance of collaborating with other agencies and clarifying evidence of wildlife offences. We also recommend inclusion of additional

considerations of "evidence", in line with other countries' laws, to strengthen the ability to prosecute and secure convictions for wildlife crimes.

## **Chapter 16. OFFENCES AND LEGAL PENALTIES**

It is recommended that the Environmental Code ensure protection of wildlife, and subsequent penalties and acts of restoration that are concordant with existing maximum penalties under the PA and Forestry Law. However, it is recommended that these penalties are simplified, to ensure they are easily understood and implemented. Currently penalties vary depending on both the classification of species and on the type of illegal activity conducted, of which there are many, and this can make these laws very confusing to apply.

For this Title it is recommended to retain different penalties for species on schedules 1, 2, 3 and 4 but only to separate types of offences and penalties against them within broad categories, including: a) hunting offences, b) permit offences, c) trade, transport, trafficking and commerce of wildlife species, d) wildlife farms and other captive institutions, e) enforcement offences, f) offences by companies, g) offences by organized criminal groups which are frequently involved in wildlife trafficking. These provisions have been based on examples from other countries (e.g. India, Malaysia, Kenya), on the Criminal Procedure Code of Cambodia, and on the UNODC Model Legislative Provisions Against Organized Crime.

The penalties in the Law on Customs will also need to be updated based on these recommendations, or a clear reference added that all wildlife cases should be dealt with by the Title on Wildlife Protection, Conservation and Management.



## **Submission Form**

### **Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia**

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission:

*29th September 2016*

Submitted by (provide individual and STWG contact information):

*Sarah Brook, sbrook@wcs.org, expert to STWG 3/5*

**1. Issue:**

*On behalf of a number of the experts to and members of STWG 3/5, I submit draft legislative provisions and a supporting document explaining our recommended revisions and additions to the Law on Natural Protected Areas (PA Law)*

**2. Reference to Code Book and Chapter Title (if applicable):**

*Book 5, Title 2, Protected Areas Management*

**3. Comparative Experience (if any):**

*The supporting document analyses existing legislation and provides an explanation for our recommendations*

**4. Recommendation:**

*See attachments.*

**5. Proposed Language to be Inserted into the Draft Code (if any):**

*See attachments, full draft of the Title included.*

**6. Cambodian Laws to be Abrogated or Modified (if any):**

*This affects the Law on Natural Protected Areas but is linked to a number of other laws*

**7. Drafting Team Analysis/Response (to be included in public database):**

## Recommended Legislative changes

### Book 5: Conservation and Protection of Biodiversity and Cultural Heritage

#### Title 2: Protected Areas Management

**Commented [SB1]:** Text in black are unchanged from the existing PA Law.

Text in red are recommended additions.

Text in red and strikethrough are recommended deletions.

#### CHAPTER 1: GENERAL PROVISIONS

##### Article 1.

This law defines the framework of management, conservation and development of protected areas.

The objectives of this law are to ensure the management, conservation of biodiversity and sustainable use of natural resources in protected areas.

**The management, conservation and protection of all wildlife are covered within the Title on Wildlife Protection, Conservation and Management.**

##### Article 2.

This law has a scope of application in protected areas defined by the provisions of the Law on Environmental Protection and Natural Resources Management, which was promulgated by Preah Reach Kram (Royal Decree) No NS/RKM/1296/36 of December 24, 1996, Royal Decree (Preah Reach Kret) on the Establishment and Designation of Protected Areas of November 01, 1993, Royal Decree on the Establishment and Management of Boeung Tonle Sp Biosphere Reserve No NS/RKT/0401/070 of April 10, 2001, and other relevant standard documents.

##### Article 3.

For the purposes of this law, the terminology and vocabulary listed in this law shall be defined as provided in the appendix.

#### CHAPTER 2: RESPONSIBLE INSTITUTIONS

##### Article 4:

The management of protected areas as mentioned in Article 2 of this law shall be under the jurisdiction of the Ministry of Environment.

The Ministry of Environment has the "Nature Protection and Conservation Administration" (NPCA) as its own secretariat to manage the protected areas pursuant to the policy of the Royal Government of Cambodia.

**All ministries shall seek to conserve protected areas and natural resource values and shall utilize their authorities in the furtherance of this law.**

The organization and functioning of the Nature Protection and Conservation Administration in each protected area shall be determined by Prakas (Declaration) of the Ministry of Environment.

The management of the protected area shall have to guarantee the rights of the local communities, indigenous ethnic minorities and the public to participate in the decision-

making on the sustainable management and conservation of biodiversity **and to ensure fair and equitable access to protected areas for resource users.**

**Article 5:**

The Nature Protection and Conservation Administration shall have the following main duties:

1. Develop **and implement** strategic plans, action plans, and technical guidelines for managing the protected areas.
2. Make proposals for the establishment and modification of any protected area as required by the Royal Government of Cambodia or pursuant to regional and international conventions, protocols and agreements.
3. Prepare guidelines and procedures for effective enforcement of this Law
4. Take action to investigate, control, and crackdown on natural resource offences in the protected areas and file complaint to court.
5. Promote education and dissemination to the public to participate in the conservation and protection of natural resources within the protected areas.
6. Formulate agreements on community protected area development programmes.
7. **Monitor and evaluate the effectiveness of protected area management**
8. **Establish sustainable finance mechanisms for protected areas**
9. **Develop, update and oversee 5 year management plans for all existing and newly established protected areas**

**Article 6:**

Officials of the Nature Protection and Conservation Administration have the following rights and duties:

1. Regularly patrol, **investigate**, control and crack down on natural resource offences of all kinds in protected areas
2. Inspect **and issue** licenses, permits, and other relevant documents determined by this law.
3. Take action **to prevent and control** forest fires in protected areas.
4. Control export and import of flora and fauna, seeds and samples from/into the protected areas.
5. Promote education and dissemination among the public and coordinate with local indigenous communities to participate in the preparation and implementation of community protected areas.
6. **The officials of the Nature Protection and Conservation Administration have a role as judicial police**
7. **Conduct consultations with relevant stakeholders prior to establishment or amendment of any protected area**
8. **Abide by obligations related to receiving protected area finance as set out in legal agreements**

Detailed rights and duties of natural protection and conservation agency's officials shall be determined by Prakas of the Ministry of Environment.

**Commented [SB2]:** Has this Prakas ever been developed? If not, it needs to be developed under the next phase of the Code.

#### **Article 7.**

The Provincial Department of Environments shall have the following roles and responsibilities:

**Commented [SB3]:** Wording needs to be updated when the legislation on deconcentration and decentralization has been finalised

1. Support Protected Area Directors in the management of protected areas in accordance with finance agreements, individual protected area management plans, and in the development of individual protected area management plans and activities
2. Coordinate with provincial authorities and other stakeholders for the implementation of protected area activities, including community protected areas, land titling, zoning, biodiversity monitoring and research, eco-tourism and education, as well as the arrest and prosecution of persons conducting illegal activities,
3. Disseminate laws and regulations related to conservation and protected area management, in coordination with local stakeholders.
4. Inspect and issue licenses, permits, and other relevant documents determined by this law.

#### **Article 8.**

A Protected Area Director shall be appointed who has satisfactorily completed a Bachelors degree in forestry, environment and natural resource management, biodiversity conservation, or other relevant field, or has equivalent years of relevant experience.

A Director of the Provincial Department of Environment shall be appointed who has satisfactorily completed a Bachelors degree or higher degree in forestry, environment and natural resource management, biodiversity conservation or other relevant field, or has equivalent years of relevant experience.

The Ministry of Environment shall provide capacity building opportunities and training for all protected area staff in line with their responsibilities, required skills and capacity needs.

#### **Article 9.**

Protected Area Directors shall have the following roles and responsibilities:

1. To manage protected areas and protected area staff in accordance with finance agreements, available budgets, approved zonation, management and action plans, the National Protected Area Strategic Management Plan and relevant laws and regulations
2. To report to the Nature Protection and Conservation Administration and the Provincial Department of Environment each month on protected area management implementation, progress against plans, threats, challenges and any other issues. Submission of law enforcement activity and performance reports and monthly databases of protected area offences and offenders shall be submitted.

## CHAPTER 3: ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS

### Article 10 (8): Establishment and Expansion of Protected Areas

Protected Areas in Cambodia are established and managed to secure for perpetuity the country's biological diversity, ecosystem services and natural and cultural resources.

A Protected Area is a clearly defined geographical space recognized, dedicated and managed, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.

The Nature Conservation and Protection Administration, Ministry of Environment is responsible for nominating areas to be managed as Protected Areas and a proposal to establish or expand a Protected Area shall consist of:

1. A description of the significance of the area(s) proposed for establishment or expansion in terms of biological, topographical, geological, historical, cultural, and conservation values based on scientific analysis where possible using appropriate scientific methodologies together with an assessment report of natural resources and current land and natural resource use in the proposed area.
2. A legal description of the area proposed for establishment or expansion with appropriately scaled and clear maps indicating location, boundaries, and size.
3. A description of the management and conservation objectives of the proposed area for establishment or expansion, a proposed protected area category as in article 12(7), and estimated operational budget.
4. Results from open, timely, and meaningful consultations with all relevant agencies, stakeholders, and local authority representatives situated within or adjacent to the proposed area, including other government agencies, scientific bodies, academic institutions, technical experts, and local communities.
5. An assessment of how the new or expanded Protected Area fits within the national Protected Area system, the National REDD+ Strategy (NRS) and is compatible and consistent with the National Protected Area Strategic Management Plan (NPASMP).

The establishment of new Protected Areas or expansion of the boundaries of existing Protected Area is issued through Sub-Decree.

Unless explicitly stated under Sub-Decree all new Protected Areas, or additions to the Protected Area estate as a result of Protected Area expansion, will be managed and legally protected as Conservation Zone until zonation and management plans are approved.

**Commented [SB4]:** Numbers in brackets correspond to the existing related article in the PA Law

All existing protected areas without approved zonation plans will be managed and legally protected as Conservation Zone, excepting existing villages, Community Protected Areas and Indigenous Community Titles.

#### **Article 11 (9): Protected Area Reduction and Declassification**

Cambodia's Protected Area system is designed for perpetuity and once established as a Protected Area in accordance with the law (see Article 1) the legal presumption is for the sites' permanent security and perpetual integrity.

Declassification of all, or part, of a Protected Area is reserved for circumstances in which the conservation and ecosystem services value have been reduced to such a degree that restoration is not feasible.

Declassification of all, or part of, a Protected Area should occur through Prime Ministerial Decree following recommendation by the Nature Conservation and Protection Administration, Ministry of the Environment and the National Wildlife Advisory Board.

Reasons for declassification or reduction shall be made public in writing in advance of the action, opportunity for public comment shall be provided, and these comments shall be taken into account in the decision.

Exceptions to the above concern areas of the current Protected Area network under active and non-revoked Economic Land Concessions (granted and approved prior to 1<sup>st</sup> January 2016), which will be declassified following public consultations.

**Commented [D5]:** IUCN guidelines suggest higher than what is needed to create a protected area

#### **Article 12 (7): Classification of Protected Areas**

All Protected Area will be classified and named based on the published IUCN Protected Area Management Categories.

Four types of Protected Area will be recognized: National Parks or Natural Heritage Parks (IUCN Category II), National Monuments (IUCN Category III), Species Conservation Areas (IUCN Category IV), and Protected Landscapes (IUCN Category V) [for definitions see Appendix 1].

Protected Area classification will be defined in Protected Area Sub-Decrees and justified in each Protected Area's Management Plan.

All current Wildlife Sanctuaries meet criteria for IUCN Category II status and could thus become National Parks.

All Protected Areas, irrespective of categorization, require management and zonation plans; however Core Zones are inappropriate for IUCN Category III and V Protected Areas.

#### **Article 13 (9).**

The Royal Government of Cambodia may designate any protected area of national and international significance as world or regional heritage site provided that the area

responds to criteria set forth by such international or regional conventions, protocols, and agreements.

A protected area already designated as world or regional heritage site shall require appropriate interventions by the Royal Government of Cambodia to ensure its management and conservation consistent with procedures and relevant regulations prescribed in such instruments.

A protected area which has already been acknowledged by international or regional treaty, convention, protocol, and agreement, shall be determined by a sub-decree.

#### **Article 14 (10).**

The Royal Government of Cambodia may establish provincial/municipal protected areas.

The Establishment of provincial/municipal protected areas shall be determined by sub-decree.

### **CHAPTER 4: ZONING OF PROTECTED AREAS**

#### **Article 15 (11).**

Each protected area shall be divided into four (4) management zoning systems as the following:

1. **Core Zone:** management area(s) of high conservation values containing threatened, endangered, and critically endangered species, and fragile ecosystems.

Access to the core zone is prohibited except for i) Nature Conservation and Protection Administration's officials, ii) researchers who, with prior permission from the Ministry of Environment, conduct nature and scientific studies for the purpose of preservation and protection of biological resources and natural environment, with the exemption of the national security and defense sectors. **The national security and defense sectors must inform the Ministry of Environment, Department of Environment and Protected Area Director when accessing the Core Zone of a Protected Area. No infrastructure, development, or investment activities including exploration, shall be permitted in the Core Zone of a protected area except those used only by Ministry of Environment officials for the purposes of law enforcement.**

**Core Zone use shall be in accordance with sustainable finance agreements, such as made under REDD+.**

2. **Conservation Zone:** management area(s) of high conservation values containing natural resources, ecosystems, watershed areas, and natural landscape ~~located adjacent to the core zone~~.

Access to the zone is allowed only with prior consent of the Nature Conservation and Protection Administration at the area with the exception of national security and defense sectors. **National security and defense sectors must inform the Ministry of Environment when accessing the Conservation Zone of a Protected Area. No infrastructure,**

**Commented [OG6]:** I can foresee plenty of situations where an area that should be classed as Conservation Zone will not be adjacent to the Core Zone because of settlements in-between. 'Located adjacent to the core zone' should be removed.

development, or investment activities including exploration shall be permitted in the Conservation Zone of a protected area, except those used only by Ministry of Environment officials for the purposes of law enforcement or eco-tourism as outlined in the approved management plan.

Small-scale community uses of non-timber forest products (NTFPs) to support local communities and local ethnic minorities' livelihood may be allowed under strict control via permits issued by the Ministry of Environment, provided that they do not present serious adverse impacts on biodiversity within the zone.

Conservation Zone use shall be in accordance with sustainable finance agreements, such as made under REDD+.

3. **Sustainable use zone:** management area(s) of high economic values for national economic development and management, and conservation of the protected area(s) itself thus contributing to the local community, and indigenous ethnic minorities' livelihood improvement,

After consulting with and receiving approval from relevant ministries and institutions, local authorities, and local communities in accordance with relevant laws and procedures, the Royal Government of Cambodia may permit development and investment activities in this zone in accordance with the request from the Ministry of Environment, following the completion, and evaluation of an Environmental Impact Assessment.

Sustainable Use Zone use shall be in accordance with sustainable finance agreements, such as made under REDD+.

Commented [SB7]: Refer to clauses in the EIA law here?

4. **Community zone:** Management area(s) for socio-economic development of the local communities and indigenous ethnic minorities and may contain existing residential lands, paddy field, and field garden or swidden (Chamkar).

The establishment of a 'community zone' provides local communities with official government recognition of land use rights and tenure which cannot be sold and can only be transferred by inheritance. Issuing land title or Permission to use land in this zone may only be granted to local communities and indigenous ethnic minorities and must have prior agreement from the Ministry of Environment in accordance with the Land Law.

This management area does not cover the Apsara authorities and other authorities designated and management area(s) to which the Royal Government has allocated the tasks.

Commented [SB8]: Potential loophole here?

Any development, infrastructure, investment activities and exploration shall not be permitted in protected areas without an approved Environmental Impact Assessment, and approval for the development from the Prime Minister.

#### Article 16 (12).

The zoning as stated in article 15(11) above shall be implemented in all protected areas according to an MoE approved participatory framework or guidelines based on the following criteria:

Commented [SB9]: yet to be developed

- The area's management objectives



- The **area's** natural resource values
- The **area's** biodiversity conservation significance
- Sustainable finance agreements such as REDD+
- Use of the areas by **local communities**
- Socio-economic and cultural implications of the area
- Carrying capacity of the natural resources of the area
- Geographical location of the area

The **principles** guidelines for zoning in any protected area shall be prescribed by Prakas issued by the Ministry of Environment.

**Commented [SB10]:** Need a good definition of local communities, ensuring this applies only to recognised communities rather than newly created communities as a result of immigration

**Commented [SB11]:**  
Not yet developed, a priority for development under the next phase of Environmental Code?

#### Article 17 (13).

Modification of the boundaries of each zoning system as provided in article 15(11) of this law could be done based on:

- Clear scientific information on ecosystem, including animal species, plant species, genetic resources, biodiversity resources, socio-economic and cultural aspects which are under threat
- Compliance with the policies and strategies of the Royal Government of Cambodia
- Sustainable finance agreements

Decisions on the proposed modification of the boundaries of each zoning system shall be made by the Nature Conservation and Protection Administration and the National Wildlife Advisory Board. Prior to modification consultation will be held with the affected stakeholders.

#### Article 18 (14).

The Ministry of Environment shall formalize the map for each protected area on an appropriate scale and with the participation of the Ministry of Land Management, Urban Planning and Construction, local authorities, local communities and relevant agencies.

The Nature Protection and Conservation Administration shall conduct research and management zoning as stated in article 15(11) of this law in accordance with the Ministry of Environment's guidelines and demarcate the boundary markers for each protected area based on appropriate locations on the map, **and agreed zones**, determined by sub-decree. **The boundaries of the protected areas and zones will be publicly available and disseminated to relevant stakeholders.**

### CHAPTER 5: NATIONAL STRATEGIC AND ACTION PLANS FOR PROTECTED AREAS MANAGEMENT

#### Article 19 (15).

The Ministry of Environment shall develop a National Protected Area Strategic Management Plan (NPASMP) and ensure that the Plan is compatible and consistent with national plans including the **national budget for protected area management**, the National Environment Action Plan, National Biodiversity Strategy and Action Plan, **National REDD+ Strategy**, and the National Wetland Action Plan. The NPASMP is to be adopted by the Royal Government of Cambodia at the request of the Ministry of Environment.

#### **Article 20 (16).**

The NPASMP shall include, **at a minimum**, the following contents:

- **Vision, Mission and Goals**
- **Guiding Principles**
- Objectives of conservation, rehabilitation, suppression of illegal activities and sustainable use of natural resources and ecosystems within individual protected areas
- Current status of natural resources and ecosystems within each zone including flora and fauna species, genetic resources and socio-cultural aspects
- Assessment of potential level of contribution of each protected area to achieving biodiversity and natural resources protection and conservation
- Recommended actions **and timelines** for successful achievement of the protected area objectives; and steps for implementation of management plan for priority protected areas
- **Monitoring and Evaluation plans referencing clear performance indicators**
- **Gender Mainstreaming**
- **Climate Change Mitigation and Adaptation**
- **Financing Resources**

The NPASMP shall be prepared and revised through a process involving public consultation, notice and comments in line with guidelines issued by the Ministry of Environment.

#### **Article 21 (17).**

The Ministry of Environment shall make proposals for review and revision of the NPASMP at least once every five years, **or earlier if changes are needed to achieve the Ministry of Environment's purpose(s), vision, goals, or objectives in protected area management, based on:**

1. Improved scientific information about, and understanding of, Cambodia's living resources and ecosystems, including communities of species of flora and fauna, biological and genetic diversity, and socio-cultural resources;
2. Threats to the National Protected Area System;
3. Evolving implementation requirements in accordance with the policies of the Royal Government of Cambodia; and

4. Findings from monitoring and evaluation;
5. Changes to the budget allocation for protected area management.
6. Performance under sustainable finance agreements.

The NPASMP shall be revised through a process involving public consultation at the national and provincial level, notice, and comments in line with guidelines produced by the Ministry of Environment.

#### Article 22 (18).

The Nature Protection and Conservation Administration (GDANCP) shall develop, for all individual protected areas, a ~~management plan~~ ~~an action plan~~ to be approved by the Ministry of Environment and in accordance with the NPASMP.

The process for the development of the individual plans shall involve coordination and consultations with local authorities, local communities and indigenous ethnic minorities living inside and adjacent to the protected area and other relevant stakeholders, including private sector entities such as economic land concession owners. Particular care must be taken to solicit and take into consideration the views and needs of marginalized groups, including indigenous people, women, those without land title, and the poor.

Funds for the development of protected area management plans can be made available from the Ministry of Economics and Finance as part of the national budget allocated to protected area management.

A draft of the protected area management plans must be made available for public review and comment for a period no shorter than 30 days, in both Khmer and English prior to its ~~approval~~.

**Commented [SB12]:** Are there guidelines on responding to public comments we can use, perhaps from the EIA law?

#### Article 23 (19).

The Ministry of Environment shall issue Prakas prescribing guidelines for a standardized process for the development of individual protected area ~~action~~ ~~management~~ plans. Protected area management plans shall be based on the best available scientific knowledge and evidence.

**Commented [SB13]:** This Prakas has not been developed but it would be easy to do so, based on one or two PAs that have gone through/are going through this process

The content for each of the plans for individual protected areas shall include the following:

1. ~~Introduction~~, including the location, socio-economic context and conservation significance of the protected area
2. Vision, mission, goals and management plan targets for the protected area
3. Guiding principles for the protected area
4. Strategic analysis, including the governance context, threats to management targets and responses
5. Strategies for strengthening conservation, sustainable resource use and community services
6. Financing, including staffing and administration, infrastructure, building, equipment and materials and long-term sustainable funding plans
7. Monitoring and evaluation
8. A detailed description of the activities allowed within each zone and accompanied by zoning categories and maps

**Commented [SB14]:** Guidance for the contents of management plans issued by MOE to WWF. Suggest this replaces the guidance in the PA Law, in black text below

1. The management objectives of the protected area
2. A description of the available natural resources, their uses, land use status, within the protected area
3. A description of prohibited activities that run counter to the protected area management objectives
4. A model of agreement, roles and responsibilities on the participatory protected area management between the Administration, the protected area communities
5. The action plan and interventions required for forest fire management, protection and conservation of wildlife and their associated habitats
6. A plan for the management of, for example, the protected area community and eco-tourism development programme
7. An assessment of budget requirements and sources of funding
8. A description of the name, role, and structure of the protected area

#### Article 24.

A protected area management plan shall be submitted for approval within 12 months of the establishment of a new protected area. The approval of a protected area management plan shall be within 6 months of its submission.

#### Article 25.

Each individual protected area management plan must be renewed every five years from its date of approval, or earlier if changes are required to achieve the protected area management objectives as stated in the protected area management plan, based on:

1. Findings from monitoring and evaluation
2. Improved scientific information about and understanding of Cambodia's living resources and ecosystems, including communities of species of flora and fauna, biological and genetic diversity, and socio-cultural resources
3. Threats to the protected area; and
4. Implementation in accordance with the Royal Government policies
5. Performance under sustainable finance agreements

The review process shall begin six months before the expiry of any given protected area management plan, and approved at the latest two months before the expiry of the preceding plan. The Nature Conservation and Protection Administration is responsible for the review process.

**Commented [SB15]:** Should this be in supporting guidelines not the law?

#### Article 26 (20).

A National Committee for Conflict Resolution on Protected Area Management (NCRPAM), chaired by the Minister of Environment and participated in by the National Wildlife Advisory Board, relevant ministries and institutions as members, shall be established to assist in the discussion, consultation and conflict resolution on the protected area.

**Commented [SB16]:** Does anyone know if this committee is functional?

The National Committee for Conflict Resolution on Protected Area Management shall meet as required at the request of the Minister of Environment, following the receipt of reports, or complaints from an interested party. The Committee shall review and evaluate the complaint and make a decision on a resolution within 90 days of the receipt of the complaint.

## CHAPTER 6: ACCESS AND USER RIGHTS OF LOCAL COMMUNITIES AND INDIGENOUS ETHNIC MINORITY COMMUNITIES

### Article 27 (21)

Local communities, indigenous ethnic minorities, the public and civil society are encouraged to participate fully in the provision of and access to information relevant to the protected area management, conservation and development.

### Article 28 (22).

The state recognizes and secures access to traditional uses, local customs, beliefs, and religions of the local communities, and indigenous ethnic minority groups residing within and adjacent to the protected areas.

Access to traditional uses of natural resources and customary practices of local communities and indigenous ethnic minority groups, **including resin harvesting**, are allowed within the conservation zone and sustainable use zone following guidelines **by persons holding a valid permit issued by the Provincial Department of Environment and Protected Area Director, and in compliance with other relevant laws, including the Law on Wildlife Protection, Conservation and Management**. The guidelines shall be prescribed in a Prakas of the Ministry of Environment

Small-scale community uses of non-timber forest products (NTFPs) to support **local communities** and local ethnic minorities' livelihood may be allowed under strict control **via permits issued by the Ministry of Environment**, provided that they do not present serious adverse impacts on biodiversity within the zone.

### Article 29 (23).

Utilization of natural resources in accordance with articles of this law may only be allowed in the sustainable use zone or the areas designated as community protected area, **with the exception of resin harvesting by local communities and indigenous ethnic minority groups which will be allowed in the Conservation Zones by individuals holding a valid permit as stated in article 28(22) of this law.**

Utilization of land for agriculture and residential land is allowed only in the community zone or with special agreement in the sustainable use zone. The CPA Committees can assist commune councils to manage the community zones in accordance to the agreements between the MoE and the said community. Issuing of land titles in the community zone will be in accordance to the Land Law.

Utilization of natural resources shall be in accordance with the Management Plan and technical guidelines to ensure sustainability of natural resources within the community protected areas **and community zones**.

Utilization of natural resources shall be in accordance with sustainable finance agreements, such as those made under REDD+.

**Commented [SB17]:** Refer to UN declaration on the rights of indigenous people's here, which Cambodia has ratified?

**Commented [SB18]:** Does this Prakas exist?

**Article 30 (24).**

Swidden agriculture practices, **commercial agricultural practices and any other agricultural practices** shall not be permitted in the core zone and conservation zone of protected areas.

**Article 31 (25).**

The Ministry of Environment has the authority to allocate part or parts of the sustainable use zone to communities residing within or adjacent to a protected area, as the community protected area.

The concerned community protected area shall enter into an agreement with the Nature Conservation and Protection Administration and the agreement shall be valid for a period not exceeding fifteen (15) years.

If the community protected area fails to abide strictly by the agreement with the Nature Conservation and Protection Administration and management plan, the Nature Conservation and Protection Administration has the right to temporarily stop for review and assessment of the operation of the community protected area.

The Ministry of Environment has the authority to revoke the agreement with the community protected area in case the community acts in contravention of the terms of the agreement and management plan.

Guidelines on the procedures and process of establishment of the community protected area shall be determined by Prakas of the Ministry of Environment.

**Article 32 (26).**

Local communities and indigenous ethnic minorities may not have the rights to clear or work forestlands in the community protected areas **or community zones** allocated to it, pursuant to the agreements with the Ministry of Environment, to practice agricultural farming or to claim title over the land, or to sell, lease, pawn, donate, share, divide or transfer the areas under its own management to any person or legal entity.

Community protected area **or community zone** regulations shall be established by local community and indigenous ethnic minorities acknowledged by local authority and endorsed by the Nature Conservation and Protection Administration of the Ministry of Environment.

Allocation of more farmland to local communities and indigenous ethnic minorities shall be determined by a sub-decree.

**Article 33. (27)**

The Nature Conservation and Protection Administration, upon consultation and coordination with local authorities, local communities and indigenous ethnic minorities is duty-bound to conduct feasibility study on the establishment of community protected areas and to define clear location and appropriate size.

National and International Non-governmental Organisations (NGOs) and civil societies are encouraged to provide assistance and coordination for the establishment and implementation process of a community protected area.

**Article 34 (28).**

The community protected area shall develop, with recognition of the local authority, a natural resources management plan which shall be reviewed and approved by the Nature Conservation and Protection Administration. The plan shall be reviewed regularly every three (3) years or earlier if necessary. **Any new extractive activities shall require an impact assessment in addition to a sustainable harvesting plan.**

The plan and the community protected area development activities shall be integrated into the commune development plan.

**CHAPTER 7: EDUCATION, DISSEMINATION, REHABILITATION, IMPROVEMENT AND FUNDING OF PROTECTED AREAS**

**Article 35 (29)**

Citizens, Buddhist monks, school children, civil servants, members of the armed forces, and local authorities shall have an obligation to participate in the protection, conservation and rehabilitation of natural resources within protected areas.

**Article 36 (30).**

Extensive programmes for education and dissemination, involving all means of communications, shall be developed for individual protected areas on the protection and conservation of natural resources, the rehabilitation and restoration of biodiversity and degraded and lost ecosystems.

The Ministry of Environment shall, every year on the National and World Environment Day and other national and international convention days, organize activities for rehabilitation of biological resources and ecosystems within the protected areas with a view to providing public education and awareness on the value of protected areas and promoting participatory protection and conservation of natural resources.

**Article 37 (31).**

The Ministry of Environment shall, in collaboration with local communities, indigenous ethnic minorities, national and international organisations and NGOs, rehabilitate and restore the environment in degraded areas within the protected area.

**Article 38 (32).**

The Government shall establish a fund called "protected areas fund" which is organised, managed and given responsibility by a protected area committee with Minister of Environment and Minister of Economy and Finance as co-chairmen.

The establishment and functioning of the committee shall be determined by a sub-decree.

**Commented [SB19]:** Has this been established/ is it functional?

The Protected Areas Fund will be the repository for revenues collected from fees, fines and taxes related to protected area management. It will be used by the Ministry of Environment to enable investments in protected areas over and above what is available from national budget allocations.

As the primary implementing agency, the Nature Conservation and Protection Administration will have its own financial account and budget, allocated as part of the national budget, with which it will prioritize annual investments in individual protected areas, in consultation with other stakeholders.

Protected areas of higher biodiversity value and higher threat, as identified by the National Wildlife Advisory Board, should receive a higher proportion per hectare than areas of lower inherent value or threat.

#### **Article 39.**

The Nature Conservation and Protection Administration will undertake an annual budgeting process in accordance with international standards and in coordination with the NPASMP review, which is available for public scrutiny. The budget will account for:

1. Funds allocated by the national budget; and
2. Funds available, and expected in the coming financial year, in the Protected Area Fund.
3. Funds available relative to meeting performance targets
4. Funds available from any other sources

The budget will identify funding priorities under the following three funding scenarios.

1. Scenario 1: minimum funding, with activities and costs necessary for basic functionality, sustainable finance agreements, and minimum desirable level of management and protection.
2. Scenario 2: medium level of funding necessary to maintain/ implement activities designed to provide a sufficient level of management and protection.
3. Scenario 3: maximum level of funding to undertake activities designed to provide an enhanced level of management and protection.

#### **Article 40 (33).**

Funding support for rehabilitation, management, improvement of protected areas and biodiversity shall come from:

1. National budget
2. Protected area entrance and other service fees
3. Environmental endowment insurance
4. Donations
5. Assistance from national and international organizations and friendly countries
6. Assistance from international environment funds



7. Protected Areas Fund
8. Trust fund endowments
9. Payments for Environmental Services schemes
10. Emissions reductions projects such as REDD+

**Article 41 (34).**

Budget and funds from sources as stated in article (33) of this law may be used to support the following activities within the protected areas:

- The protection and conservation of biological resources and ecosystems
- Rehabilitation and enhancement of biodiversity and ecosystems
- Technical and scientific research studies on biodiversity and ecosystems
- Maintenance and extension of eco-tourism services
- Training, human resource development and capacity building of the Nature Conservation and Protection Administration staff for effective protection and conservation of biodiversity and ecosystems
- Programmes supporting the establishment of community protected areas
- Dissemination and education on protected areas and
- Construction, rehabilitation and maintenance of infrastructure
- The development of protected area management plans and community protected area management plans
- Obligations under sustainable finance agreements

**Article 42.**

The Ministry of Environment will work with all other relevant Ministries to ensure an enabling policy environment for the following potential sources of future funding for Cambodia's protected area system:

- Government-sourced funds including from multi-lateral and bi-lateral donors and debt-for-nature swaps
- Tax incentives for ecosystem conservation, and surcharges including from economic land concessions and compensation from hydropower and mining concessions
- Permits, fees and licenses, tourism concession fees, payments for ecosystem services (e.g. water, carbon, sustainably managed natural forest) and compensatory legal fees and fines
- Donations, volunteers and cost sharing including corporate (CSR) and personal donations, public-private partnerships, assistance from international NGOs and international environment funds

- Private sector investment in appropriate economic activities in protected areas from which protected areas management funds can be generated.
- Emissions reductions projects, including Reduced Emission from Deforestation and Degradation (REDD)

#### Article 43.

The Nature Conservation and Protection Administration will prepare a detailed report at the end of each financial year which reports all expenditures and is available to the public on the Ministry of Environment website in both English and Khmer.

### CHAPTER 8. PERMIT AND PROHIBITION AND ENVIRONMENTAL AND SOCIAL IMPACTS ASSESSMENT

#### Article 44 (35).

The Minister of Environment has the authority to issue permits, agreements, or contracts for non-profit purposes in terms of conservation, management of **and customary access** to natural resources in protected areas.

Request procedures and formalities to get permits and agreements or contracts for non-profit purposes in terms of conservation and management of natural resources in protected areas shall be defined by **Prakas** of the Ministry of Environment.

**Commented [SB20]:** Does this Prakas exist?

#### Article 45 (36).

All **development for public infrastructures in protected areas, including** clearances and bulldozing within the open land, **grassland**, or forestland in protected areas for the purposes of building all types of public infrastructures through the core zone and conservation zone shall be strictly prohibited. **Economic land concessions and social land concessions shall be strictly prohibited from the Core Zone and Conservation Zone.**

These activities can only be carried out in the sustainable use zone and community zone with approval from the Royal Government of Cambodia at the request from the Ministry of Environment **and only following the completion and evaluation of a social and environmental impact assessment.**

**Any development, including infrastructure, investment activities, concessions or exploration, that is proposed to take place between the boundaries of adjacent protected areas must be subject to an environmental impact assessment, reviewed and approved by the Minister of Environment.**

#### Article 46 (37).

To establish bases, transfer of base location or temporary strategic bases of the armed forces in protected areas, the Ministry of Environment and institutions managing the armed forces shall collaborate and conduct feasibility studies in order to submit the proposal to the Royal Government for approval.

The Armed forces' bases in protected areas that have been mobilized or moved to other locations shall be handed over to the Ministry of Environment.

Military exercises, training, and camping in the core zone and conservation zone of protected areas are strictly prohibited, except for national security and national defense needs, and in such cases the Armed Forces need approval in advance from the Ministry of Environment. These activities can only be carried out in the sustainable use zone and community zone with approval from the Ministry of Environment.

#### Article 47 (38).

All actions of taking out of or into protected areas, plants, seeds, wildlife or fish, and cross breeding of wild species or fish of all species shall be subject to research, diagnosis and evaluation by the Nature Conservation and Protection Administration and the National Wildlife Advisory Board. If such activities are deemed not detrimental to the plants, wildlife or fish involved, such activities shall receive permission from the Nature Conservation and Protection Administration and with approval from the Ministry of Environment.

Any actions involving wildlife must be compliant with the Law on Wildlife Protection, Conservation and Management.

#### Article 48 (39).

All non-commercial export, import or exchange between the Kingdom of Cambodia and other countries of wildlife, captive bred wild animals and plant species, plant seeds, cross-breeding of wildlife, and fish species and specimens of species endemic to the protected area shall be subject to comprehensive research, diagnosis, and evaluation by the Nature Conservation and Protection Administration. Permission for such activities can only be granted by the Ministry of Environment, if the proposed activities are in accordance with the laws and regulations of the Royal Government of Cambodia, including the Law on the Wildlife Protection, Conservation and Management and the sub-decree of CITES.

#### Article 49 (40).

Setting forest fire in the protected areas without a permit is prohibited. The use of fire may be allowed by the Nature Conservation and Protection Administration, for arboriculture, habitat management, fire road and forest sanitation, in accordance with approved management plans.

Citizens, armed forces, and authorities of all levels have the obligation to participate in collaborating to conserve, prevent and control the forest fire.

#### Article 50.

Fishing inside the Core Zone of a protected area is strictly prohibited.

Fishing with illegal gears inside any zone of the protected area is strictly prohibited, including but not limited to chemical and other poisonous substances, electrocution, mosquito nets, explosives, spear in combination with projected light, gill net or seine net with mesh size smaller than 1.5cm, encircling net with light, in accordance with the Law on Fisheries.

**Commented [SB21]:** I am not sure what this means/permits exactly. Cross breeding of animals should not be allowed. Can someone please check the Khmer version to check the translation is correct?

Placing a barrier or obstruction in any aquatic system that prevents the free passage of fish is prohibited without a permit from the Ministry of Environment.

Draining, or attempting to drain or pump dry an aquatic system in order to catch or kill fish in any manner whatsoever is strictly prohibited.

Damage to spawning grounds, banks or spawn of fish is strictly prohibited inside all zones of protected areas.

Establishment or operation of an aquaculture process is strictly prohibited inside Core Zones and Conservation Zones.

#### **Article 51 (41).**

Each protected area shall be protected against destructive practices or harms caused by illegal land claim, collection, **clearance**, commercialization, pollution in the areas containing valuable biological resources, forest fire, swidden **and commercial** agriculture, transmission of diseases and pests including invasive plants and animals.

Prohibited practices considered destructive and harmful include:

1. Placement, removal or destruction of protected area boundary markers or posts
2. Collection of timber and non-timber products (NTFPs), fishery products and natural resources in a manner violating the recognized and authorized access rights, **or by persons without a valid permit**
3. Felling, pruning, clearing, **damaging** or poisoning plants **or trees**, or uprooting tree stumps **without a valid permit**.
4. Catching, hunting, collecting and **harassing** wild eggs, offspring and birds by all means
5. Destroying water quality in all forms, poisoning, using chemical substances, disposing of solid and liquid wastes into water or on land, using electric shock equipment **as described in the Law on Wildlife Protection, Conservation and Management**
6. **Hunting wildlife illegally or without a valid permit as described in the Law on Wildlife Protection, Conservation and Management**
7. Stocking, buying, selling, **possessing, trading, breeding, keeping, maintaining, transporting, consuming, storing and any other uses of wild animals and their products as described in the Law on Wildlife Protection, Conservation and Management**
8. Destroying natural grassland, plants and wildlife habitats
9. **Bringing or releasing any non-native flora or fauna**, including cattle, livestock, and dogs, **into the Core Zone or Conservation Zone**
10. Illegal fishing practices harmful to natural resources, both marine and freshwater, flooded forests, mangroves, corals and seaweeds, **rivers and wetlands**
11. Establishment of bases for processing Khlem Chan (*Auilaria crassna*), Mreah Prov (*Ocimum sanctum*), Vor Romeat (*Teramnus labialis*) or other NTFPs and freshwater and marine aquaculture that may cause pollution or destructive effects to the biota and ecosystem
12. **Mining activities including survey, testing, exploration and extraction of minerals**

13. Dredging or extraction of sand and other minerals or resources from rivers and riverbanks
14. Development of small-scale dams or irrigation within the Core Zone and Conservation Zone

**Article 52 (42).**

Processing natural resources products and by-products, and fisheries, establishing and operating sawmill bases for wood processing, timber processing plants, shops to process natural resource products and by-products, fisheries and all kinds of kilns in the protected areas are strictly prohibited, with the exception of NTFP processing plants operated and maintained by local communities and indigenous ethnic minorities, which may be permitted within the Sustainable Use Zone and Community Zone.

Establishing wildlife capture, raising, stocking, breeding, maintaining or farming operations for commercial purposes, or any other non-conservation purposes, inside or adjacent to a protected area is strictly prohibited.

Transporting illegal natural resources inside all zones of protected areas is prohibited. Transportation of natural resources inside all zones of protected areas without a valid permit is prohibited.

**Article 53 (43).**

No physical person or legal entity may have authority to issue permission, either directly or indirectly, to fell trees, clear forestlands or grasslands, poison, electrocution, hunt or trap for any species of animals or to undertake activities to collect NTFPs, wildlife, to take land or components of natural resources into their ownership within a protected area, which contravene the provisions of this Law and the Law on Wildlife Protection, Conservation and Management.

Any physical person or legal entity that has felled trees, cleared forestland or grasslands, or taken land or components of natural resources into their ownership within a protected area which contravenes the provisions of this Law, must sign an agreement with the Ministry of Environment or Provincial Department of Environment to return the land back to the Ministry of Environment, and to not plant, cultivate or otherwise alter the land further. If the individual or legal entity refuses to sign such an agreement, or the agreement is not respected, the law enforcement officials reserve the right to apply the appropriate penalties.

Any land cleared in contravention of this law must be immediately demarcated by officials of the Nature Protection and Conservation Administration, who have the right to monitor, investigate and enforce these agreements.

**Article 54 (44).**

To minimize adverse impacts on the environment and to ensure that management objectives of protected areas are satisfied, and Environmental and Social Impact Assessment shall be required on all proposals and investment for development, including economic and social land concessions, within or adjacent to protected area boundaries by the Ministry of Environment with the collaboration from relevant ministries and institutions.

The procedures for Environmental and Social Impact Assessment for any projects or activities shall comply with provisions pertaining to the process of Environmental and Social Impact Assessment as described in the Law on Environmental Impact Assessment.

#### **Article 55.**

The Ministry of Environment shall develop policies and guidelines on the payment of compensatory mitigation for damage done to species or habitats within protected areas, by companies, individuals or other legal entities, following the guiding principles of the Environmental Code.

#### **Article 56.**

Harvesting resin within the Conservation Zone or Sustainable Use Zone of protected areas is prohibited without a valid permit.

Resin harvesting permits must be carried on persons at all times whilst accessing the Conservation Zone and Sustainable Use Zone, and produced for inspection as required.

A resin harvesting permit gives permission to the identified user to harvest resin in a particular location inside a protected area, in accordance with customary user rights of local communities and indigenous minority groups.

Individuals wishing to obtain a resin harvesting permit must submit a written application to the Provincial Department of Environment.

Resin harvesting applications for Conservation Zones of protected areas will be reviewed, and if appropriate, approved and permits issued by the Director of the Provincial Department of Environment and Director of the relevant protected area.

No resin harvesting permit will be issued to any person involved in more than 3 instances of illegal activities inside a protected area in accordance with this Law.

No resin harvesting permit will be issued to any person that the Provincial Department of Environment or Protected Area Director has reasonable cause to believe, or evidence to prove, that the individual has participated in or had any involvement with commercial hunting and trade of wildlife.

A resin harvesting permit may be granted or refused, or conditions or restrictions imposed as the Director of Provincial Department of Environment and Director of the protected area sees fit.

Transfer of resin harvesting permits from one person to another is prohibited.

A resin harvesting permit is valid for 1 year, thereafter it will be reviewed and renewed annually.

Where a resin harvesting permit is lost, the holder of a permit must immediately inform the Provincial Department of Environment, and Director of the Protected Area if appropriate, and cease all resin harvesting activities until a replacement permit is issued.

The Protected Area Director or Director of Provincial Department of Environment may suspend or cancel any resin harvesting permit, granted under this Law, to be recorded in writing.

#### Article 57.

Any person, group, community or legal entity that conducts eco-tourism within the boundary of a protected area must have an agreement with the Ministry of Environment for the proposed eco-tourism activities and arrangements.

### CHAPTER 9: LAW ENFORCEMENT AND PROCEDURES TO RESOLVE OFFENCES

#### Article 58 (45).

Natural resource offences are criminal offences that are specially defined as mentioned in this law. Offences against wildlife shall be referred to and covered by the Law on Wildlife Protection, Conservation and Management.

Officials of the Nature Protection and Conservation Administration and Provincial Department of Environment having duties as judicial police officers shall have the authority to investigate, prevent and crack down on natural resource offences within their assigned territory, in all zones of protected areas, and file such cases with the court.

Operations by the Nature Protection and Conservation Administration officials and Provincial Department of Environment who are commissioned as judicial police officers shall be carried out in accordance with the law on criminal procedures of the Kingdom of Cambodia.

Nature Protection and Conservation Administration officials and officials of the Provincial Department of Environment who are commissioned as Judicial Police Officers can conduct searches with prior authorization from the prosecutor, whether verbal or written. Judicial Police Officers must follow the Law on Criminal Procedures in such cases.

After a court decision or judgment is made, any confiscated evidence shall be managed in accordance with the procedures of the Nature Protection and Conservation Administration of the Ministry of Environment.

All Directors, Deputy Directors of Protected Areas and Law Enforcement Team Leaders should be officials of the Nature Protection and Conservation Administration or Provincial Department of Environment with duties as Judicial Police Officers.

#### Article 59 (46).

Local authorities, armed forces, other concerned institutions and law enforcement agencies and the public shall facilitate the process of providing information, and assist in the investigation, prevention and suppression, of natural resource offences, or in the temporary custody of any seized evidence so that it can be made available at the request of the Nature Protection and Conservation Administration officials.

Officials of the Nature Protection and Conservation Administration, in cooperation with local authorities, for the purposes of making the management and conservation of natural resources highly effective, shall take prompt action to investigate any cases of offences upon complaint or report, or other information on natural resource offences in the protected area.

When conducting an enquiry into offences, Officials of the Nature Protection and Conservation Administration that are not qualified as Judicial Police Officers, are required to make reports, in accordance with the Law on Criminal Procedures.

**Commented [SB22]:** Text from the Law on Criminal Procedures.

Rohit's comment - Ideally MOE Judicial Police would not need a warrant for investigations/searches, remote locations of illegal activities make this time consuming and problematic. Vishnu - is Rohit's suggestion at all possible?

**Commented [SB23]:** These procedures might need updating during the next phase (supporting regulations).

#### Article 60 (47).

When conducting the prevention of and crackdown on natural resources offences **and conducting their duties** within their responsible territory and when in court session, the NCPA officer shall wear appropriate uniform, insignia and hierarchical ranking badge, **with the exception of covert investigations.**

#### Article 61 (48).

Officials of the Nature Protection and Conservation Administration, in their role as judicial police, shall have the authority to use weapons and authority to use self-defense against physical violence by offenders while performing their mission. The weapons shall be handled and managed by the Ministry of Interior **in accordance with the Law on the Management of Weapons, Explosives and Ammunition.**

#### Article 62 (49).

The filing of offences inside protected areas shall be in accordance with the Criminal Procedures in force.

The Ministry of Environment and Ministry of Justice shall make a joint Prakas on the procedures for recording offences within a protected area.

**Commented [SB24]:** Does this Prakas already exist?

#### Article 63 (50).

Evidence of natural resources offences inside the protected area shall be defined as follows:

1. Natural resources products and by-products, **clearance, destruction, disturbance or damage, that are the actual evidence of illegal activities**
2. Equipment and **any** means of transport **that may be used for committing illegal activities, including materials that may be used for the construction of equipment to conduct illegal activities**
3. Equipment and records used in the business of protected area offences (including, inter alia, telephones, financial records, bank records)
4. Assets considered likely to have been purchased through the proceeds of protected area offences
5. Documents or other testimony by witnesses to the illegal activities or the intent to commit such an offense

Evidence as stated in the first sentence above shall be temporarily seized until the cases are resolved by the court whether by transaction fines or by the court decision.

During the illegal transportation of natural resources products and by-products the driver of that means of transport without its owner present shall be temporarily detained to assist in the investigation of offenders and their accomplices.

With appropriate recording, the Nature Conservation and Protection Administration has the authority to release or destroy or keep for **public benefit the natural resources products and by-products seized which are easily spoilt. Seizures and management of seized wildlife, wildlife products, trophies or other derivatives, must follow the guidelines in the Law on Wildlife Protection, Conservation and Management.**

**Commented [SB25]:** I think we need a strong definition of "public benefit" and "easily spoilt" to ensure this cannot be used as a loophole. Do these definitions exist in any other laws?



#### **Article 64 (51).**

Officials of the Nature Protection and Conservation Administration on duty have the authority to temporarily stop all or part of a person's activity that has offended against the provisions of this law, the Law on Wildlife Protection, Conservation and Management or breached the agreement until the case is resolved.

#### **Article 65.**

For offences under this Law, the knowledge, intention, aim, purpose or agreement referred to in each offence may be inferred from objective factual circumstances.

#### **Article 66 (52).**

Any person who disagrees with the decision made by the Nature Protection and Conservation Administration as outlined in this law, except transaction fines as stated in article (52, 56, 57) shall have the rights to make a written complaint to the Head of the central Nature Protection and Conservation Administration within at most thirty (30) days as of the date a decision by the local Nature Protection and Conservation Administration or the court is received.

The Head of the central Nature Protection and Conservation Administration shall make decisions on this complaint within at most thirty (30) days as of the date the complaint is received.

If upon the complaint, a decision made by the Head of the central Nature Protection and Conservation Administration is still not acceptable by the plaintiff, he/she can file a complaint to court within thirty (30) days at most.

Any complaint made under this article shall not affect the authority of, or stay the process of enforcement by the Nature Protection and Conservation Administration officers under this Law.

### **CHAPTER 10. NATURAL RESOURCES OFFENCES AND PENALTIES**

#### **Article 67 (53).**

Punishments for natural resource offences within protected areas include imprisonment, fines by court procedures, transaction fines, confiscation of evidence, payment of restoration damages, warning, termination or suspension of agreements or permits.

Decisions to suspend or terminate agreements or permits shall be the responsibility of the Minister of Environment.

All offences against Wildlife inside or outside protected areas will be covered under the Law on Wildlife Protection, Conservation and Management and punishment under that law will be applied.

Restoration Damages to Wildlife, Habitat, and Ecosystem Services, inside or outside protected areas will be covered under the Law on xxxx.

Decisions to impose transaction fines, to pay restoration damages and to issue warnings shall be the responsibility of the Nature Protection and Conservation Administration.

**Commented [D26]:** The one Mark Barash who will be coming to KH again soon I understand is working on

If the offender refuses to pay the fines or restoration damages, then the Nature Protection and Conservation Administration may file a court proceeding on the offence.

Confiscation of equipment whether by the Nature Protection and Conservation Administration or by the court depends on each case determined by this law.

Three or more offences committed by an individual, group of individuals or legal entity, will receive a punishment from the next highest offense class i.e. three First Grade offences will be punished as a Second Grade offence.

**Commented [D27]:** Clumsy wording but hopefully gets the point across

#### Article 68 (54).

The transaction fine is applied when the offender has confessed and agreed to pay the fines pursuant to the provisions of this Law, and it shall be paid no later than fifteen days (15) from the date of the notice of the fines by the Nature Protection and Conservation Administration.

The procedures and rights to decide on transaction fines shall be defined by Prakas of the Ministry of Environment.

**Commented [SB28]:** Does this Prakas actually exist?

~~In fixing the amount of transaction fines, the following factors shall be considered:~~

- ~~1. The economic value of the biodiversity translated as gain, realized as a result of the offence;~~
- ~~2. The damage caused to the natural resources and environment;~~
- ~~3. Conduct of offences in each management zone~~
- ~~4. How often the person charged has committed the offence;~~
- ~~5. How much of a fine required to deter future offences from occurring; and~~
- ~~6. Whether the offence was intentional~~
- ~~7. Condition of the offender~~

If the offender refuses to pay the fine or restoration damages, within the period as stated in this article then the Nature Protection and Conservation Administration may file a court proceeding on the offence.

#### Article 69 (55).

The fines imposed by court decision or revenue from selling of evidence shall go to the national budget.

The Royal Government may decide to pay reward to citizens or officers who had been actively participating in controlling natural resource offences within a particular protected area.

#### Article 70 (56).

A person who commits offence against the provisions of this law shall receive punishment as follows:

1. **Natural resources offences of the first grade:**
  - Warning, payment of restoration damages, transaction fines, termination or suspension of agreements or permits. Fines from four hundred thousand riels

(400,000) to two million riels (2,000,000) or payment of restoration costs where this exceeds the aforementioned fine.

**2. Natural resources offences of the second grade:**

- One (1) month to one (1) year's imprisonment and/or fines from one and a half million riels (1,500,000) to fifteen million Riels (15,000,000)

**3. Natural resources offences of the third grade:**

- One (1) year to five (5) years' imprisonment and/or fines from fifteen million riels (15,000,000) to one hundred and fifty million riels (150,000,000)

**4. Natural Resource Offences of the fourth grade:**

- Five (5) to ten (10) years imprisonment plus fines from fifteen million Riels (15,000,000) to one hundred and fifty million Riels (150,000,000).
  - In case the offender is a legal entity the fines shall be from one hundred and fifty million riels (150,000,000) to two hundred and fifty million Riels (250,000,000)
- All evidence shall be confiscated as State property and managed in accordance with the procedures issued by the Ministry of Environment.

All offences against wildlife inside protected areas as stipulated in the Title on Wildlife Protection, Conservation and Management, shall receive penalties applied under the Title on Wildlife Protection, Conservation and Management.

All fines will increase in line with inflation every 3 years.

**Commented [SB29]:** Recommend increasing these penalties in line with inflation since 2008 and adding a clause to increase every 3 years in line with inflation, to ensure penalties are still and effective deterrent.

**Article 71 (57) (First Grade)**

The below situations are classified as First grade offences for the first time and a person(s) who commits the below offences in protected areas shall receive a written warning as punishment. A person or institution who commits the above offences more than two times, shall be subject to penalties under article 58.

1. Entry into the Core Zone of the protected area (unless with an approved permit for research and law enforcement purposes)
2. Entry into the Conservation Zone of the protected area without permit or valid reason
3. Graze livestock in Core or Conservation Zones except as stated in chapter VI of this law
4. Access into protected area for the purposes of natural, scientific study and making a tour without permit
5. Causing unintentional fire within a protected area,

**Commented [SB30]:** Articles 71-76 have been re-worked to provide clearer provisions regarding first, second, third and fourth grade offences within PAs. Please refer to the PA Law and the supporting document to understand the changes made to this section - it was not possible to simply highlight additions in a different colour.

**Article 72 (60). (Second grade)**

Those who shall be punished for natural resources offences of the second grade with evidence being confiscated as State property are any persons who commit the following offences:

- Construction of any infrastructure including, but not limited to, roads, buildings, kilns, dams, channels, permanent camps, inside Sustainable Use or Community

Zones of any protected areas unless prescribed within the Protected Area management plan and receiving approved Environmental Impact Assessment

- Intentionally causing forest fire unless as a prescribed management activity under the protected area management plan
- Collecting or transporting any Non Timber Forest products without correct permit within Sustainable Use or Community Zones of any protected areas
- Destroy, change, remove, or damage signage of all kinds
- Remove water from protected areas for irrigation or other means

#### **Article 73 (61).(Third grade)**

Those who shall be punished for natural resources offences of the third grade with evidence being confiscated as State property are any persons who commit the following offences:

- Construction of any infrastructure including, but not limited to, roads, buildings, kilns, dams, channels, permanent camps, inside Conservation or Core Zones of any protected areas unless prescribed within the Protected Area management plan and receiving approved Environmental Impact Assessment.
- Collecting or transporting any Non Timber Forest products without correct permit within Conservation or Core Zones of any protected areas
- Bring in hunting or any other dogs into Conservation or Core Zones of any protected areas unless for valid research or conservation purposes approved by the National Wildlife Advisory Board
- Possession or transport of snares, traps, home-made guns and other dangerous means of hunting, or the materials used to construct them, within Conservation or Core Zones of any protected areas
- Bring in chainsaw and other logging machinery and transportation equipment into a protected area without a permit
- Destroying (including but not limited to collecting, logging, uprooting, pruning, cutting, felling trees to collect fruit) any non-threatened plant or tree species within Conservation or Core Zones of any protected area without a permit
- Clearing land <0.5 ha through removing or destroying vegetation within any protected area for any reason including to claim ownership, develop agriculture outside permitted community zones identified within protected area management plans
- Illegal fishing practice harmful to national resources, both marine and freshwater, flooded forests, mangroves, corals and seaweeds, rivers and wetlands in inside Sustainable Use or Community Zones of any protected areas
- Build or install boundary posts or markers, fences, putting signs for the purposes of ownership
- Cause obstruction, injury or interference to the Nature Conservation and Protection Administration in performing its functions and duty effectively

**Article 74 (62). Fourth grade**

Those who shall be punished for natural resource offences of the fourth grade with evidence being confiscated as State property are any persons who commit the following offences:

- Destroying (including but not limited to collecting, logging, uprooting, pruning, cutting, feeling trees to collect fruit) any plant or tree species IUCN listed as Critically Endangered, Endangered, Vulnerable or Near Threatened in any protected area
- Transporting any plant or tree species IUCN listed as Critically Endangered, Endangered, Vulnerable or Near Threatened in any protected area
- Clearing land >0.5 ha through removing or destroying vegetation within any protected area for any reason including to claim ownership, develop agriculture outside permitted community zones identified within protected area management plans
- Illegal fishing practice harmful to national resources, both marine and freshwater, flooded forests, mangroves, corals and seaweeds, rivers and wetlands in inside Conservation or Core Zones of any protected areas
- Use of any poisonous substances that can have adverse impacts to natural resources
- Hide, steal, sell, destroy, or damage evidence of offences
- Establishment of bases for processing Klem Chan (*Aquilaria crassna*), Mreah Prov (*Ocimum sanctum*), Vor Romeat (*Teramnus labialis*),
- Falsify legal documents or permits of relevant institutions to commit illegal activities
- Dig, move the soil, bulldoze, or remove soil, stone, pebbles, gravel, sand and minerals without permit & approved Environmental Impact Assessment

**Article 75 (63).**

Any person who threatens and causes obstruction, injury or interference to Nature Conservation and Protection Administration official in performing his functions and duty effectively shall receive a term of imprisonment between one (10) year to five (5) years and be fined from fifteen million riels (15,000,000) to one hundred and fifty million riels (150,000,000).

Accomplice or collaborator shall receive the same punishment as the offender.

**Article 76 (64).**

The Administration officer, an inspection or environment officer for their negligence, carelessness or failure to abide by the order of the MOE, shall face administrative punishment or shall be prosecuted.

The Administration officer, an inspection or environment officer, who conspires with the offender or facilitates the offences, shall receive the same punishment as the offender.

In accordance with the Law on Criminal Procedures (article 82), all misconducts committed by civil servants and public agents during the performance of their duties shall be reported to the Prosecutor General of the Court of Appeal by a Prosecutor or an investigating judge. The Prosecutor General shall inform the Minister in charge of the civil servant or public agent to initiate disciplinary procedures. The Prosecutor General shall be informed of the aftermath of disciplinary procedures. A disciplinary sanction shall not be an obstacle for a criminal action, if an offense has been committed.

## **CHAPTER 11: MONITORING AND EVALUATION OF EFFECTIVENESS**

### **Article 77.**

Each and every Protected Area management plan must contain measurable conservation objectives for the protected area, which must be reported to the Nature Conservation and Protection Administration biennially i.e. every two years. This must include remotely sensed estimates of changes in forest cover (likely obtained from national database) and information on the status of priority species (identified from Management Plan and Species Management and Recovery Plans) inside the protected area.

### **Article 78.**

All Protected Areas must employ a system and database for managing and monitoring law enforcement effort and patrolling. Quarterly reports must be produced and sent to the Nature Conservation and Protection Administration national office and the Provincial Department of Environment.

The Nature Conservation and Protection Administration shall develop and implement a system for reporting and monitoring the success of law enforcement action in each protected area, including the number of confiscations, arrests, prosecutions and convictions related to protected area offences. The Director of each Protected Area is responsible to keep the database current, and each protected area Director must submit the database monthly to the Nature Conservation and Protection Administration.

All Protected Areas must undertake annual Management Effectiveness assessments facilitated by external parties. Annual results for each Protected Area will be publically disseminated.

### **Article 79.**

The National Wildlife Advisory Board will assess the status of every Protected Area, based on the information provided above, annually and rate the management of each Protected Area based on guidelines issued by the Ministry of Environment.

#### Article 80.

In cases of a Poor Protected Area management assessment the National Wildlife Advisory Board can recommend to the Nature Conservation and Protection Administration the replacement of the Protected Area Director

### CHAPTER 16: FINAL PROVISIONS

#### Article 81 (65).

Any provisions counter to the articles of this Law shall be abrogated.

#### Article 82 (66).

This law shall be declared immediately effective upon signing.

### LEXICON

Definitions to add:

**Animal** - "animal" includes, whether live or dead, amphibians, birds, mammals, reptiles and their young, offspring, and eggs and any parts or products or the dead body thereof

**Animal part** - "Animal part" refers to any part or product made from any captive or wild animal and includes an article or object in which the whole or any part of such animal has been used

**Captive breeding** - animals that are alive or dead, and born or otherwise produced in a controlled environment. The term "captive breeding" can be applied to any wild animal breeding venture, whether for conservation or commercial purposes.

**Captivity** - the condition of being confined within an enclosure, building or otherwise, which is outside of an animal's natural wild habitat

**CITES** - The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between governments. It aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. CITES regulates international trade in Endangered species listed on the appendices of CITES.

**Climate change mitigation and adaptation** - limiting climate change by reducing emissions and lessening adverse impacts of climate change through implementing adaptation measures

**Collaborative management** -

**Commented [SB31]:** Insert definition when legal instrument is completed

**Commercial purposes** - doing something with the primary aim of gaining income or economic benefits from that activity

**Conservation purposes** - doing an activity for the aim of conservation of the species, habitat or ecosystem in question and avoiding degradation, destruction, decline and extinction.

**Customary use/ Subsistence Use/ family scale** - use of natural resources that will meet only the food security and subsistence needs of the family. The use of natural resources for sale, gifting, trade, economic benefit, or any other use beyond the immediate family, is not included in customary/subsistence use.

**Disturb** - means to harass or interfere with the natural behaviour, including breeding, of any wild animal, its young or eggs, and with any natural habitat.

**Ecosystem services** - Benefits provided by ecosystems that contribute to human life, including provisioning services such as food and water, regulating services such as control of climate and disease, supporting services such as nutrient cycles and crop pollination, and cultural services such as spiritual and recreational benefits.

**Equipment** - any tool, object, machinery, materials or components, that may be used to make such equipment

**Gender mainstreaming** - assessing the different implications of men and women for any planned policy action. It ensures the concerns and experiences of women as well as men are an integral part of the design, implementation, monitoring and evaluation of policies and programmes, so that women and men benefit equally and inequality is not perpetuated.

**Habitat** - includes land, water, vegetation or air, which is the natural home of any wild animal

**Harassing** - means to disturb, worry, exhaust, fatigue, annoy, plague, pester, tease or torment any animal, or otherwise interfere with the natural behaviour of any animal, its young or eggs, but does not include the lawful hunting, trapping or capturing of wildlife

**High conservation value** - a biological, social or cultural value of outstanding significance or critical importance

**Hunting** - Hunting includes harassing, capturing, killing, poisoning, pursuing, snaring, shooting, trapping, baiting, netting and luring of any wild animal and any attempt to



engage in such conduct, and wounding, injuring or destroying or taking any part of the animal or its offspring, or in the case of wild birds or reptiles, collecting, damaging or disturbing the eggs or nests

**Infrastructure** - Infrastructure in this context can be defined as the basic physical systems providing commodities to a business or nation, including but not limited to transportation (e.g. roads, bridges, tunnels), communication, sewage, water supplies and electricity

**Invasive** - plants, animals or pathogens that are non-native to the ecosystem or country under consideration and whose introduction causes or is likely to cause harm

**Livelihood** - means of securing the basic necessities for life, including food, water, shelter

**Means of transport** - any vehicle that you can travel or carry goods in, including but not limited to, motorbikes, bicycles, tractor, car, cart, truck, boat, vessel or any other type of vehicle

**National Wildlife Advisory Board** - a board composed of wildlife experts from the Ministry of Environment, Ministry of Agriculture, Forestry and Fisheries, scientific institutions and non-profit organisations. The board will advise the Ministry of Environment on all matters related to Wildlife Protection, Conservation and Management under this law and the Law on Wildlife Protection, Conservation and Management.

**Non-commercial purposes** - conducting an activity for reasons other than monetary gain.

**Non-native (alien)** - species not originally native to Cambodia but introduced by humans either accidentally or deliberately, this definition includes live and dead wild animals and their parts and plants that have been harvested (e.g. trafficked plants, wildlife and their products)

**Permit** - means a permit granted under this law or any regulation or rule made thereunder

**REDD(+)** - Reducing Emissions from Deforestation and Forest Degradation (REDD) is a mechanism established by the United Nations Framework on Climate Change (UNFCCC), with the objective of mitigating climate change through the reduction of emissions of greenhouse gases, through enhancing sustainable forest management, conserving and enhancing forest carbon stocks and reducing forest conversion and loss in developing countries.

**Rehabilitation and restoration** - the act of restoring something to its original or natural state or condition

**Sustainable Finance** – long term protected area funding mechanisms such as payments for ecosystem services, REDD+, and conservation trust funds. These funding mechanisms commonly provide performance based payments as set out in legally binding agreements.

**Wildlife farming** - raising and breeding of wild animals in captivity with the primary purpose of selling, trading and gaining income from these animals and their parts or trophies

**Wildlife** - means any animal and aquatic or terrestrial vegetation which forms part of any habitat

## Supporting information and analyses

### **Book 5: Conservation and Protection of Biodiversity and Cultural Heritage** **Title 2: Protected Areas Management**

*Developed by the PA sub-group of STWG 3/5:*

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#### **CHAPTER 1. GENERAL PROVISIONS**

Here we want to make it clear for law enforcement and legal personnel that any offences against wildlife should be dealt with under the Title on Wildlife Protection, Conservation and Management, not under the PA Law.

#### **CHAPTER 2. RESPONSIBLE INSTITUTIONS**

We recommend adding a provision in the PA Law that clarifies that other Ministries have a responsibility to ensure protected areas and their natural resource values are conserved, particularly when carrying out activities in PAs.

We also recommend updating the provision to allow fair and equitable access for resource users in accordance with the Law.

This section has also been updated to include the role of Provincial Departments of Environments, reflecting the current reforms although it will likely need to be updated when legislation on this is finalised. Ensuring PA Directors and Provincial Department of Environment Directors have appropriate qualifications and skills to undertake their roles will be a critical part of ensuring effective management of PAs. Each PA needs to have several Judicial Police Officers to ensure PAs are able to deal with natural resource crimes effectively.

#### **CHAPTER 3. ESTABLISHMENT, MODIFICATION AND CLASSIFICATION OF PROTECTED AREAS**

The proposed changes to this section reflect globally recognised standards (IUCN guidelines) for the establishment, classification, expansion, reduction and declassification of PAs. We recommend these standards are adopted in Cambodia, which would require some changes to the existing provisions in the PA Law. It is also recommended that until zonation plans are developed and approved, that all protected areas are treated and managed as Conservation Zone, excepting community areas and other titles, which would help to reduce degradation of protected areas until zonation plans can be developed and finalized. The lack of approved zonation plans for almost all protected areas is the loophole that permitted the introduction of economic land concessions inside protected areas.

### **IUCN Protected Area Management Categories appropriate for Cambodian Protected Areas**

#### **IUCN Category II National Park**

Protected areas are large natural or near-natural areas, set aside to protect large-scale ecological processes along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities

#### **IUCN Category III National Monuments**

Protected areas are set aside to protect a specific natural monument, which can be a landform, sea mount, submarine cavern, geological feature such as a cave or even a living feature such as an ancient grove. They are generally quite small protected areas and often have high visitor value.

#### **IUCN Category IV Species Conservation Areas**

Protected areas aim to protect particular species or habitats, and management reflects this priority. Many category IV protected areas will need regular, active interventions to address the requirements of particular species or to maintain habitats, but this is not a requirement of the category.

#### **IUCN Category V Protected Landscapes**

A protected area where the interaction of people and nature over time has produced an area of distinct character with significant ecological, biological, cultural and scenic value, and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.

## **CHAPTER 4. ZONING OF PROTECTED AREAS**

We recommend clearer provisions in this section with regards to what activities are permitted or prohibited in the different zones and some more criteria for guiding the zonation of protected areas. We recommend that any development activities be subject to an EIA before being permitted within a protected area.

The recommendation, that the national security and defense sector should inform and obtain approval from MOE for any activities within PAs is consistent with other countries' laws.

## **CHAPTER 5. NATIONAL STRATEGIC AND ACTION PLANS FOR PROTECTED AREAS MANAGEMENT**

We recommend some additions to the NPASMP process/content and similarly to individual protected area management plans that will strengthen the management and accountability of protected areas. We recommend the terminology management plans for individual protected areas, rather than action plans, and that the development of individual PA management plans should follow a more participatory approach, with access to information for relevant stakeholders.

The existing section on contents of individual PA management plans is slightly different to the guidelines that have been recently issued by the Ministry of Environment for development of individual PA management plans (e.g. to WWF in Phnom Prich Wildlife Sanctuary). We recommend updating this section to reflect the current guidelines on this and adding provisions regarding the process of approval and renewal of PA management plans, if appropriate to do so here (in primary legislation).

It is not known whether the National Committee for Conflict Resolution on Protected Area Management has been established and is functional. If it has not and is not, it may be prudent to revise this section to ensure it will be functional.

## **CHAPTER 6. ACCESS AND USER RIGHTS OF LOCAL COMMUNITIES AND INDIGENOUS ETHNIC MINORITY COMMUNITIES**

This chapter could refer to the UN declaration on the rights of indigenous people's which Cambodia has ratified, until national legislation has been developed.

We recommend that resin harvesting is permitted within the Conservation Zone only by genuine local communities and indigenous ethnic minority groups which hold a valid permit, to be issued by the Provincial Department of Environment and PA Director.

We recommend clearer and stronger provisions on agricultural land within protected areas, which should be confined to Community Zones and any land titles issued in this zone should be in accordance with the Land Law.

We also recommend that any extractive activities within Community Protected Areas should require an impact assessment and a sustainable harvesting plan to be developed and approved by the Provincial Department of Environment and Protected Area Director, to help ensure sustainable natural resource management and avoid exploitation and degradation of natural resources. Many CPAs are important for wildlife and thus their function in this regard needs to be maintained where possible.

## **CHAPTER 7: EDUCATION, DISSEMINATION, REHABILITATION, IMPROVEMENT AND FUNDING OF PROTECTED AREAS**

We recommend including more detail here on the Protected Areas Fund, how it will be used to support PA management, the approved budgeting process and who will be responsible for administering it. We also recommend some additions to alternative funding sources for PA management, in line with recent policies and future policy directions and implementation progress in this area.

## **CHAPTER 8. PERMIT AND PROHIBITION AND ENVIRONMENTAL AND SOCIAL IMPACTS ASSESSMENT**

In this chapter we recommend inclusion of provisions and additional text to make responsibilities of agencies and prohibited activities clearer, based on the current and potential future challenges and threats to protected areas, and that references to other relevant laws (e.g. wildlife, CITES) are included where relevant.

We also recommend inclusion of an article specifically on fishing inside protected areas, which is not very well addressed or understood in terrestrial protected areas but can have significant adverse impacts. We have also included sand dredging and irrigation practices on the list of destructive practices as these are both significant threats in a number of PAs.

A number of PA practitioners recommended that provisions of transportation of natural resources within protected areas need to be clarified, as law enforcement teams are often not able/not confident to deal effectively with this issue because they are not sure of the legality of this activity. Therefore, we recommend a provision that very clearly prohibits transportation of illegal resources and ensures that transporters of legal natural resources need to have a permit and thus, illegal transporters can be easily identified.

Furthermore, it was recommended to include clear provisions with regards to dealing with instances of land clearance, for both offenders and law enforcement officers to clearly understand the appropriate process and reduce the possibility for misunderstanding and conflict. Land clearance is one of the biggest issues within protected areas and is much more permanent than other threats, thus ensuring there are adequate procedures in place and law enforcement officials are given a clear mandate to monitor these agreements, it will help to reduce this threat. Currently, when land is cleared inside a protected area, typically once it has been planted with crops it is not possible to claim the land back - it will be lost to the PA system. Rapid, timely intervention from law enforcement officials (as well as land clearance monitoring) is therefore crucial in instances of land clearance to identify the offender, prevent planting, demarcate the area, and ensure it is retained by the protected area and allowed to regenerate. Related to this, we also recommend including "damaging trees" as a prohibited activity, as there have been recent instances of individuals ring-barking trees to clear land, which eventually kills these trees.

In accordance with other countries, we have recommended including a provision allowing MOE to develop policies and procedures that will allow MOE to claim compensation from individuals or entities that do damage to species and habitats inside PAs, helping to fund PA management or restoration.

We also include some provisions regarding the permitting process and permitted activities with regards to resin harvesting inside PAs.

## **CHAPTER 9: LAW ENFORCEMENT AND PROCEDURES TO RESOLVE OFFENCES**

This chapter refers to other relevant laws and recommends giving clearer responsibilities to GDANCP and Department of Environment officials to conduct investigations into natural resource offences. Ideally, such officials would not be required to obtain a warrant (even verbal) prior to conducting searches and investigations, as the remote nature of the locations in which PA offences take place can make effective law enforcement prohibitive. All protected areas need to have several Judicial Police Officers, without which law enforcement cannot be conducted effectively.

We also recommend including additional types of evidence for natural resource offences.

## **CHAPTER 10. NATURAL RESOURCES OFFENCES AND PENALTIES**

We recommend that the economic value of biodiversity translated as gain, realized as a result of the offence should not be used to determine the amount of transaction fine. This is because calculation of the economic value of biodiversity is extremely difficult, subject to fluctuation and individual preferences/opinions and may not be possible. Similarly, we recommend the condition of the offender not be used to calculate the amount of transaction fine as this can tend to encourage overleniency, regardless of the severity of the offence committed.

We recommend increasing the penalty fine amounts in line with inflation, which were set 8 years ago, to better reflect the current economic situation in Cambodia. Other countries (e.g. Philippines) have stipulated in their law that penalty fines will be reviewed and increased every 3 years in line with inflation.

We also include a provision here that states that all offences against wildlife shall be dealt with under the Title on Wildlife, not the PA Law, to avoid confusion for courts and law enforcement officials. Accordingly, all offences against wildlife have thus been removed from the following articles.

The provisions contained within **Articles 71-76** have been re-worded and in some cases re-organised to provide clarity regarding how to apply the provisions to specific offences. The existing provisions are confusing to apply as has been reported by law enforcement agencies and the judicial system.

We have also recommended the addition of some illegal activities that were not formerly included, such as activities related to water extraction and irrigation from protected area zones as this can significantly impact aquatic and associated terrestrial ecosystems. We recommend including ecosystems not formerly mentioned within the PA law, including grassland, rivers and wetlands as these ecosystems are represented within the PA network, subject to similar threats and thus in need of the same legal protections as forests.

We recommend upgrading the penalty for some activities, for example as bringing of dogs into Core Zones and Conservation Zones, due to the multiple negative effects this can have on wildlife (see

supporting information and analyses for Title on Wildlife Protection, Conservation and Management) and the high economic gain people using hunting dogs to hunt wildlife will be achieving (used for high value species such as pangolins and turtles).

We also recommend including a provision on misconduct by law enforcement officers, from the Law on Criminal procedures. Misconduct is not an uncommon occurrence when the value of natural resources is so high, thus we think clear provisions for dealing with this are required, in line with existing laws.

## **CHAPTER 11: MONITORING AND EVALUATION OF EFFECTIVENESS**

We recommend the addition of a new chapter that ensures protected area management is monitored and evaluated for effectiveness. This will help to introduce accountability of protected area staff and agencies, and will encourage more effective, transparent management of protected areas. Tools that we recommend to do this include SMART, METT, and establishing a system for monitoring protected area violations, actions taken and their effectiveness (e.g. rates of prosecution and convictions, identification of multiple offenders). This suggestion is in line with the National Protected Area Strategic Management Plan. We also recommend the National Wildlife Advisory Board provides some objective input to the assessment process.

## **DEFINITIONS**

We recommend the inclusion of a number of key definitions in the lexicon of this law, to reduce confusion, increase understanding and strengthen implementation of the law.



# **Submission Form**

## **Recommendations from the STWGs to the Secretariat of the Project to Develop the Environmental Code of Cambodia**

**Email to: Lim Nalin at Vishnu Law Group: [limn@vishnulawgroup.com](mailto:limn@vishnulawgroup.com)**

- *For comments on the draft Code, please copy and paste selected text into this form and use Track Changes.*
- *If needed, please submit large documents as an attachment.*
- *Please submit all comments in Khmer and English when possible.*

Date of Submission: 9 September 2016

Submitted by (provide individual and STWG contact information):

Dr Hanna Jaireth Australia, email: [mhsjaireth@netspeed.com.au](mailto:mhsjaireth@netspeed.com.au)

### 1. Issue:

Hierarchy of applicable laws and their interpretation

### 2. Reference to Code Book and Title (if applicable):

Art 4 provides that “Where an international treaty of which Cambodia is a member contains provisions, which are different from the provisions in this Code, the provisions of such international treaty shall prevail.” This may have the unintended effect of weakening the effect of the Code because many MEAs are framework treaties that use language like “best endeavours” “good faith”, and they lack compliance and enforcement mechanisms.

### 3. Comparative Experience (if any):

See for example the CBD, CMS.

### 4. Recommendation:

Alternative drafting might achieve the intended effect.

### 5. Proposed Language to be Inserted into the Draft Code (if any):

Alternative wording for draft Art 4 is recommended such as: “*Where provisions of an international treaty of which Cambodia is a member contains provisions which require a higher level of environmental protection than the provisions in this Code, the provisions of such international treaty shall prevail.*”

A complementary provision could require that the provisions of the Code be interpreted in a way that is beneficial to the environment: “*In cases of doubt, matters shall be resolved in a way most likely to favour the protection and conservation of the environment, with preference to be given to alternatives that are least harmful to the environment. Actions shall not be undertaken where their potential adverse impacts on the environment are disproportionate or excessive in relation to the benefits to be derived therefrom.*”

### 6. Cambodian Laws to be Abrogated or Modified (if any):

*(Please include the law title and the titles of specific articles and clauses.)*

7. Drafting Team Analysis/Response (to be included in public database):

8. Minor and grammatical suggestions

Art 4 – “effect” should be “affect”

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1. Issue:

Re: Environmental Offenses, Enforcement and Remedies – model provisions for dispute resolution

2. Reference to Code Book and Title (if applicable):

*Draft V4, Book 9 Title 1*

3. Comparative Experience (if any):

- ADR is well established in Australia. For a general introduction see: [Your Guide to Dispute Resolution \[PDF 356KB\]](#); [Your Guide to Dispute Resolution \[DOC 625KB\]](#)
- The ADR provisions of the NSW Land and Environment Court are highly regarded in Australia
  - [http://www.lec.justice.nsw.gov.au/Documents/preston\\_use%20of%20alternative%20dispute%20resolution%20in%20administrative%20disputes.pdf](http://www.lec.justice.nsw.gov.au/Documents/preston_use%20of%20alternative%20dispute%20resolution%20in%20administrative%20disputes.pdf)
  - [http://www.lec.justice.nsw.gov.au/Pages/resolving\\_disputes/resolving\\_disputes.aspx](http://www.lec.justice.nsw.gov.au/Pages/resolving_disputes/resolving_disputes.aspx)

4. Recommendation:

Include ADR provisions modeled on NSW Land and Env Court procedures

5. Proposed Language to be Inserted into the Draft Code (if any):

See statutory language at links in  
[http://www.lec.justice.nsw.gov.au/Pages/resolving\\_disputes/resolving\\_disputes.aspx](http://www.lec.justice.nsw.gov.au/Pages/resolving_disputes/resolving_disputes.aspx)

6. Cambodian Laws to be Abrogated or Modified (if any):

*Not known to me.*

7. Drafting Team Analysis/Response (to be included in public database):